

L&E Live

Is Your Handbook Up To Date?

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Questions?



Why NOW Is a Great Time to Review and Update Your Employee Handbook

- Done right:
 - A handbook limits your liability
- Done wrong or not kept current:
 - A handbook can leave you exposed
- 2020 - 2021 =
 - Changes in federal law
 - BIG changes in Colorado law
 - Changes in our work habits and environments

First Things First – At-Will Disclaimer



Define Relationship



Avoid Contract
Liability



“Clear and
Conspicuous”

Sample At-Will Disclaimer

***** IMPORTANT DISCLAIMER *****

THIS HANDBOOK IS NOT A CONTRACT. This Handbook is provided for informational purposes only. The policies and benefits described in this Handbook may be modified, revoked, or suspended by the Company in its sole discretion at any time. Nothing in this Handbook is intended as a promise of or commitment to continued employment, employment for a definite time, or employment under specific terms, benefits, or conditions.

EMPLOYMENT WITH THE COMPANY IS AT-WILL. This means that employment may be terminated by you or by the Company at any time, for any reason, and with or without notice. No person other than the President of the Company has authority to make promises or enter into contracts regarding the duration, terms or conditions of employment, and any such promise or contract must be in writing and signed by the President of the Company.

EEO / Non-Discrimination Policy

- Commitment to provide equal employment opportunities
 - To all employees and applicants
 - In all aspects of employment
- Commitment to provide workplace free of:
 - Discrimination
 - Harassment
 - Retaliation
 - Based on protected characteristics or activity
- Review/update protected classifications

Sample EEO Policy

The Company seeks to provide equal employment opportunities to all employees and candidates and to comply with all applicable anti-discrimination and anti-harassment laws and regulations. The Company prohibits discrimination of any kind based on race, color, national origin, religion, age, sex (including sexual orientation and gender identity), pregnancy, disability, genetic information, veteran or military status, or any other protected classification under federal, state, or local law. This policy applies in all aspects of employment including recruitment, hiring, training, evaluation, promotion, discipline, compensation, benefits, and termination.

Accommodation Policy

- Employer will provide reasonable accommodations:
 - Disability
 - Religious practices and observances
 - Pregnancy, childbirth, and related conditions
 - Colorado Pregnant Worker Fairness Act
 - Effective August 2016

Sample Accommodation Policy

The Company will make reasonable accommodations when necessary and appropriate to enable qualified applicants and employees to perform the essential functions of the job held or desired and to participate fully in all aspects of the employment relationship. Similarly, the Company will make reasonable accommodations for sincerely held religious beliefs and observances. Accommodations that create an undue hardship for the Company will not be provided.

Anti-Harassment Policy

- Commitment to provide workplace free of harassment based on:
 - Sex
 - Other protected characteristics
 - Under federal, state, and local law
- Review/update list of protected classifications
- Define harassment and provide examples of harassing conduct
 - Physical, verbal, visual
- Consequences for violating policy
- Refer to complaint procedure and anti-retaliation policy

Anti-Retaliation Policy

- Separate policy prohibiting retaliation
- Define retaliation broadly enough to cover:
 - Complaints and reports of discrimination and harassment
 - Complaints and reports of other policy violations or compliance concerns
 - Participation in any related investigation
- Encourage reporting and refer to complaint procedure

Complaint Procedure

- Multiple avenues to report
 - Supervisor
 - Any member of management
 - Human Resources
 - Hotline
 - Consider including specific names and contact information
- Assurance that company will investigate
 - “Once a report is received, Human Resources will conduct a prompt and thorough investigation as appropriate for the situation.”
- Avoid promising confidentiality or anonymity
 - “To the extent possible, investigations will be handled confidentially.”

Complaint Procedure

- No retaliation
- Cooperation
 - “The Company expects that all employees will cooperate with Company investigations.”
- Corrective action
 - “If the Company concludes that improper conduct occurred, the Company will take prompt corrective action as appropriate for the situation.”
- Corrective action for false reports
 - “The Company will take prompt corrective action if it determines that an employee knowingly made a false report.”

