



Spring Cleaning Your Employee Handbook

April 11, 2024

What we'll cover

1 Keeping Pace
as Your Company
Develops

2 Notable Legal
Updates

3 Distribution and
Acknowledgment

4 How to Keep
Your Handbook
Up-to-Date



Poll question:

What's the biggest challenge you face with keeping your handbook up-to-date?

Creating the right employee handbook

A good handbook

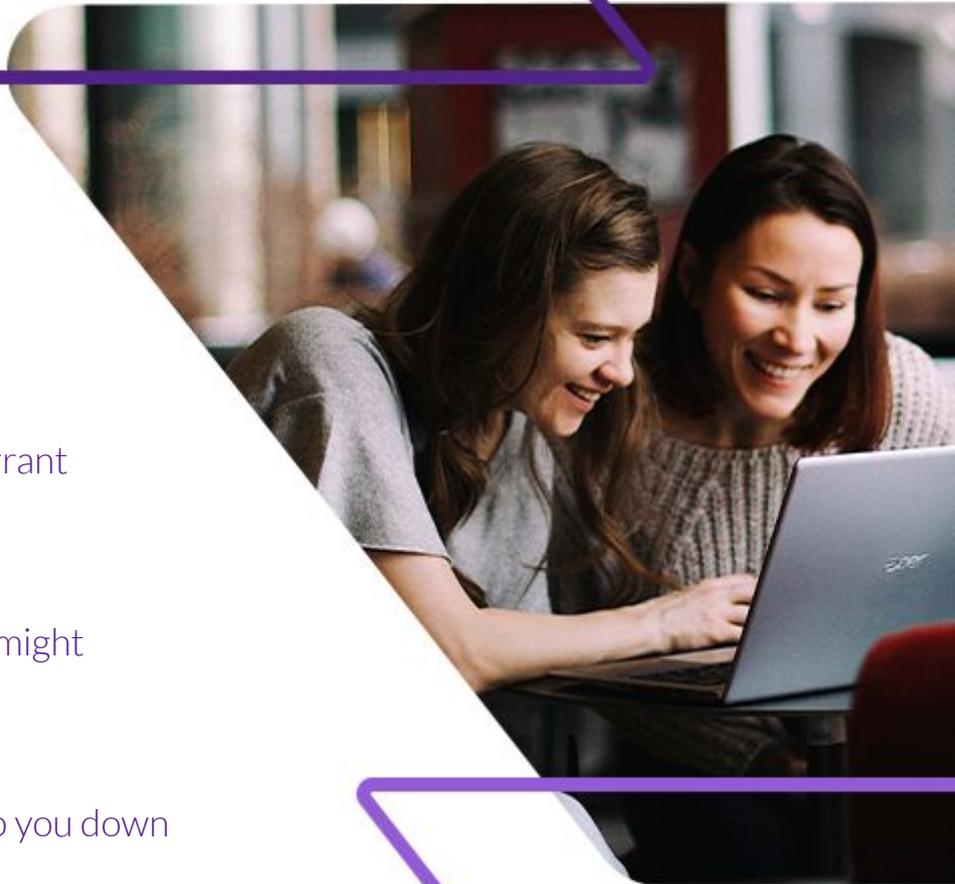
- Is understandable
- Sets employee expectations
- Establishes values and commitments
- Defines important aspects of the employment relationship
- Explains legal entitlements and rights
- Serves as notice and a reference

Keep in mind

- Employee and management expectations
- Employee count
- Employee locations

Company development

- **Review budget changes and allocations**
 - What does the company care about?
 - Where is it focused?
- **Examine employee complaints**
 - Are there any trends? Singular incidents that warrant attention?
- **Lawsuits, fines, and penalties**
 - Legal action is a strong indicator that something might need to change
- **Where do you see yourself in 5 years?**
 - Are there policies you can start now that will help you down the road?



Some useful policies

Budget

- Business Expense Reimbursement
- Business Travel
- Company Property
- Direct Deposit

