



Employee Handbooks: Doing it the “Write” Way

NJ Business Solutions is a service to the members of the New Jersey Business & Industry Association and the readers of New Jersey Business magazine. These articles are intended to help New Jersey employers deal with practical issues affecting their business operations.

By Randi W. Kochman, Esq.



Perhaps the most important tool for managing a productive workplace and protecting against employment disputes is a comprehensive, legally compliant employee handbook. Considering the many recent changes to federal and state employment laws, now is the perfect time for New Jersey employers to review their policies and ensure their handbooks are in the best possible form.

The most crucial element of a handbook is a “clear and prominent” disclaimer, which must be set forth at the front of the hand-

book in different size or bold type and be labeled “Disclaimer.” It should state, in English, and not legalese, that employment is “at-will” and can be terminated with or without cause and with or without notice by either party. Under New Jersey law, a deficient disclaimer exposes an employer to a judicial determination that the handbook constitutes a contract for employment or a term or condition of employment.

The handbook should also contain an equal employment opportunity (EEO) policy, which prohibits discrimination with respect to hiring, promotions, terminations, compensation, etc. on the basis of any protected category including race, color, gender, sex, age, disability, national origin, affectional or sexual orientation, and the newly added “civil union” status and “gender identity or expression” (i.e., transgender status). The EEO policy must clearly state to whom employees should direct complaints of discrimination, and it must also assure employees that no retaliation will be taken against any person who raises a complaint.

New Jersey law also requires certain written policies, which can be included in the handbook or

published as stand-alone policies. For example, companies must have an “unlawful harassment” policy, which defines and prohibits harassment by any employee, vendor, client or customer on the basis of sex or any other legally protected characteristic. Often overlooked, but extremely important, is an effective complaint mechanism. This provides alternative avenues for lodging complaints of harassment so that the employee who feels harassed is never compelled to complain to the alleged harasser. The policy should also obligate employees to report acts of harassment, but must not promise the company will maintain complete confidentiality.

Yet another legally required policy is the Conscientious Employee Protection Act (CEPA) policy, which outlines the law’s mandates regarding whistleblowing and must be posted and distributed to the workforce, on at least an annual basis, in English and Spanish, and any other language spoken by a majority of the workforce. Like the harassment policy, the CEPA policy must also contain an effective complaint mechanism.

Other legally required policies

include a smoking policy and, for employers with more than 50 employees, a policy that addresses the provisions of the federal Family and Medical Leave Act and the New Jersey Family Leave Act (both of which provide for unpaid leaves of absence).

While not expressly required, employers are well advised to also include: a workplace violence policy, which prohibits violence or threats of violence in the workplace; a confidentiality policy that identifies the company's confidential and proprietary information and outlines discipline imposed upon breach; an e-mail and Internet policy, which states that the company owns the e-mail system and all messages composed or received on the system, and that the employer has the right to review e-mails at any time with or without notice such that no employee should have any expectation of privacy in any e-mails they write.

Finally, the handbook must include an acknowledgment form that each employee signs, thereby indicating that he/she has read the handbook, understands everything contained in it and agrees to be bound by the policies therein. Employee handbooks range from small leaflets to 100-page volumes, and there is no "one-size-fits-all" handbook for any employer. Regardless of size, a properly crafted handbook is invaluable as a tool for developing and implementing appropriate personnel practices and procedures. ❧

About the Author

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Partnership Established to Fight Chronic Disease

The national Partnership to Fight Chronic Disease (PFCD), an organization committed to making chronic disease one of the key health-care issues in the nation, establishes its New Jersey chapter. Headed by former New Jersey Governor Jim Florio and NJ Health Care Quality Institute President David L. Knowlton, the partnership has a mission of challenging policymakers in making chronic disease a top priority in healthcare legislation; educating the public on chronic disease and solutions; and mobilizing Americans to call for change in how policymakers, governments, employers, health institutions and other entities approach chronic disease.

At the launch of the state organization, held at a conference in East Brunswick, national PFCD co-chair Dr. Richard Carmona, the 17th Surgeon General of the United States (2002-2006), stressed that preventive care is at the forefront of everything that can be done to fight chronic disease. Unfortunately, the nation has a "sick care" system, in which physicians do not have the time or the incentives to sit down with healthy people and discuss wellness initiatives.

Carmona said chronic disease is the primary driver of healthcare costs, accounting for more than 75 percent of the \$2 trillion spent each year on healthcare in the U.S. If nothing is done, healthcare spending will increase to \$4 trillion in a few years.

Because of the figures, Governor Jim Florio said that preventive care in combating chronic disease will be an "easy sell" to the business community. "U.S. healthcare costs are making us unable to compete around the world," he said.

Philip Kirschner, New Jersey Business & Industry Association president and a PFCD co-chair, said that through the partnership, businesses can help improve employee health, raise productivity and save on healthcare costs



by focusing largely on chronic disease prevention, including the implementation of wellness programs. NJBIA plans on posting PFCD educational materials on its website when they become available.

Florio added that New Jersey is an ideal state to spread the news in the fight against chronic disease because of the many local partnerships and grassroots efforts in which people can easily organize.

Knowlton was pleased to announce that there were 80 PFCD partners in New Jersey already signed up to educate the public and employers. The organization's first task, however, is to get the impact of chronic disease on the radar screen. "We have to give people access to early care rather than wait 20 years later," he said.

Bringing the issue into focus, Knowlton said, "I don't want my grandchildren to have a lower life expectancy that I do."

Other PFCD co-chairs in the state include: Joan Verplanck, president of the New Jersey Chamber of Commerce; Tom Manning, president of the New Jersey Association of Pipe Trades; Martin Perez, Latino Leadership Alliance of New Jersey; and Rev. Reginald Jackson, executive director of the Black Minister's Council of NJ.

- Anthony Birritteri