Social Media Policy

- **Risks of Workplace Social Media Use**
 - Misrepresenting the company's view, values, outlook
 - Inappropriate non-business use
 - Disclosure of confidential or proprietary information
 - Disparaging remarks about the company, its employees, or its clients
 - Harassment, discrimination, or other misconduct that violates the law or company policies

Social Media Policy

- **Include:**
 - Define permissible use of social media
 - Rules protecting confidentiality, intellectual property, and privacy
 - Discuss employees speaking for and reflecting company values
 - Consider both individual and company accounts
 - Statement that all policies apply to employee use of social media
 - Include intra-company social media use
 - Clarify ownership of social media accounts

Social Media Policy



Which drummer is not like the others? See more @CollegeGameDay pics at hdgameday.com #HDgameday #football



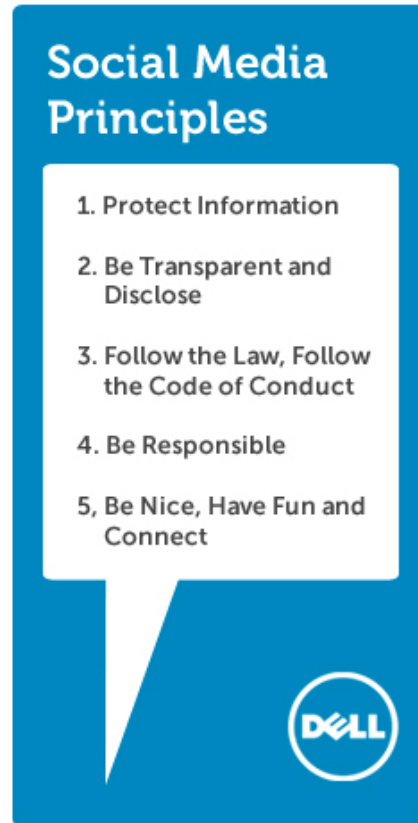
DiGiorno Pizza 
@DiGiornoPizza

#WhyIStayed You had pizza.

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Sample Social Media Policy



Sample Social Media Policy



INTRODUCTION

Every day, people discuss, debate and embrace The Coca-Cola Company and our brands in thousands of online conversations. We recognize the vital importance of participating in these online conversations and are committed to ensuring that we participate in online social media the right way. These Online Social Media Principles have been developed to help empower our associates to participate in this new frontier of marketing and communications, represent our Company, and share the optimistic and positive spirits of our brands.

The vision of the Company to achieve sustainable growth online and offline is guided by certain shared values that we live by as an organization and as individuals:

- **LEADERSHIP:** The courage to shape a better future;
- **COLLABORATION:** Leveraging our collective genius;
- **INTEGRITY:** Being real;
- **ACCOUNTABILITY:** Recognizing that if it is to be, it's up to me;
- **PASSION:** Showing commitment in heart and mind;
- **DIVERSITY:** Being as inclusive as our brands; and
- **QUALITY:** Ensuring what we do, we do well.

These Online Social Media Principles are intended to outline how these values should be demonstrated in the online social media space and to guide your participation in this area, both when you are participating personally, as well as when you are acting on behalf of the Company. It is critical that we always remember who we are (a marketing company) and what our role is in the social media community (to build our brands). The same rules that apply to our messaging and communications in traditional media still apply in the online social media space; simply because the development and implementation of an online social media program can be fast, easy, and inexpensive doesn't mean that different rules apply.

The Company encourages all of its associates to explore and engage in social media communities at a level at which they feel comfortable. Have fun, but be smart. The best advice is to approach online worlds in the same way we do the physical one – by using sound judgment and common sense, by adhering to the Company's values, and by following the Code of Business Conduct and all other applicable policies.

COMPANY COMMITMENTS

The Company adheres strongly to its core values in the online social media community, and we expect the same commitment from all Company representatives – including Company associates, and associates of our agencies, vendors and suppliers. Any deviation from these commitments may be subject to disciplinary review or other appropriate action.

