



Employee Handbooks: Best Practices

Presented by
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Today's Presenters



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Agenda

- Oregon's Workplace Fairness Act
- Life of a Handbook During Employment
- General Tips
- Action Items

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Oregon's Workplace Fairness Act: How Did We Get Here?

The backdrop – according to the EEOC:

- 1 in 4 people have experienced workplace sexual harassment, but 75% of incidents are not reported
- 87% to 94% of workplace harassment incidents are not the subject of formal complaints
- Oregon's response to #MeToo

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Workplace Fairness Act: What Oregon Employers Need to Know

- 5-year statute of limitations
- Confidentiality, non-disparagement, and no-rehire terms in settlement agreements
- No golden parachutes for harassers
- Required policy in employee handbooks

Workplace Fairness Act Handbook Requirements

Your anti-harassment policy must:

1. Provide a process for employees to report harassment, discrimination, or sexual assault;
2. Identify an individual – and an alternate – who is responsible for receiving reports;
3. Inform employees of the 5-year statute of limitations;

Workplace Fairness Act Handbook Requirements

4. Include a statement that employers may not coerce employees into a non-disclosure or non-disparagement agreement, and describe those terms;
5. Inform employees they may voluntarily request to enter into an agreement that contains non-disclosure, non-disparagement, or no-rehire clauses (but may revoke); and
6. Advise employees to document incidents.

Workplace Fairness Act Harassment Policy

- What are the next steps for Oregon employers?
 - Recommended policy v. BOLI's model policy
 - Review your current handbook
 - Update or supplement policy by October 1
 - Notification requirements – given to new hires, available to current employees, and given to employees who make a report

Life of a Handbook

- Orientation and training
- Common issues throughout employment
- Separation
- Litigation

Orientation and Training

- Introduction to company culture
- Employee resource
- Expectation setting
- Training

Common Issues and Policies

- Pay
- Time off
- Breaks
- Leave
- Discipline
- Accommodations

Timely Issues

Should your handbook contain policies reflecting current affairs?

- Pandemic
- Politics
- Racial or social justice

Separation

- At-will employment
- Process
 - Payout of accrued but unused PTO? (What about furloughs?)
 - Grievance?
 - Alternative Dispute Resolution?
- Post-separation obligations

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Litigation

- Acknowledgment
- Enforceable contract?
- As the employer, have you abided by your own policies?
- Do your managers know and follow your policies?

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General Tips

Do

- Know what laws apply
 - Number of employees
 - Employee locations
- Consider addenda for multiple jurisdictions
- Update regularly

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General Tips

Don't

- Forget that labor law applies to you too
- Include every policy or detail
- Use binding language
- Rely on your handbook to create contractual obligations

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Action Items

- Review your handbook or send it to your employment counsel
- Create or update your anti-harassment policy by October 1
- Provide the policy to new hires starting October 1 and instruct anyone who may receive a report of harassment or discrimination (e.g., supervisors, HR, management) to provide the policy to complainants
- Discuss any settlement agreements or release of claims involving allegations of harassment or discrimination with counsel before executing

Questions?



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