
BANK EMPLOYEE HANDBOOKS: WHAT TO LOOK OUT FOR

Don't take your HR "bible" for granted

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A couple of months ago, I wrote about the necessity of doing a periodic HR audit. A critical element of that audit is a review of your bank's employee handbook.

If you have not performed this chore recently, you may be surprised--and perhaps amused--at some of the outdated policies it contains. For example, an ancient personal grooming policy that dictates skirt or hair length, or a policy that addresses using the bank's telephone for personal calls but is silent on cell phone or smartphone use in the workplace.

On the other hand, let's hope you are not horrified by what you read.

Your handbook may not comply with current law, or may create unintended legal obligations for the bank. Here is a checklist of things to consider when reviewing the bank's employee handbook.

Before you start your audit…

What's the bank's corporate status? How many employees and in what locations? The answers to these questions determine which laws apply. For example:

- If the bank is, or is owned by, a publicly traded company, it must comply with the whistleblower protections of the Sarbanes-Oxley and Dodd-Frank Acts.

- Banks with 50 or more employees are covered by the Family and Medical Leave Act. In addition they are subject to Executive Order 11246, which requires the annual preparation of affirmative action plans and other obligations that need to be reflected in your policies.

- In addition to federal laws, handbooks must comply with state and local laws, which may have different minimum

wage and overtime requirements, leave laws, and classes of individuals protected from discrimination.

Some essential policies to be certain of

Certain subjects should be covered in the handbook. Among them:

- **Equal Employment Opportunity statement:** This should include an anti-harassment and anti-retaliation policy, and a commitment to the interactive process to determine a reasonable accommodation under the Americans with Disabilities Act.

- **Immigration law policy:** A policy reflecting compliance with laws regarding eligibility to work in the U.S.

- **Wage and hour policies:** You need to be sure the bank is complying with state and federal law on payroll practices, meal and rest breaks, and overtime.

- **Leave policies:** You need to cover family and medical leave, military leave, and jury duty, as well as state law requirements that may mandate additional time off for pregnancy disability, vacation, crime victims, or victims of domestic violence, and for a child's school activities.

- **Employee benefits:** Keep this section short, and state that the details are all in the summary plan descriptions distributed separately, or in the controlling plan documents.

- **Employee conduct policies:** These are perhaps the trickiest to draft and enforce: attendance and punctuality, use of telecommunications and IT equipment, use of social media, solicitation and distribution of materials in the workplace. (See below for my comment on Codes of Conduct.)

- **Discipline policy.** Ensure that any progressive discipline policy is not too detailed or rigid so it doesn't create an expectation that an employee can only be terminated "for cause" or after exhausting all the steps in the policy.

There may be other essentials, depending on your bank's particular situation. This is just a basic list.

Include these essential disclaimers

As well as disclaimers implied in the employee benefits and progressive discipline policies referred to above, make sure that you include an employment-at-will provision, and state that nothing in the handbook should be construed as creating an employment contract.

Be sure to reserve the bank's right to make changes to the handbook without notice.

Finally, include an acknowledgment form that employees sign and return saying that they have received and read the handbook, understand the policies, and will comply with them, and that they understand they are employed on an at-will basis.

Maintain a separate code of conduct

Because business ethics are so critical to the bank's success, I advocate separating the Code of Conduct from the handbook. Important policies such as confidentiality, conflict of interest, and personal financial management can get buried if lumped together with more mundane rules of conduct in the handbook. The content, communication, and enforcement of a Code of Conduct is a subject for a future blog.

Keep it clear and consistent

Aim for simplicity and brevity.

Too much detail breeds ambiguity. Whether the handbook is provided to employees in hard copy or online, it should be organized so that information is easy to find. When adding or updating a policy, re-read the whole handbook to make sure you are using consistent terms, and that a provision added later on does not contradict an earlier one.

And when rolling out a new policy or a new version of the handbook, do it in person, so that employees have ample opportunity to ask questions, and you can test their understanding of the content.

Building the culture

The employee handbook is a golden opportunity to explain to employees what the bank expects of them, and what they can expect from the bank.

This article has stressed legal compliance issues, but the handbook also serves the purpose of communicating the bank's culture and values. It's certainly worth the time and expense to make sure that it is attractively presented, as well as readable.

A note to "cut and paste" policymakers: Don't do it.

Subscribers to services like ELC's Bankers' HR Toolkit have access to a wide range of model employment policies. You may be tempted to cut and paste policies from another organization's handbook. Whether you take sample policies from an HR source like ELC or elsewhere, don't do so wholesale. Instead, you should adapt them to your bank, and integrate them by making sure they are consistent with the style and content of the rest of the handbook.

About the author

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