

Employee Handbook Checklist

September 2003

In the area of employment at will:

- Does the handbook contain an appropriate employment-at-will statement? Has the handbook been scoured to make certain there are no express or implied limitations on the employer's right of termination? Have hiring managers been trained on employment-at-will and do they know the limitations on overstatement of job security? Is access to or distribution of the handbook limited only to employees who actually have started work, so there is no reliance on the handbook during the hiring process?
- Does the handbook contain all of the legally required policies? (That is, work schedules and work hours, vacations, sick leave, and other paid and unpaid leave?)
- Does the handbook prescribe procedures for appropriate documentation of employee performance and conduct problems, and does it provide appropriate disciplinary procedures? Do these procedures provide an illustrative list of offenses that could lead to immediate discharge, sufficient to place employees on reasonable notice?
- Do these procedures reserve discretion for management to vary discipline depending on the circumstances of any particular situation?

In the area of sexual harassment:

- Does the handbook provide a sexual harassment policy that has been updated to reflect U.S. Supreme Court decisions in 1998? Has the updated policy been distributed to all existing as well as new employees?
- Have employees received training on their rights and responsibilities regarding sexual harassment? Have supervisors received separate training on their duties and legal obligations regarding sexual harassment?
- Has a complaint procedure been developed thoroughly? Are the management officials who have been identified as receiving the complaints fully prepared to investigate and handle complaints, including witness interviews, documentation, legal issues, and corrective action?
- Has the employer considered adoption of no-fraternization/no-nepotism policies? If so, are they being enforced in a consistent and non-discriminatory fashion?

In the area of leaves of absence:

- ❑ Does the handbook include a well-developed, detailed Family and Medical Leave Act policy? Does the employer issue notices to employees within two business days of the commencement of leaves for medical or family reasons that such leave will be counted toward the employee's 12-week entitlement? Does the employer have the necessary physician certification of leave and fitness for duty forms?
- ❑ Has the employer reviewed its policies on other leaves of absence to ensure legal compliance? For example, leaves for disability/medical reasons or veterans and reservists training and service time.
- ❑ Has the employer considered providing further medical or disability leave beyond the Family and Medical Leave Act as a reasonable accommodation under the Americans With Disabilities Act and New York human rights law?

In the area of job descriptions:

- ❑ Have job descriptions been reviewed to ensure that they accurately reflect the duties performed? Do these duties meet the "duties" tests for exempt status?
- ❑ Do the job descriptions specifically state the essential functions of the position? Can the employer prove that the listed qualifications are job-related and reasonably necessary for the performance of the essential functions of the job?
- ❑ Do the job descriptions preserve sufficient flexibility for the modern workplace?

In the area of performance evaluations:

- ❑ Do your supervisors understand that performance evaluations are "Exhibit A" in every legal proceeding? Are supervisors direct, frank and candid about performance problems when completing these reviews?
- ❑ Do the performance evaluation forms require the evaluator to address each of the job functions performed by the employee? Are the performance evaluations reviewed by the evaluator's manager prior to being reviewed with the employee?
- ❑ Are the performance evaluations done in a timely and regular manner? Do supervisors give appropriate priority to timely and thorough completion of performance reviews, or do they treat them as dreaded, annoying paperwork?