



Best Practices for Creating and Updating Your 2022 Employee Handbook

December 2, 2021

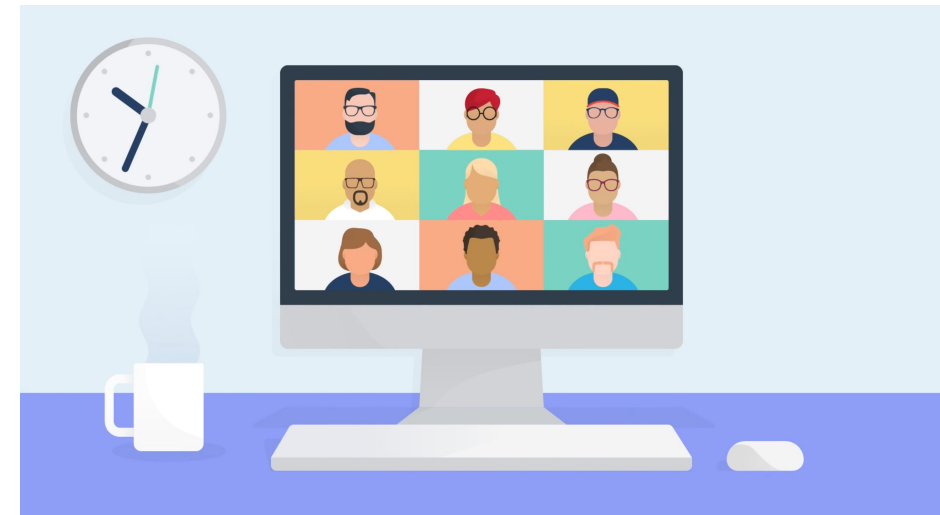
* Although we will be providing legal information during this webinar, we will not be providing legal advice. If you have a legal question about your specific situation, we suggest consulting a lawyer.

Agenda

- Purposes of handbooks
- Handbook structure
- Reasons for handbook updates
 - Legal changes
 - New employment landscape
 - Changing practices
- Communicating updates
- Acknowledgments
- Overlaps with employment agreements
- Questions and answers

Purposes of Handbook

- Serve as an employee resource
- Set expectations in a changing work environment
- Meet legal needs
- Create and strengthen company culture



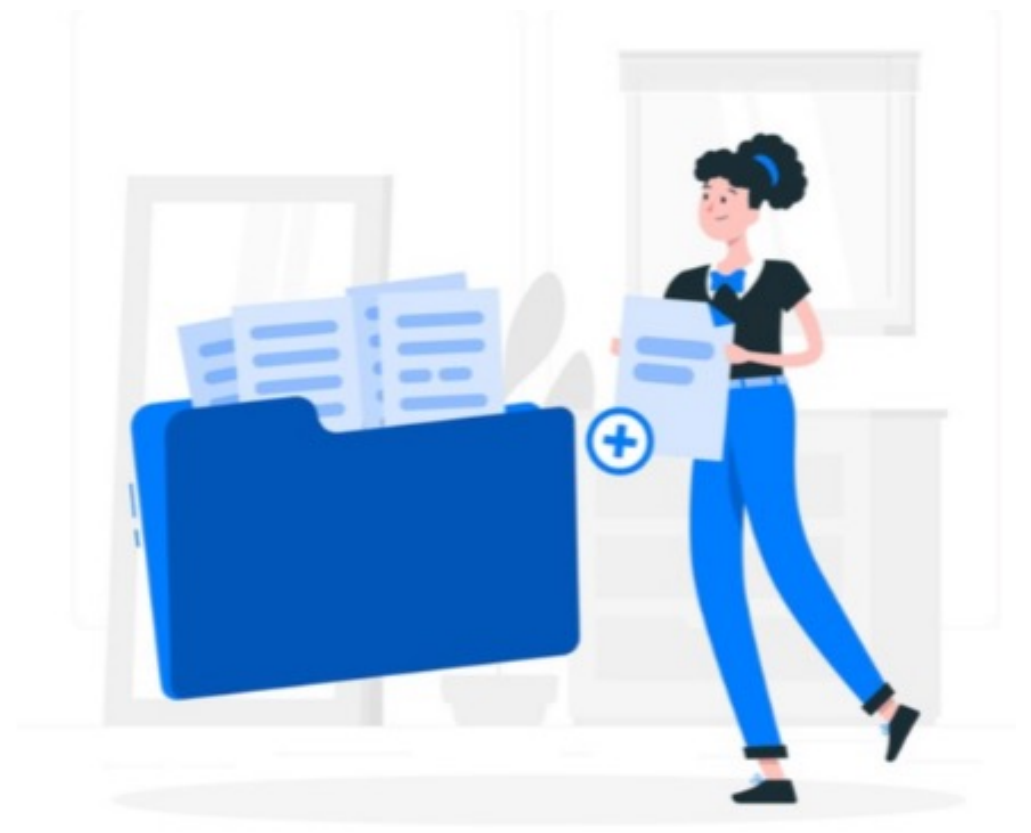
Handbook Structure



- Policies separate from handbook
- One handbook – all employees governed by the same policies
- One handbook – employees governed by their state laws
- One handbook – with addenda for other state laws
- One handbook for each state