Complaints

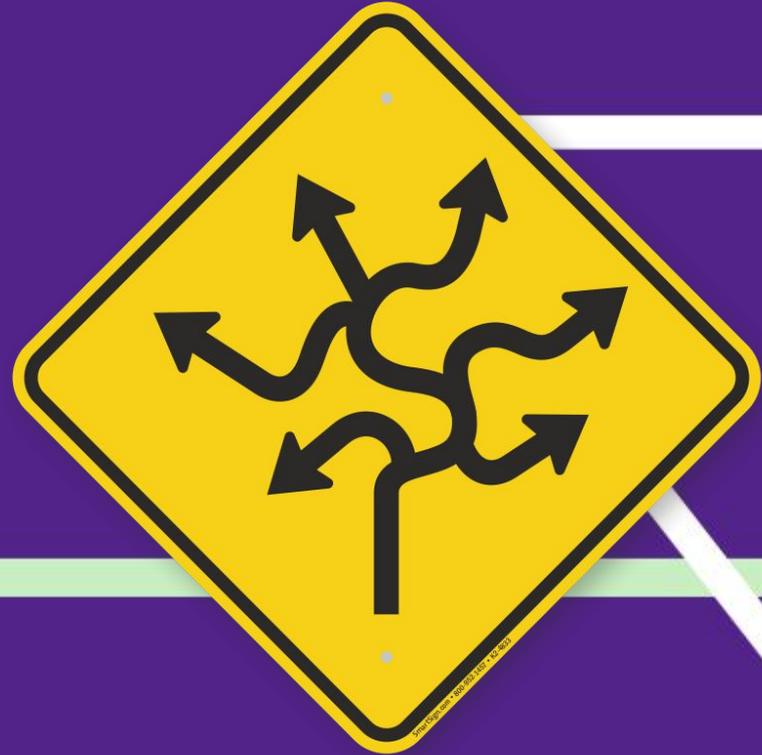
- Employee Dating
- Employment of Relatives
- Dress Code
- Pets in the Workplace

Legal Action

- Anti-Bribery and Anti-Corruption
- Immigration Law Compliance
- Protected Activity



Which state's
laws govern your
employment
relationship?



Employee thresholds

Federal Applicability

- Family and Medical Leave Act: 50+ employees
- Americans with Disabilities Act: 15+ employees
- Providing Urgent Maternal Protections for Nursing Mothers Act: 50+ employees

Explicit Applicability

- Louisiana Medical Screening Leave: 20+ employees in the state
- California Family Rights Act: 5 or more persons within any state of the United States, DC, or any territory or possession of the US

Ambiguous Applicability

- California Civil Service Leave: 50+ employees
- Hawai'i Domestic Violence and Sexual Assault Leave: 15+ employees
- Washington Wage Transparency: 50+ employees

Organizational changes



Organizational Expansion

- Hiring in current states
- Hiring in new states

Monitor employee headcount



Employee Relocation

- Interstate transfers
- Employee WFH

Prepare for employee movement



Shift to Remote Work

- WFH: change in commute
- Increased mobility

Find out where your employees perform work

Interstate commute



Location, location, location

Headcount

- How many employees do you have?
- How many in each state?
- Does your headcount meet applicability thresholds?
- Which states' laws apply to you?

Employee location

- Where are your employees?
- Has anyone moved?
- Where do they live?
- Where do they work?
- Should you survey your workforce?

Process

- Do you have a process in place to check?
- Do your employees know to tell you if they move?
- Do they need to request permission?
- Do you need a relocation policy?

Legal changes → Handbook changes



- Leave Laws
 - Sick Leave, Leave for Any Reason, and Family Leave
- EEO Policies
 - Pregnancy Protections, Lactation Accommodations, and New Protected Characteristics
- Stericycle Decision from NLRB
 - What is it?
 - What does it require?

Paid leave

Minnesota Paid Sick Leave -
Maximum of 48 hours per year
Notice Requirement*
(1/1/24)

Paid Leave Oregon:
State-run paid Family
and Medical Leave
(9/3/23)

