

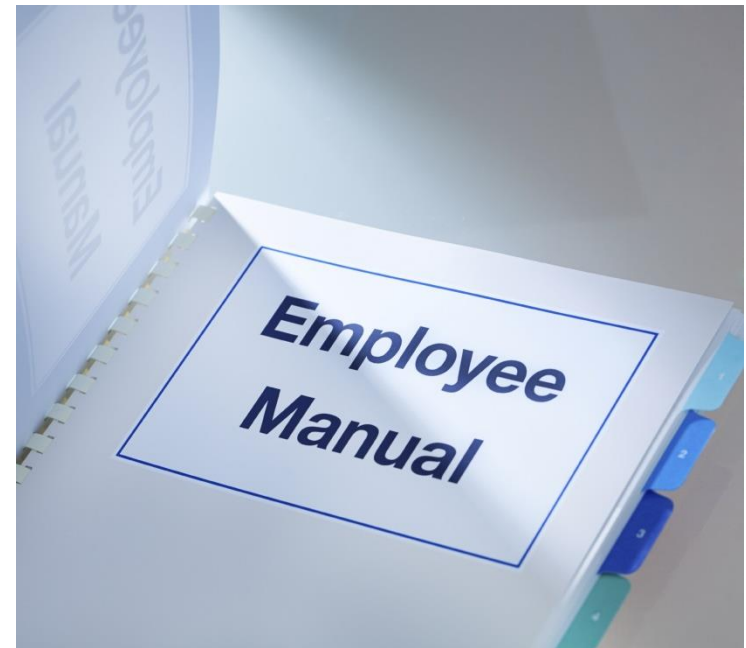


Personnel Handbook Policies *and Examples*

Presented by:
Stephanie P. Berntsen

Handbooks and Policies

- Purpose:
 - Set expectations
 - Provide information
 - Eliminate surprises



Handbooks: Set Expectations

- How employees should act
 - Examples:
 - Code of conduct
 - Harassment
 - When to ask for vacation leave
 - Workplace safety
 - Company property
 - Social media



Handbooks: Set Expectations

- How employer should act
 - Examples:
 - Won't discriminate
 - Will work with disabled employees
 - Investigations of complaints
 - Discipline



At-Will Employment

- Washington is an “at-will” employment state
 - Employee can quit at any time for any reason
 - Employer can terminate at any time for any reason *so long as that reason is not illegal*
- Reality: Not so simple
- CBAs – “for cause”

What Are Illegal Reasons to Terminate?

- Discrimination (more on that later)
- Filing a discrimination claim
- Filing a workers' comp claim
- Organizing employees to act collectively
- Complaining about pay or breaks
- Taking leave
- Pumping breast milk at work
- Reporting illegal business practices
- Most military service
- Others

Handbooks: At-Will Employment

- Confirm “at-will” employment:

Employment with Port is “at will.” This means that either the Port or the employee may terminate the employment relationship at any time, with or without cause, with or without notice. No one at Port has authority to enter into any agreement for employment for a specified period of time, or to make any representations or agreements that are inconsistent with the at-will status.

Handbooks: Not a Contract

- Confirm that the policies/procedures do not create a contractual relationship:

*This handbook is **not a contract of employment**. It does not promise or guarantee any particular benefit or specific action. As explained, all employment with the Port is “at will,” which means ... No one at the Port has authority to enter into any agreement for employment ...*

Refresher: What Is Discrimination?

- Discrimination: making decisions based on differences or perceived differences
- Not all discrimination is illegal: making a decision based on an individual's job skills or performance is not illegal
- Discrimination is illegal when it is based on a difference that is protected by the law

Discrimination: What Are Protected Characteristics?

- Federal law prohibits discrimination on the basis of race, color, national origin, religion, sex, pregnancy, disability, or perceived disability.
- Washington state law prohibits discrimination on the basis of race, creed, color, national origin, families with children, sex, marital status, sexual orientation (which includes gender expression and gender identity), age, veteran or military status, disability, or perceived disability.
- Generally speaking, decisions should be based on what a person does, not on who a person is.

Discrimination Claims: Common Mistakes

- Treating someone differently based on a protected characteristic
- Making assumptions based on a protected characteristic
- Making “stray remarks” or commenting about or discussing someone’s protected characteristic, even if it’s not in the context of an employment decision



Discrimination: Be Aware of Assumptions

- Assuming that a woman needs to get home to her kids, but a man doesn't.
- Assuming that a person with a disability can't lift, walk, climb stairs, etc.
- Assuming that someone of a certain religion cannot do something.
- Assuming that because of someone's age, they will or won't be around a long time.

