

# How to Write an Employee Handbook: A Sweeping Novel or a Short Story?

11/15/2011 Steven A. Palazzolo

There are as many different types of employee handbooks as there are different types of employers. Some run 70 or 80 pages and have a rule for everything. And then there are the bare-bones handbooks that only contain a few company policies. There is no right or wrong way to write an employee handbook. In fact, there is no law that requires you to have one at all. Still, I think every employer should write one. It is just a good idea and might even help you if you get into legal trouble.

Below, I've condensed a series of blog postings on writing an employee handbook. I got the idea of blogging on the topic after a client suggested the best way to put together an employee handbook is to write it as if you were writing it for your own company. My company? I never actually thought about writing a handbook that way. Until now.

Let's call my fictitious company Zo's. And because I'm a lawyer, let's assume it is a service company rather than a manufacturing company. So, let's write a handbook.

## INTRODUCTION

The first thing I'll include is an introduction, which sets the tone for the company. It may be light, like mine is going to be, or more formal if that is your corporate culture. It also gives us a chance right up-front to introduce the at-will concept. That is, you want to be able to let employees go for any reason or for no reason and with or without notice. And you want to tell them this a non-threatening way. Not that you will ever fire someone without a reason, but why give away your right to do so?

## WORK RULES

Page two of my handbook is going to contain "The Rules." Here are the rules we expect you to live by here at Zo's:

**Rule 1:** Be professional.

**Rule 2:** When doing your job or anything else at work, see Rule 1.

That's it. Two rules that we expect you to follow whenever you are representing the company, dealing with a client or with each other, or just doing your job. By "Be professional" we mean use that good judgment we know you have, always be honest, reliable and committed to doing your best. Be a team player and take personal responsibility for your actions.

These two simple rules cover everything you do at work. Thinking of starting a romantic relationship with a coworker? See Rule 1 and think again. Thinking of harassing someone? Is that really professional? See Rule 1. Want to exaggerate the performance of the company's products in an Internet chat room? Rule 1 again.

For the record, I borrowed these rules from the Tribune Company handbook way back in the Spring of 2008. You can see the article [here](#). I defy you to find a situation that Rule 1 and Rule 2 won't cover.

## **EEO POLICY**

Page three is our Equal Employment Opportunity (EEO) policy. You need to have a policy like this to provide at least some protection if you have a charge of discrimination filed against you. So this particular policy is going to read a bit more like it was written by a lawyer. Mine reads like this:

It is the policy of Zo's that no employee or applicant for employment, will be discriminated against based upon age, race, color, creed, religion, sex, sexual orientation, national origin, disability, veteran status or other protected class or characteristic established under applicable federal, state or local statute or ordinance.

Zo's will not condone, permit or tolerate discrimination as described above. Persons who engage in such discrimination will be subject to appropriate discipline up to and including termination of employment.

If you feel you have been subjected to discrimination, or have witnessed any discrimination, please report it immediately to your supervisor, HR or straight to Zo. Any complaint of alleged discrimination will be carefully investigated. Should there be any violation of this policy, appropriate actions will be taken to correct the matter. Zo's will not tolerate retaliation against anyone who in good faith lodges a complaint under this policy.

Here are a couple of additional things you should know. First, sexual orientation, which is included in the list of things we won't discriminate against, is not a protected category under Michigan or federal law. But we include it anyway at Zo's because we think it is the right thing to do. Second, you don't need to allow people to report directly to the owner of the company, but you do need to give employees at least a couple of options.

## **ANTI-HARASSMENT POLICY**

While there is no statute that specifically requires you to have an anti-harassment policy, the U.S. Supreme Court says that if you want to take advantage of a certain defense to a sexual harassment

charge, you have to have a policy. And when the Supreme Court says we think it is a good idea that you have a policy, we lawyers tend to agree.

One more thing to keep in mind is the title. I like something like “Policy Against Harassment.” Do not call it a “Harassment Policy.” The former makes it clear you won’t condone harassment, the latter makes it sound like you allow harassment as long as you do it by the rules.

It is also a good idea to make sure employees know you won’t tolerate harassment based on any protected category, not just sex or gender. The kind of harassment we are talking about in this policy is harassment based on one of the protected categories. What about a boss who continually and forcefully reminds employees to do their jobs? That doesn’t count as harassment.

## **TECHNOLOGY POLICY**

At Zo’s, everyone has a computer, e-mail account and unlimited access to the Internet. And that, as you know, can cause some problems. We need a computer use policy. And at Zo’s, “computer use” includes how you use your e-mail account, the Internet and social media. So our computer use policy is going to say that Zo’s can monitor use of company-provided computers and computer systems, including e-mail.

In addition, my policy will contain a reference to Section 7 of the National Labor Relations Act – even though Zo’s is a non-union employer. Basically, the National Labor Relations Board says a social media policy that broadly prohibits employees from doing things like making disparaging remarks about the company is a violation of Section 8(a)(1) of the NLRA. And that is true if you are a union employer or not.

## **SOCIAL SECURITY PRIVACY**

At Zo’s we also have a Social Security number privacy policy because Michigan has a SSN privacy policy law. So here is what it says:

Zo’s understands the importance of protecting the confidentiality of its employees’ Social Security numbers and those collected in the ordinary course of Zo’s business. Neither Zo’s nor any of its employees will unlawfully disclose Social Security numbers obtained during the ordinary course of business. Zo’s will limit access to information or documents containing Social Security numbers to those employees who need the information to do their jobs.

In addition, Zo’s will shield Social Security numbers displayed on computer monitors or printed documents from being easily viewed by others. Unless required to do so, Zo’s will not use Social Security numbers as personal identifiers, permit numbers, license numbers, primary account numbers

or other similar uses

Zo's may use a Social Security number to perform an administrative duty related to employment, including, for example, to verify the identity of an individual; to detect or prevent identity theft; to investigate claims; to perform a credit check, criminal background check or driving history check; to enforce legal rights; or to administer benefits programs.

All provisions of this policy are subject to the language of the Social Security Number Privacy Act of the State of Michigan.

## **MISC. POLICIES**

I also would include a policy on solicitation and distribution of literature. We could argue about this one way or another, but I think it is a good idea to say that we want to keep these sort of non-work disruptions to a minimum. If you want to sell Girl Scout cookies for your daughter, do it on your breaks and make sure the people you are pestering are on break, too.

And that is it for my small company. Zo's isn't big enough for a Family Medical Leave Act policy, but your company may be. How about leaves of absence? We will deal with them as they come along. Other types of policies that larger companies might want to consider deal with time off, personal relationships, attendance policies, drug testing and holiday pay.

If you employ hundreds of people, you also might want to consider a workplace violence policy. But if you need to tell people they can't hit or threaten co-workers or bring a weapon to work, you might want to rethink your hiring practices.

I think we can always fall back on Rule 1: Be professional.

Steven A. Palazzolo is a labor lawyer with the Michigan law firm of Warner Norcross & Judd LLP. You can contact him at [spalazzolo@wnj.com](mailto:spalazzolo@wnj.com) or 616.752.2191. Read Steve's blog at <http://zomichiganemploymentlaw.wnj.com>.