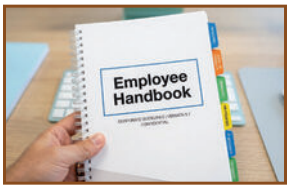
The Employee Handbook

Is yours still running on Windows 95?

by: Greg Goldberg, BTA General Counsel



Does your employee handbook prohibit employees from using floppy disks? Does it tell technicians what to do with company-issued pagers? Does your technology-use policy assume everyone works from a desktop computer connected to the company network? If so, you are overdue for an upgrade.

An outdated employee handbook is more than a paperweight. It can become a genuine business risk. Technology has changed dramatically, the workplace has changed with it and the policies governing employees need to keep pace. An employee handbook is a living document that needs to be updated periodically to reflect how a company actually operates, as well as the environment it operates in. An outdated employee handbook sends a clear message to employees: the company does not prioritize reviewing workplace policies and may not bother to enforce them.

This can pose problems for BTA members. Consider, for example, the issue on almost every business owner's mind: artificial intelligence (AI). Employees may be using ChatGPT or other AI tools to draft emails, troubleshoot technical problems, summarize documents, write code or prepare customer communications. Yet many handbooks say nothing about AI. A technology company without an AI policy is effectively leaving employees to determine what information can be entered into an AI system and how AI-generated work should be reviewed.

That is not a good risk-management strategy. An updated handbook should address, at a minimum, acceptable uses of AI, company technology, customer information, confidential information, passwords, remote access, personal devices and cloud applications. It should establish clear rules concerning data governance and make clear that employees remain responsible for reviewing AI-generated content before relying on it. From a risk management perspective, making the excuse that "AI did it" is reminiscent of saying, "The dog ate my homework."

The same principle applies to cybersecurity. Your technicians and employees routinely have access to systems, networks and data belonging not only to your company, but to your customers. A handbook should establish expectations regarding password security, phishing, unauthorized software, remote access, use of personal devices, data handling and reporting suspected security incidents.

Another important reason to keep your handbook current: consistency. Dealerships and MSPs frequently have employees working in multiple offices, territories or states. Different managers inevitably develop different approaches to employee problems. One manager may strictly enforce a particular policy while another routinely ignores it. One employee may receive a warning for conduct that results in another employee's discipline or even termination.

An updated handbook gives managers a common road map. Consistent application of workplace policies promotes fairness and reduces exposure to lawsuits based on improper practices like discrimination and retaliation.

A handbook should also reflect the law where employees actually work. Employment laws concerning protected classes, leave policies, accommodations, wage and hour requirements, and other workplace issues vary from state to state. A company operating across multiple states may need a national handbook accompanied by state-specific supplements or addenda.

Perhaps the most important idea to keep in mind when writing or updating a handbook is what to leave out. Policies that a company does not intend to follow should be omitted. A handbook promising annual performance reviews that never occur, or progressive discipline that managers routinely skip, can create more problems than it solves. This is particularly the case when defending employment lawsuits where inconsistent enforcement of workplace policies can undermine an otherwise solid defense strategy.

For BTA members, handbook reviews should ideally be done annually and treated much like a technology refresh. Consider: What has changed? What technologies are employees using? What customer information are they accessing? What policies are no longer accurate? What new laws apply? And, perhaps most importantly, are managers actually following the rules in the handbook? It is worth it to address these questions for an hour or two with an attorney on the front end rather than paying a small fortune to defend a claim when things go sideways.

Your employee handbook does not need to be cutting-edge, but it should accurately describe the business you are operating today — not the business you operated five, 10 or 15 years ago. No one wants to run a modern business on obsolete hardware. The same should be true of your employee handbook. ■



Greg Goldberg, partner at Barta | Goldberg, is general counsel for the Business Technology Association. He can be reached at ggoldberg@bartagoldberg.com or (847) 922-0945.