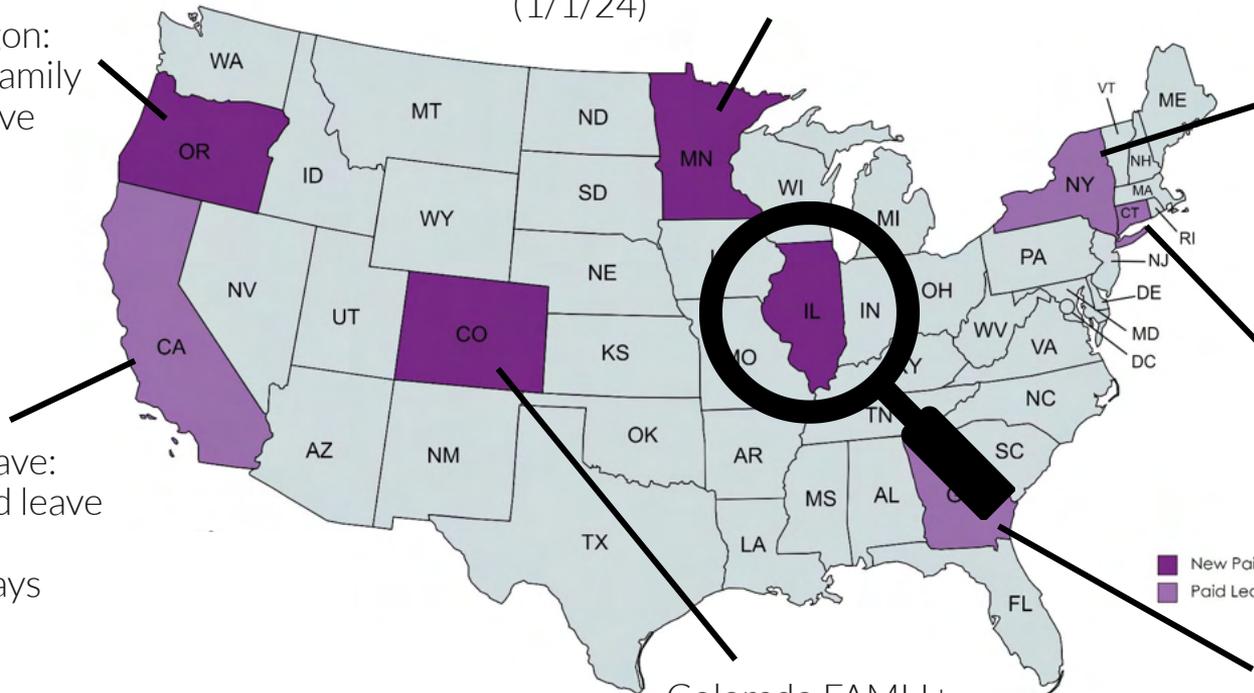
New York City Paid
Sick Leave
Amendments
(10/15/23)

Connecticut
Expanded Paid Sick
Leave Use
(7/1/23)

California Sick Leave:
Maximum accrued leave
from 6 ->10 days.
Frontload 3->5 days
(1/1/24)

Colorado FAMILI+
State-run paid Family and
Medical Leave
(1/1/24)

Georgia Family
Care Act
(4/30/23)



Illinois paid leave

Illinois State Paid Leave

Up to 40 hours each year of paid leave for any reason

Doesn't apply to employees covered by Local sick leave laws

Effective January 1, 2024

Chicago Paid Sick Leave and Paid Leave

Updates to existing Sick Leave and new Paid Leave (up to 40 hours each)

Payout Requirements and Impact on Unlimited Time Off policies

Written policy and Notice requirements

Effective July 1, 2024



Pregnancy & lactation accommodation

Providing Urgent Maternal Protection for Nursing Mothers Act (PUMP Act)

- Employers must provide lactating employees with reasonable break time and a private location to express milk for up to one year following childbirth.
- Employers with fewer than 50 employees may be exempt if complying would cause “an undue hardship imposing significant difficulty or expense.”

Pregnant Workers Fairness Act (PWFA)

- Employers with 15+ employees must make reasonable accommodations related to pregnancy, childbirth, or related medical conditions.
- The EEOC has released Proposed Rules implementing the law.

Protected characteristics and CROWN Act

Arizona, Arkansas, Michigan, Minnesota, and Texas
passed CROWN Act Laws (protected hairstyles) in 2023

Colorado: Marital Status and POWR Act

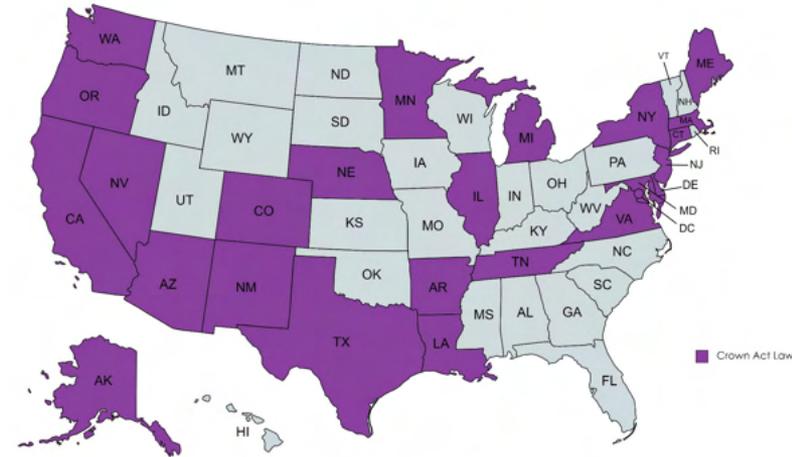
New Mexico: Gender and Gender Identity

New York City: Height and Weight

North Dakota: Pregnancy, childbirth, and related medical conditions

Maine: *Removed* Gender Identity and Expression

Seattle: Caste Discrimination



Created with mapchart.net

CROWN Act Law States

(24 states & DC)

Stericycle, Inc. and Teamsters Local 628

1 Shifts Analytical Perspective

- In this decision, the Board stated that the old test under *Boeing* and *LA Specialty Produce* placed too little emphasis on the chilling effect work rules have on economically dependent employees.
- The Board stressed the importance of employees' economic dependence and the coercive effect that can have.

