

TIPS FOR DRAFTING EMPLOYEE HANDBOOKS – TIP #2: THE IMPORTANCE OF EQUAL EMPLOYMENT OPPORTUNITY AND HARASSMENT POLICIES

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This article is part two in a six-part series. The purpose of this series is to provide tips and identify potential pitfalls associated with the drafting of an employee handbook.

While an employee handbook serves many functions, its primary purpose from a legal standpoint is to reduce potential liability with respect to claims brought by current and former employees. Unfortunately, many employers are unwilling to commit the time and bear the expense of implementing an employee handbook (or updating an existing handbook) until after they have been sued and the absence (or poor draftsmanship) of a particular written policy has crippled their defense to an employment claim. Tip #2 addresses how equal employment opportunity and harassment policies are especially beneficial to include in an employee handbook.

Tip #2: The Importance of Equal Employment Opportunity and Harassment Policies

The U.S. Supreme Court has held that an employer's implementation of an anti-discrimination/anti-retaliation policy can be raised as an affirmative defense to a claim for punitive damages.^[1] The U.S. Supreme Court also has ruled that an employer's written anti-harassment policy with an effective complaint reporting procedure can support an affirmative defense to certain types of harassment claims.^[2] Thus, employers should include these types of policies in their employee handbooks.

Bryan Cave LLP has a team of knowledgeable lawyers and other professionals prepared to help employers draft and update their employee handbooks. If you or your organization would like more information on employee handbooks or employment laws, please contact an attorney in the Labor and Employment practice group.

^[1] *Kolstad v. American Dental Ass'n*, 527 U.S. 526 (1999).

^[2] *Burlington Indus., Inc. v. Ellerth*, 524 U.S. 742 (1998).

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