



Handbook Mistakes That Get Employers Sued in 2026

Employee handbooks are often updated incrementally over time, which can allow outdated language or inconsistent policies to remain in place longer than expected. This slide deck highlights common handbook mistakes employers continue to encounter as workplace laws and practices evolve.

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WHY HANDBOOKS CREATE RISK

Your employee handbook is evidence - whether you intend it to be or not

- Employee handbooks are routinely used in:
 - Investigations
 - Litigation
 - Arbitration
 - EEO and Workforce Commission hearings
- Outdated or poorly drafted language can:
 - Undermine reasonable decisions
 - Create leverage for employees
 - Be evidence of illegal practices
- Most handbook risk is **unintentional** and comes from:
 - Stale policies
 - Copied or generic language
 - Benevolent but uninformed practice

Bottom Line: A handbook can either support your decisions - or quietly work against you.



DRAFTING MISTAKES EMPLOYERS UNDERESTIMATE

Language problems that quietly create liability

- Generic or template policies that don't reflect real practices
- At-will language that is:
 - Inconsistent
 - Buried
 - Contradicted elsewhere
- Rigid discipline or “zero tolerance” language that:
 - Removes flexibility
 - Creates false expectations
- Wage & Hour language that:
 - Is inconsistent with the very rigid wage rules
 - Is “creative” with pay calculations

Key Takeaway: When handbook language doesn't match reality, employers lose control of the narrative.



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● POLICY AREAS UNDER THE MOST SCRUTINY RIGHT NOW

Where 2026 handbook risk is showing up

- Civility, confidentiality, and social media rules
- Leave policies and state-by-state requirements
- Cannabis, drug testing, and safety-sensitive roles
- Remote work, monitoring, privacy, and AI use
- Terms of absolution that are not absolutely followed

Important note: These areas change quickly, and outdated language is often worse than no language.





OPERATIONAL GAPS EMPLOYERS MISS



Even good handbooks fail in practice

- Laws change
- Managers follow informal rules instead of written policy
- Written policy becomes so stale it doesn't follow actual practice
- Employees never acknowledge receiving updates
- Old versions resurface during disputes
- Policies promise more than operations actually deliver

Risk created: Inconsistency becomes evidence.





WHAT EMPLOYERS SHOULD DO NOW



Education, not legal advice

- Review handbooks regularly
- Identify obvious red flags before there's a complaint
- Align written policies with real-world practices
- Ensure managers understand what the handbook actually says

Reminder: This is about awareness - not rewriting policies mid-problem.



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