The Ins and Outs of Effective HR Policies
Your policy is a voluntarily undertaken codification of values.
Your managers need to take policies seriously. How you write and communicate policies influences how they are perceived and enforced.
Your Policies

- Well-written policies won’t prevent a lawsuit, but they can help your defense.
- Great policies address justice.
- Don’t allow double-talk or favoritism.
Developing Areas in Employment Law

1. Forcefulness of NLRB in protecting Section 7 rights

- The NLRB ruled that an over-broad at-will statement violated Section 7 rights.
- Preventing certain kinds of disclosures may also violate Section 7.
- Preventing workers from sharing concerns during an investigation is also a violation.
1. Question the use of screening tools.
2. Looking at ADA compliance
3. Actions that negatively impact lesbian, gay, bisexual, and transgender people
4. Equal pay violations
5. Preserving employee rights to the legal system
3. Attempts to enforce wage and hour laws collectively.

- These actions have produced multi-million-dollar judgments.
- There has been focus on overtime for nonexempt employees.
- Make sure your policy properly classifies employees.
Developing Areas in Employment Law

4. Over 28 states have laws prohibiting employers from requesting social media passwords.
10 Policy Mistakes Employers Sometimes Make

1. Not including a summary of the most important policies
2. Not explicitly preserving management rights
10 Policy Mistakes Employers Sometimes Make

3. Not balancing employee protected, concerted activity

4. Using boilerplate language
10 Policy Mistakes Employers Sometimes Make

5. Wage and hour misclassification

6. Impermissible deductions from pay
Policy Mistakes Employers Sometimes Make

7. Entitlement for payment of unused vacation on termination

8. Not controlling overtime hours worked
9. Excluding prohibited conduct due to focus on sexual harassment

Define harassment in a stricter standard than the legal definition.

Don’t require harassment complaints to take a particular form.
10 Policy Mistakes Employers Sometimes Make

10. Over- or under-acknowledging policy receipt

Most employers know employees haven’t read the handbook when they sign the acknowledgement.

Bonus: Missing necessary policies
1. Employee complaint procedure/no retaliation prohibitions

* If employees fail to use an accessible resource, they might lose their right to sue.
2. Detailed leave-of-absence policies
3. Well-defined digital communications policies

- Employer-owned systems should be business only.
- Prohibit employee disparagement of the organization.
4. Wage and hour Safe Harbor policy

Top 5 HR Policies That Everyone Should Have
5. Ban unintended employment contracts or guarantees.

- Make sure you don’t imply that employment is permanent after completing the probationary period.
Update Policies When...

Legislation requires tightly defined steps.

Issues arose since the last update.

There’s inconsistency in behavior.

There’s confusion about how things are done.
It argues that the employer isn’t liable for harassment because it exercised reasonable care.

Loopholes are created when exceptions are made, especially when perceived as discriminatory.
Inconsistency

If a previously overlooked issue is suddenly enforced, the employee can claim retaliation.

Train supervisors by simulating errors.
1. Develop policies to address frequent issues and articulate exceptions to those rules.

- Reserve the right to change policies.
- Reserve the right to exercise discretion.
2. Measure your policies with the “best employee” test.

3. Tailor policies to specific, relevant groups of employees.
5. Risk Mitigation Suggestions

4. Avoid obligatory language.

5. Keep a written record of exceptions made and the circumstances that allowed them.
Communicate Intent

Do a readability check of your document.

Consult stakeholders when creating policies.
Generational Mixes

- Communication preferences may differ generationally.
- Consider the pros and cons of paper vs. digital communication
- Consider your work force and use a balancing combination.
Your employees’ interests will vary.  
People learn differently, such as by hearing, reading, or experiencing.  
People tend to remember only 3–5 points.  
Don’t forget to communicate with remote workers.
Summary

- The top policies you should have in place
- How often to update policies
- Tips on training and enforcing
- How to communicate your policies
- Avoiding common mistakes
- How to create policies that hold up in court
Welcome to The Ins and Outs of Effective HR Policies Q&A

With Jodie-Beth Galos, Esq.
Thank you for joining us today!