The Five Core Values of the Company in the Online Social Media Community

1. **Transparency** in every social media engagement. The Company does not condone manipulating the social media flow by creating "fake" destinations and posts designed to mislead followers and control a conversation. Every Web site, "fan page", or other online destination that is ultimately controlled by the Company must make that fact known to users and must be authorized according to applicable internal protocols in order to track and monitor the Company's online presence. We also require bloggers and social media influencers to disclose to their readers when we're associating with them, whether by providing them with product samples or hosting them at Company events, and we need to monitor whether they are complying with this requirement.
2. **Protection of our consumers' privacy.** This means that we should be conscientious regarding any Personally Identifiable Information (PII) that we collect, including how we collect, store, use, or share that PII, all of which should be done pursuant to applicable Privacy Policies, laws and IT policies.

Online Social Media Principles (12/15/09)

3. **Respect of copyrights, trademarks, rights of publicity, and other third-party rights** in the online social media space, including with regard to user-generated content (UGC). How exactly you do this may depend on your particular situation, so work with your cross-functional teams to make informed, appropriate decisions.
4. **Responsibility** in our use of technology. We will not use or align the Company with any organizations or Web sites that deploy the use of excessive tracking software, adware, malware or spyware.
5. **Utilization of best practices, listening to the online community, and compliance with applicable regulations** to ensure that these Online Social Media Principles remain current and reflect the most up-to-date and appropriate standards of behavior.

COMPANY AND AGENCY ASSOCIATES' ONLINE SOCIAL MEDIA ACTIVITIES

The Company respects the rights of its associates and its authorized agencies' associates to use blogs and other social media tools not only as a form of self-expression, but also as a means to further the Company's business. It is important that all associates are aware of the implications of engaging in forms of social media and online conversations that reference the Company and/or the associate's relationship with the Company and its brands, and that associates recognize when the Company might be held responsible for their behavior.

Our Expectations for Associates' Personal Behavior in Online Social Media

There's a big difference in speaking "on behalf of the Company" and speaking "about" the Company. This set of 5 principles refers to those **personal or unofficial online activities** where you might refer to Coca-Cola.

1. **Adhere to the Code of Business Conduct and other applicable policies.** All Company associates, from the Chairman to every intern, are subject to the Company's Code of Business Conduct in every public setting. In addition, other policies, including the Information Protection Policy and the Insider Trading Policy, govern associates' behavior with respect to the disclosure of information; these policies are applicable to your personal activities online.
2. **You are responsible for your actions.** Anything you post that can potentially tarnish the Company's image will ultimately be your responsibility. We do encourage you to participate in the online social media space, but urge you to do so properly, exercising sound judgment and common sense.
3. **Be a "scout" for compliments and criticism.** Even if you are not an official online spokesperson for the Company, you are one of our most vital assets for monitoring the social media landscape. If you come across positive or negative remarks about the Company or its brands online that you believe are important, consider sharing them by forwarding them to online.relations@na.ko.com.
4. **Let the subject matter experts respond to negative posts.** You may come across negative or disparaging posts about the Company or its brands, or see third parties trying to spark negative conversations. Unless you are a certified online spokesperson, avoid the temptation to react yourself. Pass the post(s) along to our official in-market spokesperson, who are trained to address such comments, at online.relations@na.ko.com.
5. **Be conscious when mixing your business and personal lives.** Online, your personal and business personas are likely to intersect. The Company respects the free speech rights of all of its associates, but you must remember that customers, colleagues and supervisors often have access to the online content you post. Keep this in mind when publishing information online that can be seen by more than friends and family, and know that information originally intended just for friends and family can be forwarded on. Remember NEVER to disclose non-public information of the Company (including confidential information), and be aware that taking public positions online that are counter to the Company's interests might cause conflict.

