



HR for Business - ConsultStu LLC

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Information Paper

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Topic: 2015 updates to Employee Handbook and policies

Time to dust off the Employee Handbook and review your employment policies to examine what updates may be needed as 2015 approaches. There were many developments in 2014, which impacted human resources both nationally and in Florida. Depending on your company size, here are some of the areas to review for potential updates and revisions:

- Spousal definition – policies and benefit plans that define spouse will need to be updated due to same sex marriage legalization in Florida. On January 5, 2015, the county clerk of courts will be compelling to issue same sex marriage licenses based on a decision by a federal court judge. Stay tuned.
- ACA pay or play provisions are in effect starting January 1, 2015, for larger employers. These companies need a manner of tracking and reporting employee hours, and be prepared to complete required end of year IRS forms.
- ACA covered companies should ensure the definition of “full time” employee matches the ACA requirements of 30 hours per week for health insurance eligibility. Remember, “hours worked” under the ACA includes employee paid time off hours.
- Another ACA related change is related to waiting periods. If not changed already, covered employers need to change waiting period for new employee coverage to no longer than 90 days. Consider using the following: “first day of the month following 60 days of employment.”
- Cease employer policies that reimburse employees for individual health care premiums (either pre or post-tax). These plans run afoul of ACA mandates and do not comply with IRS Notice 2013-54.
- Review and update EEO definitions for protected discrimination, since many locals and states have added to the list. For instance, Gender Identity (transgender) is a protected classification in Gainesville, Orlando and Tampa, and also in Alachua, Pinellas, Monroe, Broward and Volusia counties.
- Consider the EEOC’s new guidance on pregnancy “accommodation” and how it fits with ADA and other company leave policies (paid and unpaid). Review company procedures for handling pregnancy situations.
- Review drug free workplace program and the impact of medical marijuana (voted down in Florida) and how legal use of marijuana while out of state impacts company policy.
- Social Media policy with overly broad language and conduct bans can create problems when it infringes on workplace rights of employees. Even in non-union workplaces, the NLRB rules and guidelines apply. Code of conduct and professionalism policies may be impacted.
- Email communication policies are impacted by a recent decision by the NLRB, which concluded that employees (with email accounts) are permitted to use these accounts for union organizing activity. Revisit who should be given a company email account.



- Update the Florida workplace minimum wage poster and update any reference to the current minimum wage effective January 1, 2015 (will be \$8.05, and a minimum wage of at least \$5.03 per hour for tipped employees).
- Review how the company defines compensable work time and check common problem areas such as time for training, waiting and/or travel. In 2014, the Supreme Court determined that time spent by employees waiting to go through security checks at work was not compensable – but most other time an employee spends on behalf of an employer is compensable.
- E-cigarettes – the growing popularity of these items may require a look at how they are addressed by company policy.
- Mandatory arbitration provisions for employees. There were several decisions by Florida courts that impacted the use of these agreements and if they are enforceable. Problems were found when the provision did not disclose sufficient details about the arbitration procedures and when prevailing party provisions were included.
- Background checking procedures, forms and process review. This is a tricky area, and employers should have a standardized process, consent forms and letters to comply with the FCRA. Publix was recently tripped up and paid a big settlement due to background checking issues in 2014. Outside of Florida, many states and cities passed new laws in 2014 to “ban the box”, which forbid employers from having a box on the application asking for whether the applicant had been convicted of a crime. In Florida, it is still permissible to ask for criminal history on the application.
- New OSHA recordkeeping – verify if your industry classification has any changes to OSHA recordkeeping, and then update your OSHA injury reporting policy which will become much more common after January 1, 2015. New rule – covered entities report to OSHA when one person has in patient care for work related injury (old rule was only reporting if multiple persons had in patient treatment).
- Review progressive disciplinary policy, and synch it with the Florida unemployment statute changes a few years ago. Add definitions of misconduct, and provide for required written warning for excessive absences and tardiness. No call/no show policies will be most effective if using at least a 2 day standard.
- Personal data breaches are growing. Review how your company will comply with the new Florida Information Protection Act of 2014. Florida businesses must take “reasonable measures” to protect and secure personal information and dispose of records containing personal information (paper or electronic) once the records no longer need be retained. Procedures should be developed in the event of a breach of personal information, and the need to report in some cases.

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HR for Business – Consultstu LLC provides fractional HR services to small/mid businesses, and helps those companies minimize HR costs and improve HR efficiency. We assist our clients with customized HR solutions to protect from expensive HR mistakes and strategies for increase employee engagement. Contact Stuart Charlson at [727-350-0370](tel:727-350-0370), or email info@consultstu.com