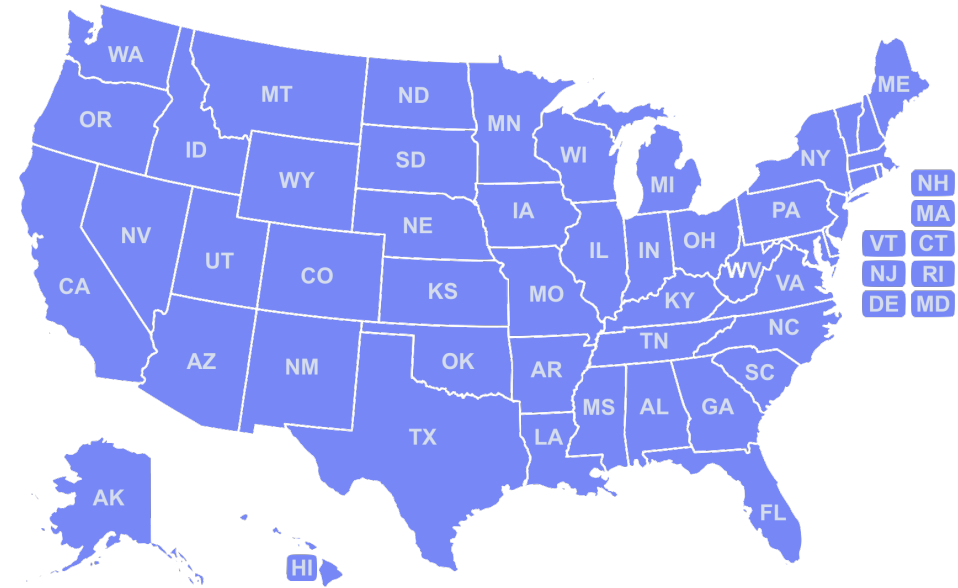
Reasons for Handbook Updates

- Legal changes
- New employment landscape
- Changed operations
- Employee questions
- Employment litigation



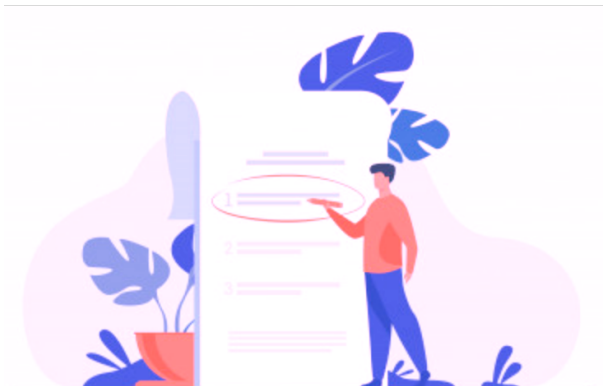
Legal Changes

- Paid sick leave
- Paid parental leave
- Family and medical leave
- Vaccine paid leave
- Vaccine policies