Our Expectations for Online Spokespeople

Just as with traditional media, we have an opportunity – and a responsibility – to effectively manage the Company's reputation online and to selectively engage and participate in the thousands of online conversations that mention us every day. The following 10 principles guide how our Certified Online Spokespeople should represent the Company in an online, official capacity when they are speaking "on behalf of the Company:"

Online Social Media Principles (12/15/09)

2

1. **Be Certified in the Social Media Certification Program.** All associates who wish to officially represent the Company online must complete the Social Media Certification Program prior to beginning or continuing these activities.
2. **Follow our Code of Business Conduct and all other Company policies.** Our Code of Business Conduct provides the foundation for these Online Social Media Principles: "As a representative of [the Company], you must act with honesty and integrity in all matters." This commitment is true for all forms of social media. In addition, several other policies govern your behavior as a Company spokesperson in the online social media space, including the Information Protection Policy and the Insider Trading Policy.
3. **Be mindful that you are representing the Company.** As a Company representative, it is important that your posts convey the same positive, optimistic spirit that the Company instills in all of its communications. Be respectful of all individuals, races, religions and cultures; how you conduct yourself in the online social media space not only reflects on you – it is a direct reflection on the Company.
4. **Fully disclose your affiliation with the Company.** The Company requires all associates who are communicating on behalf of the Company to always disclose their name and their affiliation. It is never acceptable to use aliases or otherwise deceive people. State your relationship with the Company from the outset, e.g., "Hi, I'm John and I work for The Coca-Cola Company..." This disclosure is equally important for any agency/vendor/partner/third party who is representing the Company online. They must disclose that they work "with The Coca-Cola Company."
5. **Keep records.** It is critical that we keep records of our interactions in the online social media space and monitor the activities of those with whom we engage. Because online conversations are often fleeting and immediate, it is important for you to keep track of them when you're officially representing the Company. Remember that online Company statements can be held to the same legal standards as traditional media communications. Keep records of any online dialogue pertaining to the Company and send a copy to online.relations@na.ko.com.
6. **When in doubt, do not post.** Associates are personally responsible for their words and actions, wherever they are. As online spokespeople, you must ensure that your posts are completely accurate and not misleading, and that they do not reveal non-public information of the Company. Exercise sound judgment and common sense, and if there is any doubt, DO NOT POST IT. In any circumstance in which you are uncertain about how to respond to a post, send the link to online.relations@na.ko.com.
7. **Give credit where credit is due and don't violate others' rights.** DO NOT claim authorship of something that is not yours. If you are using another party's content, make certain that they are credited for it in your post and that they approve of you utilizing their content. Do not use the copyrights, trademarks, publicity rights, or other rights of others without the necessary permissions of the rights holder(s).
8. **Be responsible to your work.** The Company understands that associates engage in online social media activities at work for legitimate purposes and that these activities may be helpful for Company affairs. However, the Company encourages all associates to exercise sound judgment and common sense to prevent online social media sites from becoming a distraction at work.
9. **Remember that your local posts can have global significance.** The way that you answer an online question might be accurate in some parts of the world, but inaccurate (or even illegal) in others. Keep that "world view" in mind when you are participating in online conversations.
10. **Know that the Internet is permanent.** Once information is published online, it is essentially part of a permanent record, even if you "remove/delete" it later or attempt to make it anonymous. If your complete thought, along with its context, cannot be squeezed into a character-restricted space (such as Twitter), provide a link to an online space where the message can be expressed completely and accurately.

Online Social Media Principles (12/15/09)

