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Avoid Costly Mistakes by Updating Your Company's Employee Handbook

As the 2022 calendar year winds down and companies begin to prepare budgets for 2023, employers should consider budgeting for an employee handbook update or creation of a handbook. An updated employee handbook can mitigate costly litigation for the company down the road; an outdated handbook poses a significant risk of not being compliant with various rules and laws.

For instance, state paid and unpaid leave laws may affect the total hours of leave an employee is permitted to take per year, and also may expand the definition of family member and the qualifying reasons an employee may take leave. An employer's existing paid or unpaid leave policies should be updated to provide notice of any additional state entitlements, to explain the interaction of company benefits with those provided by law, and to comply with any new requirements. Complying with these state and local mandates, some of which have yet to be implemented, requires detailed review of an employer's existing leave policies and procedures.

Likewise, a recent National Labor Relations Board ("NLRB") opinion overturned agency precedent for uniform policies and dress codes. In a new opinion, which applies to both unionized and non-unionized workforces, the NLRB held that an employer policy or rule that interferes with an employee's right to display union insignia in any way is presumptively unlawful. Employers may overcome this presumption by demonstrating "special circumstances," such as risk to employee safety, products, or equipment. This decision will require employers to closely scrutinize their dress code policies to ensure compliance. Without revision, employers may be subject to unfair labor practice charges for allegedly unlawful uniform and dress code policies.

These are just a few examples demonstrating the importance of regular review and revision of your employee handbook by an experienced employment attorney. In addition to running afoul of recently developed law (which in turn can result in expensive litigation and create legal exposure for your organization), an outdated handbook also can cause confusion among your employees.

Other noteworthy reasons to have a regularly updated handbook include:

- Preventing misunderstandings by introducing employees to the company's background, culture and current expectations.
- Demonstrating the employer's knowledge of and compliance with applicable local, state and federal laws.
- Generating employee goodwill by showing the employer's commitment to treating everyone fairly and equitably.
- Providing a reference guide to supervisors and managers and ensuring that policies are applied consistently.
- Mitigating against certain claims, such as breach of employment agreement or invasion of privacy.
- Supporting affirmative defenses and shielding against certain claims, including harassment or improper wage deductions.
- Creating additional safeguards via safety-related policies and procedures.
- Reducing the risk of information theft and unfair competition.
- Educating the decisionmakers on rapidly changing areas of the law such as NLRB decisions, EEOC and DOL guidance, state legalization of cannabis, sick leave laws, and many more.

If you would like a quote for the creation or review of your employee handbook, or if you would simply like more information to determine whether your employee handbook should be reviewed or updated, please contact your Kutak Rock attorney or any of the attorneys in the [National Employment Law Group](#), and we would be happy to discuss this with you. You may also visit us at www.KutakRock.com.