Handbooks and Policies: EEO Provision

- Affirm you are an equal employment opportunity employer.

The Port is an equal employment opportunity employer. Every employee has the right to work in surroundings that are free from all forms of unlawful discrimination. The Port will not engage in or tolerate any discrimination in the workplace prohibited by local, state or federal law. No employee may be discriminated against on the basis of his or her race, sex, gender, religion, creed, age, pregnancy, physical or mental disability, marital status, national origin, genetics/genetic markers, military status, sexual orientation or any other protected characteristic.

Handbooks and Policies: Harassment

- Harassment will not be tolerated
- Define “harassment”
- What to do if harassment occurs





Handbooks and Policies: Harassment Not Tolerated

The Port is committed to providing a workplace that is free of verbal, physical and visual forms of harassment so that everyone can work in a productive, respectful and professional environment. Harassment in employment based on sex, race, national origin, religion, age, marital status, sexual orientation, genetics/genetic markers, disability, or any other basis prohibited by local, state or federal law is strictly prohibited. The Port does not tolerate harassment, based upon any protected status, by anyone in the workplace - supervisors, co-workers, or non-employees. Employees who violate this policy are subject to discipline, up to and including possible termination.

Handbooks and Policies: Harassment Defined

Examples of harassment based on race, national origin, religion, marital status, sexual orientation, age or disability can include, but are not limited to:

- *Cartoons or other visual displays of objects, pictures or posters that depict such protected groups in a derogatory way;*
- *Verbal conduct, including making or using derogatory comments, epithets, slurs and jokes towards such groups or individuals based on the identified characteristics.*

Handbooks and Policies: Harassment Defined (cont.)

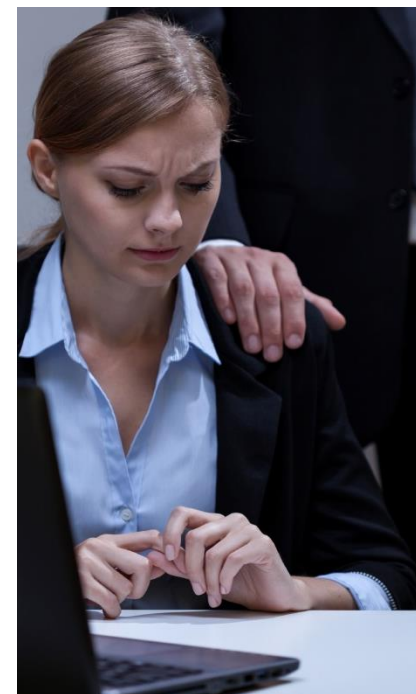
Sexual harassment is generally defined as unwelcome sexual advances, requests for sexual favors, or other visual, verbal or physical conduct of a sexual nature when:

- *Submission to such conduct is made either explicitly or implicitly a term or condition of employment;*
- *Submission to or rejection of such conduct affects employment opportunities; or*
- *The conduct interferes with an employee's work or creates an intimidating, hostile or offensive work environment.*

Sexual harassment includes harassment based on another person's gender or harassment based upon pregnancy, childbirth, or related medical conditions. It also includes harassment of another employee of the same gender as the harasser. This policy is also violated if an employee is fired, denied a job, or denied some other employment benefit because the employee refused to grant sexual favors, complained about harassment, or assisted in an investigation of harassment.

Handbooks and Policies: If Harassment Occurs

- Every employee is responsible for adhering to the policy.
- Open door
- Steps to take:
 - Address it with offending person
 - Address it with supervisor/manager
 - Address it with HR
- Investigate





Handbooks and Policies: Disabilities and Reasonable Accommodations

- Direct individuals to HR

We recognize that employees living with physical or mental disabilities may need reasonable accommodations to enable them to perform their essential job functions. If you believe you need reasonable accommodation, notify Human Resources as soon as you are aware of your disability and the need for a reasonable accommodation. Although the need for accommodations is determined on a case-by-case basis, generally we will engage in an interactive process with you and your healthcare provider(s) to confirm the existence of the condition, your limitations in the workplace, and possible reasonable accommodations. You are obligated to cooperate with the Port in this interactive process, which may include authorizing us to communicate with your healthcare provider(s) concerning your condition, limitations, and possible reasonable accommodations.

Handbooks and Policies: Complaints and Investigations

- Process depends on each organization
- Have a process
- Cover:
 - To whom employees can report complaints
 - Complaints will be promptly investigated
 - Confidential to the extent allowed by circumstances
 - If wrongdoing, prompt discipline will occur
 - No retaliation!