3

Sample Social Media Policy

Nordstrom

Social Media Employee Guidelines

SOCIAL MEDIA AND BLOGGING

- We recognize that many of our employees use social media tools as another way to connect with customers and share information about Nordstrom.
- Whether or not you are acting on behalf of Nordstrom, or using your personal social media accounts or blogs to talk about our products or our business (e.g., projects, promotions, sales, events and initiatives), always use good judgment and follow these guidelines:
- To use Nordstrom-owned social media accounts, our logos and/or Nordstrom photo/video on behalf of Nordstrom, you must be approved and trained. Contact your store's Social Media lead or the Corporate Social Media Team if you have questions.
- Don't post sensitive, private or confidential company information (e.g., unannounced product launches and promotions, internal sales results, company strategy, pricing information or comparisons).
- Respect customer privacy. Never give out personal customer information (e.g., personal addresses, phone numbers or credit card information) or add information you receive from social networking to Personal Book or other Nordstrom tools.
- Don't post photos of or make negative comments about our customers and do not share details about customer visits—both private and public figures—without their permission (unless it is a marketed personal appearance for the Company).
- Don't post comments about a coworker, customer or vendor that could be perceived as harassing, threatening, retaliatory or discriminatory.
- You may be legally responsible for the content you post, so respect brands, trademarks and copyrights.
- Follow terms and conditions for social networking sites.
- Comply with our Guidelines for Endorsers (see "[Guidelines for Endorsers](#)" on Nordstrom.com) by disclosing your Nordstrom affiliation and noting that the views expressed are your own.
- Ensure your posts do not create a real or perceived conflict of interest (see the Conflict of Interest and Improper Gifts and Payments guidelines). A conflict of interest exists if you have an interest outside of your work at Nordstrom that interferes with your job responsibilities or affects your judgment on behalf of Nordstrom. For example, accepting direct advertising or any type of compensation (including products, samples or experiences with value) from a competitor for your blog or other social media site, including other stores or online retailers, can influence how you work with that vendor, thus creating a real or perceived conflict of interest. Please consult your manager with questions.
- If you are receiving compensation from a Nordstrom vendor, or participating in a paid affiliate program, product posts must link back to Nordstrom.com to avoid a conflict of interest.
- Get approval from the Privacy Department for contests or promotions directed toward customers or employees.
- Nordstrom pays for all time worked, which includes approved social media activities on behalf of Nordstrom, even if it is just a few minutes.
- In addition to the guidelines above and the Code of Conduct, you must follow all other Nordstrom guidelines and expectations, including the Privacy Policy and Privacy Trainings.
- 2/13/2020

Remote Work Policy

- U.S. Dept. of Labor August 24, 2020 Field Assistance Bulletin
 - Employees must be compensated for ALL hours worked, including
 - Unscheduled time
 - Unapproved time
- For non-exempt employees, include:
 - Employees are responsible for recording and reporting ALL work time
 - Provide a reporting procedure
 - Prohibit off-the-clock work
 - Require pre-approval for overtime

