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# What every employer should know about their employee handbook

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# Why Have Employee Handbooks?

- Tool for employers to communicate information about the workplace to employees
- Answer general questions about employment policies and practices
- Refer employees to proper personnel/departments for detailed inquiries

# Handbooks facing growing scrutiny

- *Thompson* handbook claims
- Scrutiny by the NLRB
  - Confidentiality provisions
  - Social media policies
  - Employee conduct



# Common Pitfall No. 1

Your handbook hasn't been updated in years



# Common Pitfall No. 2

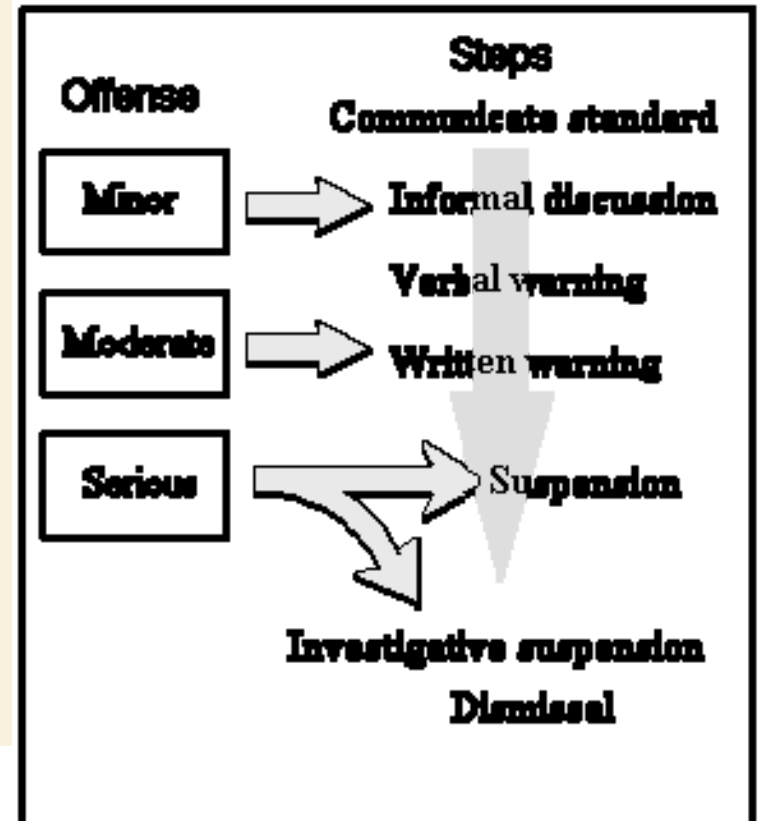
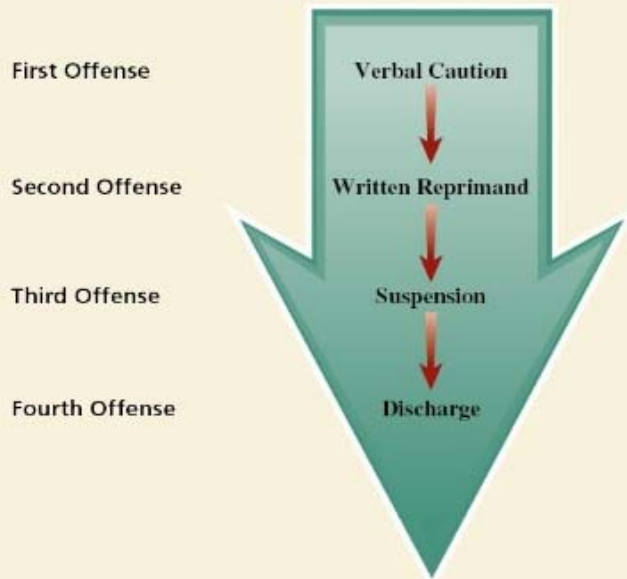
Your handbook does not account for jurisdiction-specific laws

- Sick leave
- Use-it-or-lose-it PTO
- Seattle ordinances

# Common Pitfall No. 3

Your handbook promises progressive discipline without sufficient disclaimers

## Progressive Discipline Process



# Common Pitfall No. 4

Your handbook gives mixed signals on employees' at will status.

- No specific terms
- Either party can terminate for any reason
- Nothing in handbook should be construed as to create contractual rights
- Consider “probationary period” language

# Common Pitfall No. 5

You don't notify employees of changes to the handbook or require signed acknowledgement

The screenshot shows a web-based document signing interface. At the top, a dark blue header contains the text "Sign Document" on the left and "YOUR PROGRESS" with a "100%" indicator on the right. Below this is a yellow banner with the text "WHAT TO DO NEXT: Ready to submit signature" and a "NEED HELP?" link. The main content area features a teal header with a white boat icon and the text "BILGEWATER Luxury Cruises". Below this is the title "Employee Handbook Acknowledgement Form". The body text reads: "This Employee Handbook describes important information about Bilgewater Luxury Cruises, and I understand that I should consult my immediate supervisor if I have any questions about the content of the Handbook or regarding issues the Handbook does not address. I understand that the information, policies, and benefits contained in the Handbook are subject to change, and all such changes will be communicated to me". At the bottom, there is a signature field with a green "X" and a signature that reads "John Bellingham". Below the signature is the text "I AGREE TO THE CONTENTS OF ALL PAGES ABOVE WITH AN ELECTRONIC SIGNATURE". To the right of the signature field is a "SUBMIT SIGNATURE" button with a green checkmark icon.



# Common Pitfall No. 6

Your handbook requires employees keep their pay and benefits information confidential



# Common Pitfall No. 7

Your handbook has a vague or overbroad social media policy



# Common Pitfall No. 8

Your employees use their own electronic devices but your handbook does not have a BYOD policy



# Common Pitfall No. 9

Your handbook is too long and includes policies and procedure manuals that are not properly part of the employee handbook

- Refer to benefits plans but don't include or summarize them
- Set forth leave policies and refer to detailed manual

# Common Pitfall No. 10

## Your handbook does not include key policies

- EEOC statement
- Harassment policy that covers all unlawful harassment (not just sexual harassment) and sets forth procedures for reporting harassment and retaliation
- FMLA notice
- Electronic monitoring

# Recent Cases

Handbooks should refer to arbitration policy, but employees should sign separate arbitration agreement

- *Stirrup v. Educ. Mgmt. LLC*, 2014 WL 4655438 (D. Ariz. 2014)
- *Hergenreder v. Bickford Senior Living Grp., LLC*, 656 F.3d 411 (6th Cir. 2011)

# Recent Cases

Employee could pursue “reliance” claim where handbook didn’t include 75 mile rule in FMLA policy

- *Tilley v. Kalamazoo County Road Com'n*, 777 F.3d 303, 311 (6th Cir. 2015)

# Recent Cases

## Disclaimers should be clear and conspicuous

- *Durant v. SAFE Fed. Credit Union*, 2015 WL 926013 (D.S.C. 2015)



# Questions?