Handbooks and Policies: Employee Expectations

- What is important to your organization?
- Set out the rules in advance
- Not exhaustive ... Management always has the right to revise policies and expectations



Handbooks and Policies: Code of Conduct

- What is most important to your organization?
 - Standards of conduct
 - Drug & alcohol use
 - Conduct with clients
 - Attendance and punctuality
 - Professional attire
 - Confidentiality
 - Contact with media
 - Conflict of interest
 - Travel and expense policies





Handbooks and Policies: Examples of Misconduct

Non-exclusive list of misconduct for which an employee may receive discipline up to and including termination:

- *Insubordination, failure or refusal to carry out job assignments and management directives*
- *Unauthorized release of confidential or proprietary information (note that this does not include employee's own wage, benefits, or other employment terms)*
- *Swearing or verbal abuse directed at co-workers, supervisors, managers, or program beneficiaries while at work*
- *Falsification of any work, personnel, or other company records*
- *Unauthorized taking or removal of company or co-worker funds or property, or unauthorized charges to company accounts*

Handbooks and Policies: Examples of Misconduct, cont.

- *Dishonesty*
- *Discrimination against or harassment of co-workers, supervisors, managers or customers*
- *Possession, consumption, sale, or being under any influence of alcohol or illegal drugs while at work or on work premises (except the use of medications as prescribed by a physician)*
- *Deliberate or negligent damage to company property or that of co-workers, supervisors, or managers*
- *Fighting with or threatening a co-worker, supervisor, manager, or customer*

Handbooks and Policies: Examples of Misconduct, cont.

- *Unacceptable or below-standard job performance*
- *Excessive or recurring absenteeism, tardiness, or failure to report in when absent or late for work*
- *Failing to call in or report for work 3 or more business days*
- *Sleeping on the job*
- *Theft*
- *Misuse of company property*
- *Violation of any policy contained in this Handbook or any other company policy or procedure communicated to employees*

Handbooks and Policies: Discipline and Termination

- Discipline policy only if necessary
- Best practice: Allow flexibility

The Port may take disciplinary action up to and including termination for workplace misconduct.

- Termination
 - Final pay
 - Return of company property



Handbooks and Policies: Leave

- Vacation/sick
- PTO
- Family Leave (FMLA)
- Washington Family Care Leave
- Washington Pregnancy Disability Leave
- Parental leave
- Military leave
- Domestic violence leave

Handbooks and Policies: Leave

- Safe and Sick Leave (Seattle for now, but may be coming soon ...)
- Bereavement leave
- Other discretionary leave



Handbooks and Policies: Leave

- Washington Family Care Leave – all employees
 - EE can use paid time off
- FMLA and WFLA
 - 50 or more employees
 - Working 20 or more weeks
 - Within a 75 mile radius
 - 12 weeks unpaid leave for serious medical condition

Handbooks and Policies: Attendance

- Attendance:

Regular and timely attendance is an essential function of every employee's job and is critical to the smooth operation of the Port. Employees are expected to report to work when assigned, on a regular basis, and on time.

If unable to report, the employee must contact ...

If absence or tardiness is due to an emergency, then ...

Recurring absenteeism or tardiness, including failure to comply with call-in features of this policy may result in discipline up to and including termination of employment.



Handbook and Policies: Rest and Meal Breaks

All nonexempt employees receive a 10-minute paid rest break for each four hours of working time. The nonexempt employee's supervisor may schedule the breaks, which should generally occur near the midpoint of each four-hour work period. A nonexempt employee may not use break periods to extend a lunch period, to work overtime, or to leave work early.

Nonexempt employees working more than five hours in a day are required to take a meal break two to five hours into their shift. The normal meal break is a 30-minute unpaid period. Any nonexempt employee who works more than ten hours in a day is allowed to take a second 30 minute unpaid meal period around the middle of the second five hour period.

Any nonexempt employee who is unable to take his or her rest or meal period must notify his or her supervisor promptly so that the Port can reschedule the break/meal period or otherwise ensure that the employee receives proper compensation.

Handbook and Policies: Wages

- Pay periods and timekeeping requirements
- Overtime

If you are a non-exempt employee, you are eligible to receive overtime pay if you work more than 40 hours in a given week. Holiday and paid time off are not included in the hours used to determine overtime eligibility. Overtime pay equals 1.5 times your regular hourly rate. All overtime hours you work must be approved by your supervisor or manager in advance. It is your responsibility to monitor your weekly work hours and to immediately notify your supervisor that you will be working more than 40 hours in any given week.