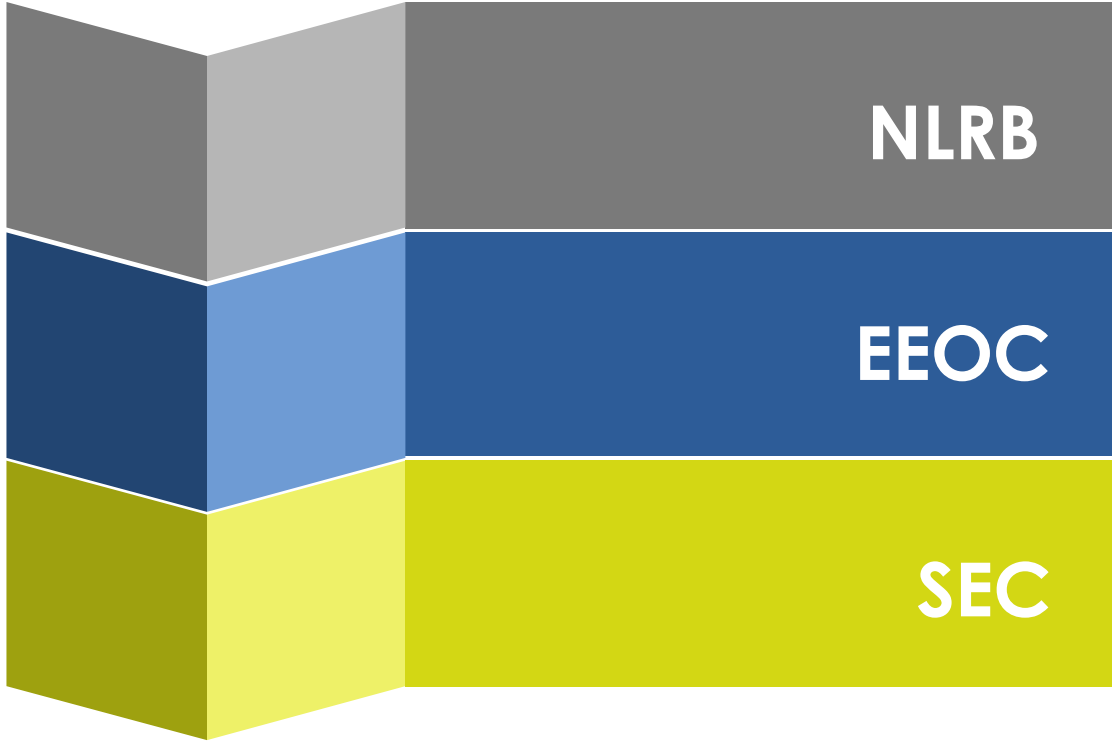
BYO Device Policy

- E.g. cellphones, smartphones, tablets, laptops, computers
- Require password protection for confidentiality
- Other policies apply to use of personal device
- Be aware of work outside scheduled hours
- No expectation of privacy
- Remove confidential information upon employee departure from company

Non-Disclosure / Confidentiality Policies

- Review for compliance
 - Colorado EPEW Act
 - Effective January 1, 2021
 - Avoid language that could be construed to limit employees' right to discuss or disclose wage rates

Don't Forget About the Feds



Sample Disclaimer

Nothing in this Handbook is intended to prohibit employees from discussing terms and conditions of employment with others, reporting to any government agency, including the National Labor Relations Board and the Equal Employment Opportunity Commission or parallel state agency, possible violations of federal or state law or regulation, or making, to any government agency, any other disclosures that are protected under the whistleblower or any other provisions of federal or state law or regulation.

Standards of Conduct

- Describe standards of conduct
 - But make clear not an exhaustive list
- Incorporate violations that may occur on social media or during remote work
- Describe consequences for violating standards
 - Maintain discretion and flexibility

Sample Introduction to Standards of Conduct Policy

The following conduct will likely result in discipline, up to and including discharge. This list is not exhaustive, and conduct not on this list may result in discipline or discharge. Violations that occur online or on social media will be promptly investigated in the same manner as other violations. Depending on the severity of the offense and your disciplinary and performance records, the Company may, in its sole discretion, issue a verbal warning, written warning, suspension, termination, or other disciplinary action.

Wage and Hour Policies

- Handbook *MUST* include copy of COMPS Order
- Review employee classification provisions to ensure compliance
 - COMPS exemptions vary from FLSA
 - Exempt employee salary thresholds will adjust each year
 - Avoid stating \$ salary threshold
 - Salaried, nonexempt
 - COMPS allows fluctuating workweek
 - Weekly salary plus overtime at ½ regular rate
 - IF employer and employee have a “clear mutual understanding”

Wage and Hour Policies

- Nonexempt - review overtime provisions to ensure compliance:
 - Time and a half for work in excess of:
 - 40 hours per workweek, or
 - 12 hours per workday, or
 - 12 consecutive hours
 - Specify workweek and workday
- Review break time policies to ensure compliance:
 - 30-minute meal period
 - 10-minute rest periods
 - Lactation breaks



Pay Practices – FLSA Safe Harbor

- Improper deductions can result in loss of exemption for entire job classification
- Safe harbor provision can preserve exempt status
- If Company:
 - Has clearly communicated policy that
 - Prohibits improper deductions, and
 - Includes a complaint mechanism
 - Reimburses employees for any improper deductions
 - Makes good faith commitment to comply in the future

Sample FLSA Safe Harbor Provision

Exempt employees are paid on a salary basis and, subject to limited exceptions, will receive their full salary for any workweek in which work is performed, regardless of the number of days or hours worked. If an exempt employee believes that the Company has made an improper deduction from his or her salary, the employee should immediately report this information to his or her supervisor or Human Resources. The Company will promptly investigate reports of improper deductions. If the Company determines that it made an improper deduction, the Company will promptly reimburse the employee for the deduction. The Company wants employees to feel comfortable reporting concerns. Accordingly, the Company strictly prohibits retaliation against any employee who reports wage deduction issues.

