

Tips for Employers: Top 5 Employee Policies for 2022

Are you ready for 2022's employment challenges? For employers, updating (or introducing) an employee handbook often feels like a thankless task. As employment lawyers, we see the pitfalls employers face when they do not utilize written employment policies and/or when their employee handbooks are outdated. To help employers meet those challenges, here's what we think are the Top 5 employment policies this year.

1. **COVID-19.** All COVID, all the time! We know that employers have spent two years implementing, improving, and reversing policies around the pandemic. Are you exhausted yet? Here are two key points:

- For employers in the healthcare industry and subject to the CMS mandate, the CMS rule is currently in effect throughout the country. Failing to implement a compliant vaccination policy could impact your bottom line.
- Be sure to review other federal, state and local laws that may apply to your business.
 - Even if not subject to any specific COVID-19 prevention laws, all employers have an obligation under OSHA to provide a work environment "free from recognized hazards that are causing or are likely to cause death or serious physical harm."

2. **Remote Work.** If you can't beat them, join them? Let's face it—remote work is here to stay. Employers may want to ensure their remote work policy aligns with your company's practice. Be prepared to be flexible and document any exceptions. Of course, workers who have a medical or religious exemption from the policy should be accommodated, if feasible. All employee accommodation requests, and your decision should be documented.

3. **At-will employment.** The vast majority of states espouse the rule that employment is at-will: meaning, in most places, an employee can be terminated for any reason or no reason so long as it is not a discriminatory reason. Still, best practices urge employers articulate the policy and include it prominently in their employee handbooks (and elsewhere, like employment applications).

4. **Juneteenth.** In 2021, Juneteenth became the eleventh federal holiday. Management may want to consider whether Juneteenth will be a company holiday. Among other considerations, management may think about the importance of the holiday in American history and what impact this decision might have on employee morale. Naturally, other factors will impact the decision including how your company observes other federal holidays, your industry and the bottom line. Even if your business is not going to make Juneteenth an official holiday, consider whether the company should acknowledge the day in some other way, such as a company provided breakfast or lunch to commemorate it.

5. **Anti-discrimination and anti-harassment.** It has been 18 months since the U.S. Supreme Court's landmark decision in *Bostock v. Clayton County* and it is a good time to ensure that your company's anti-discrimination and anti-harassment policies are up to date. Keep in mind that state and local laws may include classifications of persons not specifically covered by federal law. And the EEOC reminds that applicants also protected under the anti-discrimination laws:

Applicants, employees and former employees are protected from employment discrimination based on race, color, religion, sex (including pregnancy, sexual orientation, or gender identity), national origin, age (40 or older), disability and genetic information (including family medical history).

Applicants, employees and former employees are also protected from retaliation (punishment) for filing a charge or complaint of discrimination, participating in a discrimination investigation or lawsuit, or opposing discrimination (for example, threatening to file a charge or complaint of discrimination).

Bonus: If you've reviewed all the above, you are ahead of the game! Now might be the perfect time to consider whether your company wants to implement or review its policy on binding arbitration or mandatory mediation of employment disputes.

Galloway's employment law practice team is available to answer your questions. Stay tuned for more employment news...

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