Handbook and Policies: Workplace Safety

- Workplace safety
 - Depends on the organization
 - Report immediately
 - Clean and orderly workplaces
 - No unauthorized individuals operating equipment
 - Storage of materials and equipment
 - No horseplay
- Reporting accidents
 - Whom to report to and when – within 24 hours of injury
- Emergencies
 - Fire/disaster plan



Handbook and Policies: Electronic Communications

- Employee's use of company's electronic systems to communicate
- Business use only
- Prohibited usage, e.g., sexually explicit materials
- Prohibit downloading of files, software, upgrades or other material without permission
- Right to monitor

Handbook and Policies: Social Media

- Guidelines for personal expression regarding employee's work made on personal time, devices, and systems:
 - Internet is forever; audience can be broad
 - Consider your professional reputation
 - Maintain confidentiality and company intellectual property
 - Employee is responsible for his or her own posting
 - Do not use company resources for personal use or social media

Handbook and Policies: Social Media, cont.

- Not a spokesperson for company
- Social network friends may be separate from your work relationships
- Nothing prohibits any employee from engaging in social media to discuss the terms and conditions of employment



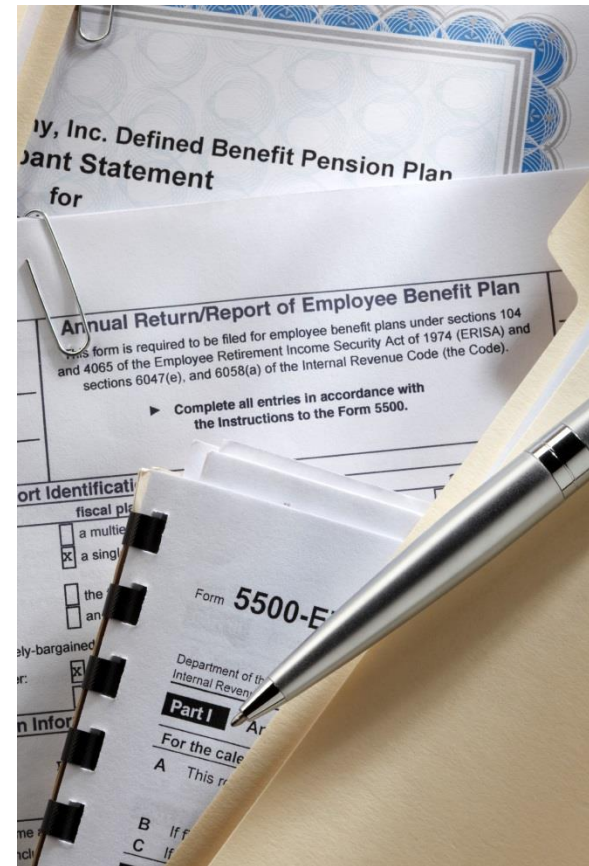
Handbook and Policies: Drugs and Alcohol

- Marijuana still illegal under federal law
- If medical marijuana, consider interactive process to determine whether a reasonable accommodation is available
- Zero tolerance



Handbooks: Provide Information

- Benefits
- Holidays
- Expense reimbursement
- Inclement weather/
emergency procedures
- Personal appearance
- Moonlighting
- Smoking



Handbooks: Provide Information

- Telecommuting
- Social events
- Employer-issued cell phones and computers
- Searches of employee workspaces and personal belongings
- Performance reviews
- Anything else?





Handbooks: Acknowledgments

I acknowledge that I have received, read, and understand _____'s Handbook revised as of _____, 2015.

I also acknowledge that its purpose and content have been explained to me, and that I have been offered an opportunity to ask questions regarding it. I understand the Employee Handbook summarizes various employment policies and procedures applicable to my employment with _____.

I further understand that the Employee Handbook is not an employment agreement or contract for employment. I have been told and I understand that my employment with _____ is "at-will," which means it may be terminated at any time, with or without cause, with or without notice, by either me or _____. I also understand that my job responsibilities may change, or my benefits may change after I accept employment with _____.

Handbooks: Acknowledgments (cont.)

I understand that this Handbook supersedes any prior handbooks or policy manuals regarding employment with _____.

I understand that _____ may add to, modify, delete or make exceptions to any of the policies and procedures contained in the Employee Handbook from time to time.

I agree to perform my job and otherwise act in a manner consistent with the Employee Handbook and any subsequent additions, modifications, or deletions, which may be implemented by _____ during my employment.

Handbooks and Policies: Eliminate Surprises

- Apply them! (Fairly)
- Review occasionally
- Update as laws and needs change





QUESTIONS?