Sick Leave Policy

- Review to ensure compliance with HFWA
 - Effective January 1, 2021
 - Employers with 16+ employees
 - January 1, 2022 - all employers
- Up to 48 hours PAID sick leave per year
 - Earned at 1 hour for every 30 hours worked
- Up to 80 hours PAID sick leave
 - Accrued immediately during a public health emergency



General PTO Policy vs. Separate Paid Sick Leave Policy?

- Decision to be made before January 1, 2021
- Issues to consider:
 - Carryover
 - HFWA requires carryover of up to 48 hours
 - Payout on termination
 - HFWA does not require payout
 - Vacation earned pursuant to written agreement payable on termination
 - What if all PTO used on vacation?

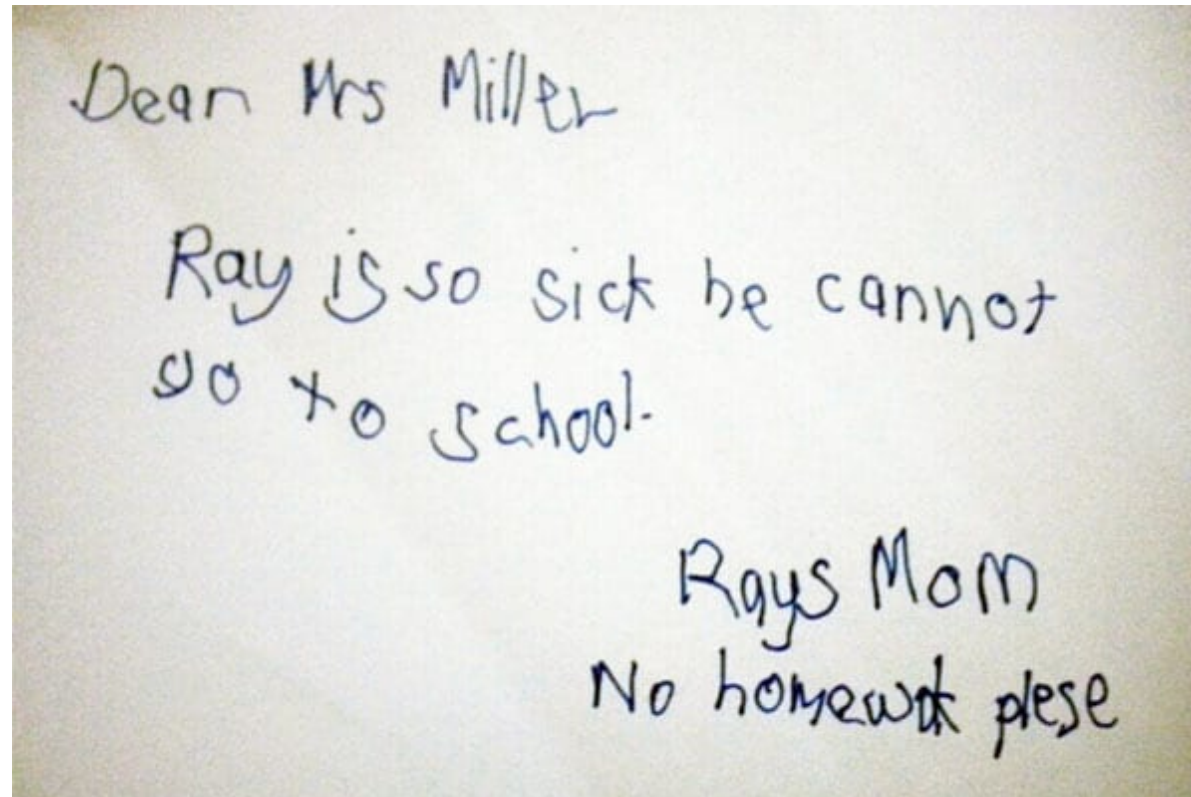
General PTO Policy vs. Separate Paid Sick Leave Policy?

