SHOULD YOU HAVE AN EMPLOYEE MANUAL?

You can’t read a publication today without seeing a story related to employee lawsuits. Uber didn’t pay us correctly. Amazon is working us too hard. Bank of America gave us improper incentives. In fact, employee-employer complaints are the single most litigated class of dispute in America. Proper wage and compensation lawsuits are the single largest subset of employee-employer lawsuits. Unless your small business has Employment Practices Liability Insurance, your business likely has no legal or monetary protection from any claims similar to those noted above, much less for claims of sexual harassment or illegal termination.

Most small businesses don’t have an employee manual. But having a concise well written one that is regularly enforced and followed by all parties is just smart business.

Here are seven guidelines for developing one for your company:

* Remember, all rules apply to management too; don’t list so many you can’t reasonably comply;
* Outline your employee benefits;
* Set-forth your compensation and bonus programs clearly and note what is discretionary;
* Clearly define allowed and prohibited use of internet, email, cell phone and computer usage;
* Publish that Management has open access to all company emails and computer files and that employees should have no expectation of privacy with regards to data;
* Add an Arbitration Clause requiring all employee-employer disputes be handled via the arbitration process, and not in civil court. Include restrictions for the length of the dispute and the amount of discovery that either side may request;
* Include these items/topics:
* Paid and unpaid time off scheduling including vacations, paid holidays, and sick leave if any;
* Procedure for requesting time off;
* Regular work hours;
* What forms the basis of employee performance evaluations;
* Company policies on attire, behavior, gossip, music in the office, hygiene, visits from family and friends, personal cell phone usage at work, and usage of social media;

If you don’t know where to start, seek the advice of a lawyer specializing in employment law, or start with the employee manual of a fellow business owner then customize it for your business. There are also many free office manual templates found online.

<http://www.twc.state.tx.us/news/efte/table_of_contents-az.html>

<http://www.twc.state.tx.us/news/efte/efte.pdf>

<https://www.shrm.org/resourcesandtools/tools-and-samples/pages/employee-handbooks.aspx>

http://www.nfib.com/Portals/0/PDF/AllUsers/legal/guides/NFIB-employee-handbook-guide-WEB-2017.pdf

State laws vary on what can and can’t be included in an employee handbook, so be careful when adopting language from businesses in other states. “Legalese” language isn’t required. Clear everyday language often produces the best results. Require that each employee read and sign the manual and place the signature page in their file. Properly setting employee expectations and obligations in writing is a smart business practice.

Kurt D. Kelley, J.D.

President