

Essential Employment Documents and Procedures for Growing Businesses



Nathan Read
nread@mwlaw.com
(479) 464.5663



Anna Cunningham Rice
arice@mwlaw.com
479.464.5681

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As your business grows and you begin hiring employees, the excitement of expansion can sometimes overshadow the critical need for proper employment documentation and procedures. Yet the foundation you lay during this stage of growth can make the difference between a thriving workplace and costly legal disputes. This article provides an overview of the key employment documents and procedures that every growing small business should have in place to protect itself, its employees, and its future.

The Employee Handbook

An employee handbook is one of the most important documents a growing business can develop. It serves as a central resource that communicates your company's policies, expectations, and culture to every member of your team. A well-drafted handbook should address, at a minimum, the following topics: anti-discrimination and anti-harassment policies, attendance and leave policies, compensation and benefits information, workplace safety guidelines, standards of conduct and disciplinary procedures, and social media and technology use policies.

Critically, the handbook should include a clear and conspicuous at-will employment disclaimer, stating that either the employer or the employee may terminate the employment relationship at any time, with or without cause and with or without notice. This disclaimer should appear prominently at the beginning of the handbook as well as on a signed acknowledgment form at the end, to help avoid any claim that the handbook creates a binding employment contract. Every employee should sign an acknowledgment confirming receipt and understanding of the handbook, and that signed acknowledgment should be retained in the employee's personnel file.

Job Descriptions

Clear written job descriptions are often overlooked, but they serve several important functions. A well-crafted job description defines the essential functions of a position, which is a key concept under the Americans with Disabilities Act when evaluating requests for reasonable accommodations. Job descriptions also provide a benchmark for performance evaluations, support consistent hiring practices, and help demonstrate that employment decisions were based on legitimate, job-related criteria rather than on any protected characteristic.

Job descriptions should be reviewed and updated regularly to ensure they accurately reflect the duties and qualifications required for each position.

Performance Evaluation and Documentation Procedures

Consistent performance documentation is one of the most effective tools an employer has for defending against wrongful termination and discrimination claims. Growing businesses should establish a regular performance review process and train managers to provide honest, specific, and well-documented feedback.

Similarly, when performance issues arise, employers should be sure to train managers to document issues, whether through an informal documentation procedure or through a more formal progressive discipline procedure that typically includes verbal warnings, written warnings, and performance improvement plans. At minimum, performance issues should be documented in writing and retained in the employee's personnel file. This documentation creates a contemporaneous record that can be invaluable in demonstrating that an adverse employment action was taken for legitimate, non-discriminatory reasons.

Wage and Hour Compliance

Wage and hour claims are among the most common and costly employment disputes facing businesses of all sizes. To mitigate this risk, employers should establish clear policies and procedures governing timekeeping, overtime, meal and rest breaks, and pay practices. Employees should be properly classified as either exempt or non-exempt under the Fair Labor Standards Act and applicable state law, and the basis for each classification decision should be documented.

Employers should also be careful to properly classify workers as employees versus independent contractors. Misclassification can result in significant liability for unpaid wages, taxes, and benefits, as well as penalties under federal and state law.

Leave of Absence Procedures

As your workforce grows, your obligations under federal and state leave laws may expand as well. The Family and Medical Leave Act, for example, applies to employers with 50 or more employees within a 75-mile radius. Further, many states and localities have their own leave laws that apply to smaller employers, covering areas such as paid sick leave, parental leave, domestic violence leave, and voting leave.

Developing a comprehensive leave of absence policy that accounts for all applicable legal requirements helps ensure compliance and provides a consistent framework for handling employee leave requests. Proper documentation of leave requests, approvals, and denials is essential for demonstrating compliance and defending against potential claims.

Building a Culture of Compliance

Implementing these documents and procedures is not simply a matter of checking boxes. The most effective employment practices are those that are integrated into the daily operations and culture of your business. Managers and supervisors should be trained on your company's policies, anti-discrimination and anti-harassment obligations, and proper documentation practices. Policies should be reviewed and updated regularly to keep pace with changes in the law and in your business.

Growing a business is an exciting endeavor, and building a strong employment compliance framework from the outset is one of the smartest investments you can make. The time and resources you devote to these foundational documents and procedures today can save you significant time, money, and disruption in the future.