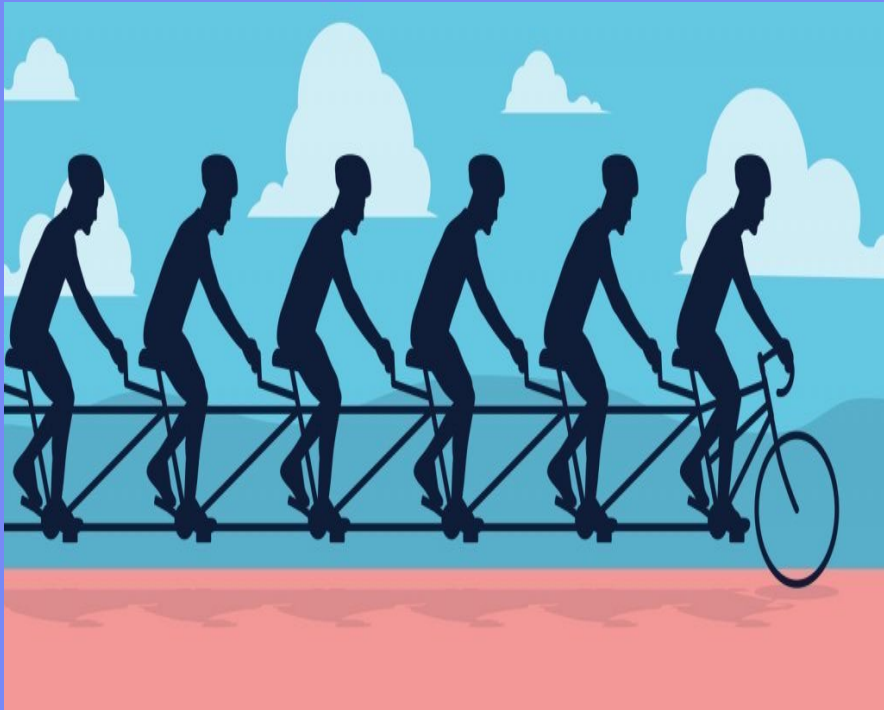


Changed Employment Landscape

- Remote working policies
- Leave policies
- Health and safety policies
- Relocation policies
- Video conferencing policies
- Dress code policies
- Reimbursement policies
- Company property policies
- Desk hoteling policies



Changing Practices



- Are your company's practices consistent with its policies?
 - Having practices that are out of step with your company's policies can:
 - Cause confusion among employees
 - Erode the utility of your employee handbook
 - Create legal risk
 - There are several ways to keep your company's policies and practices consistent:
 - Make your handbook easy to access and understand
 - Regularly train employees on company policies
 - Inform employees of policy changes and have them acknowledge that they have read and understand them

Communicating Changes



When and How?

- When are you going to communicate policy updates?
 - As they happen?
 - Periodically?
- How are you going to communicate policy updates?
 - Email
 - Training
 - Acknowledgments

Acknowledgments



When should you have employees acknowledge changes to your employee handbook?

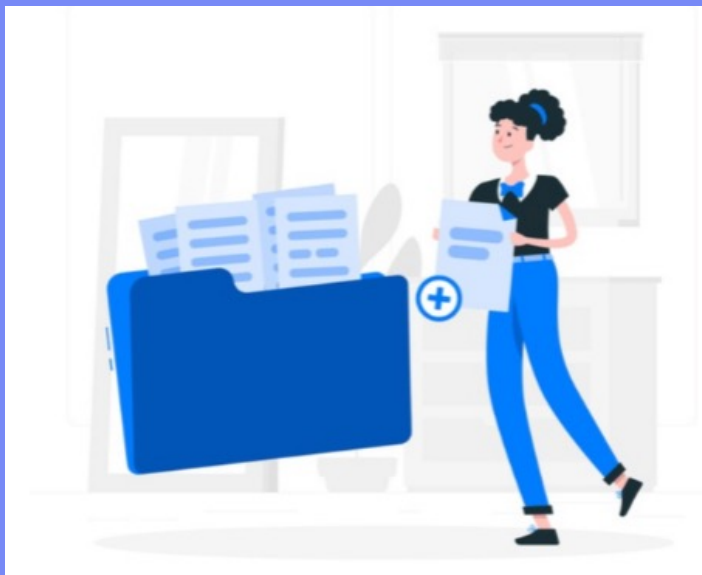
- There are several options, including:
 - Whenever there is a change
 - Only when there is a significant change
 - Every year
 - Less than once a year
- Best practice: Do it regularly and keep a record of acknowledgements.

Handbook Vs. Employment Contract



- Employment contracts are legal documents that bind the employee and employer to the terms and are enforceable in court.
- Employer cannot unilaterally amend employment contracts.
- Employee handbooks set out company policies and standards of conduct expected of employees and can be unilaterally modified by employer.
- Employers should take care to ensure handbooks aren't considered binding contracts.
 - Don't include specific and mandatory language binding the employer (for instance, "Employer must/shall . . .")
 - Include a contract disclaimer and language that employer may change policies in handbook at its discretion at any time

Handbook Vs. Employment Contract - Arbitration



- Employers shouldn't rely on a handbook alone for arbitration requirements.
 - Arbitration agreement should be a contract, not a handbook policy that the employer can change unilaterally.
 - If the company does not have employment agreements for all employees, consider having employees sign a stand-alone arbitration agreement that is separate from the handbook and clearly documents the employee's acceptance of the arbitration agreement.
 - If you address arbitration in both a handbook and contract, make sure they are consistent.

Handbook Vs. Employment Contract – Restrictive Covenants



- Relying on handbooks for restrictive covenants and confidentiality requirements may render those agreements unenforceable.
 - Confidentiality/non-disclosure
 - Should be binding to create legal rights and remedies if breached
 - Non-competition and non-solicitation
 - To be enforceable, must be tailored to specific employee.
 - If only in handbook, employer can't sue to enforce