- If choose general PTO policy, review/revise to ensure compliance with HFWA:
 - Must provide PTO:
 - In at least an amount of hours and pay sufficient to satisfy HFWA
 - For all the same purposes covered by HFWA
 - Under all the same conditions as HFWA, and
 - Must state that additional HFWA leave will NOT be provided when an employee uses all PTO for non-HFWA reasons (e.g., vacation)

HFWA Paid Sick Leave Policy

- Must allow oral or written (including electronic) requests for leave
- May include notice procedures for foreseeable leave
- Define benefit year
 - Default is calendar year
- Define minimum increment of use
 - One hour or smaller
 - Default is 1/10 of an hour (six-minute increments)

Paid Sick Leave Policy - Documentation



Dear Mrs Miller
Ray is so sick he cannot
go to school.
Rays Mom
No homework please

FMLA Reminders



- If you have written leave policies:
 - They **MUST** include summary of FMLA rights
- Specify leave year
 - Calendar year, or
 - Rolling 12-month period
- Specify if employee is required to exhaust accrued paid time off concurrently with FMLA leave

Access to Personnel Files

- If handbook includes a policy on employee's right to access personnel file
 - Ensure compliance with CRS 8-2-129
 - Effective 2017
- Statute requires that employer allow access
 - Upon request of employee
 - At least annually
 - To inspect and obtain a copy
 - At employer's office and at mutually convenient time
- Former employee may make one inspection after termination
- Employer can require payment of reasonable cost to copy file

Job Postings/Promotion Policies

- Review and ensure compliance:
 - EPEW Act
 - Effective January 1, 2021
 - All job postings must include:
 - Hourly rate or salary compensation, or a range
 - General description of all benefits
 - Promotion opportunities must be communicated in writing:
 - Job title
 - Compensation and benefits
 - Means by which employees may apply
 - Can't limit notice but can state that applications are open to only those with certain qualifications

Drug and Alcohol Use/Testing Policy

- Review in light of legalized recreational marijuana
 - Industry
 - Workforce
 - Culture
- Zero tolerance?
 - “Possession or use of an illegal drug or controlled substance (whether illegal or controlled under state law, or federal law even if legal in the state where work is being performed, including medical and recreational marijuana), or being under the influence of an illegal or controlled substance while working for the Company, whether on or off its premises.”
- Treat like alcohol?

Dress Code/Personal Appearance

- Review and ensure compliance
 - Supreme Court *Bostock* decision
 - Sex discrimination includes discrimination on basis of sexual orientation or gender identity
 - Avoid gender-specific dress codes and appearance standards
 - Colorado CROWN Act
 - Effective August 2020
 - “Race” includes hair texture, hair type, or protective hairstyle that is commonly or historically associated with race
 - Avoid prohibiting hairstyles that may be associated with race or religion (Afros, dreadlocks, cornrows)

What NOT to Include in Your Handbook

- Arbitration agreement
 - This you WANT to be contractually binding
 - Separate agreement

Last But Not Least – The Acknowledgment

- Paper or electronic record of employee's signature to establish:
 - Receipt of the handbook
 - Understanding of at-will relationship
 - Understanding of duty to be familiar with policies
 - Agreement to comply with policies
- Vital in successfully defending against claims that employee did not know the employer's expectations

Last But Not Least – The Acknowledgment

- NEW:
 - If employees are required to sign handbook or policy acknowledgments
 - MUST include acknowledgment of COMPS Order
- Consider Handbook Appendix, including:
 - Current COMPS Order or COMPS Order Poster
 - HFWA Notice or Poster
 - PWFA Notice
 - Refer to each in the Acknowledgment Form

Questions?

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