2 Implements New Standard

- If the GC shows that a policy/rule has a reasonable tendency to chill employees from exercising their Section 7 rights, the rule becomes *presumptively unlawful*.
- That presumption can be rebutted.
- Employer must prove the policy protects a legitimate and substantial business interest, and cannot be more narrowly tailored.

3 Protected Rights

- Concerted Activities—when two or more employees take action to improve their terms and conditions of employment.
- This includes: talking about wages or conditions, petitioning for better hours, lawfully striking, joining with co-worker to talk with employers, government agencies, or the media about the workplace.
- Includes Union Activities

Stericycle continued

Practical implications

- Review suspect employment policies
- Reevaluate your need for each policy
- Document the need for your workplace rules
- Consider using disclaimers and acknowledgments

Some policies to review

- Cell Phone
- Code of Conduct
- Confidentiality
- Conflict of Interest
- Equal Employment Opportunity
- Employee Dating
- Exit Interview
- Pay Transparency
- Protected Activities
- Public Relations
- Outside Employment
- Social Media

Silence isn't golden



- Who needs to see the updates?
- What form should they be in?
- When should they be communicated?
- How often should updates be provided?
- When should you get acknowledgments?

Acknowledgments and Updates

- When do you need to send your employee handbook to employees for signature or acknowledgement?
- Different approaches:
 - Only get acknowledgments upon hire, but make employees aware of subsequent changes
 - Make all changes and get new acknowledgments once per year
 - Send out for acknowledgement every time there is a significant change
 - Send out for acknowledgment once a year but make employees aware of changes between acknowledgments
- An employee handbook is not a contract

Tracking and retention

Hold on to your old handbooks and acknowledgments.

Receipt

Acknowledgments serve as proof of receipt.

Clarity

Acknowledgments verify your handbook is understood.

Protection

Signed handbooks can be legal evidence and mitigate damages.

Consistency

Acknowledgment retention helps ensure uniform treatment.

Enforcement

Proof of understanding aids in policy enforcement.





Poll question:

How often does your organization update its employee handbook?

Best practice:

Check for legal updates every month

- A little effort every month can prevent the need for a significant effort each year.
- Make updates as they are needed.
- How often you need to update will likely depend on where you have employees.

California

- **Non-compete Agreements:** Employers are prohibited from entering into or trying to enforce non-compete agreements (potentially including non-solicitation agreements), even if the agreement is entered into in another state. Employers also have to provide notice by February 14, 2024 to current and former employees that signed non-competes that those agreements are void.
- **New Hire Notice:** Employers must provide new hire notices that include information about emergency or disaster declaration for the county where the employee works. There are also new notice requirements for agricultural employees.
- **Pre-Employment Inquiries:** Employers can't ask job applicants about prior use of cannabis (unless otherwise required by state or federal law). Employer's can't discriminate based on off-duty cannabis use.
- **Paid Sick Leave:** Employers must provide employees with up to five days/40 hours of paid sick leave per year (up from three days/24 hours)
- **Bereavement Leave:** Bereavement leave must now permit leave for reproductive loss, including failed adoption, failed surrogacy, miscarriage, stillbirth, or unsuccessful assisted reproduction.

Colorado

- **Non-Compete Wage Threshold:** Colorado will increase its wage threshold for non-competes to \$123,750 per year. (This is an estimated amount based on proposed rates that are likely to be adopted.)
- **Wage Transparency:** Colorado's Equal Pay for Equal Work Act now requires employers to provide the wage range expected for any posted position, including remote positions (unless the position is tied to a non-Colorado workplace). All job opportunities must be

California

Colorado

Connecticut

Hawaii

Illinois

Indiana

Maine

Maryland

Minnesota

Montana

Nevada

Oregon

Rhode Island

Virginia

Washington

Washington, D.C.

Minimum Wage Updates

Staying up to date on legal changes

DIY

- Some companies assign members of their HR or Legal teams to monitor the law in the states where they have employees and update their employee handbooks accordingly.

Law firms

- Some companies rely on their outside counsel to alert them when the law changes and draft new handbooks.
- Some law firms send out emails or have web pages where they summarize changes to the law.

Automated employment platform

At SixFifty, we:

- Build your handbook with a simple guided question flow
- Send customers a monthly update of legal changes
- Update our document creation engines as the law changes
- Auto-merge updates into your existing policies and docs with AI

Schedule a
personalized demo
of SixFifty

Any questions?

Drop them in the Q&A panel in Zoom!



Additional resources

Explore our free 50
States Employment
Updates map



April 18th webinar:
Building AI policies
as an HR team

