

The SESCO Report

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Your “Human” Resource Since 1945

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It’s Time to Have Your Employee Handbook Reviewed!

With the federal government’s focus on deregulation, particularly to include the National Labor Relations Board, combined with extremely active state legislators and municipalities enacting their own regulations, it’s time that you have your employee handbook reviewed and updated. SESCO retainer clients receive a free employee handbook review on an annual basis. Retainer clients are urged to mail or email their current employee handbook to us so that we may review it to ensure that it is not only compliant to federal and state employment laws, but also people attentive and proactive.

If you haven’t had your employee handbook reviewed in the last six (6) months, now is the time to do so. Due to issues such as state, local and even county regulations on leave entitlements and minimum wage, background checks and Wage and Hour requirements, newer concerns as to marijuana and other drug related laws and guns in the workplace, it is critical that employers publish and implement an effective employee handbook.

In particular, employers should be concerned with the following topics that will trigger an employee handbook update:

1. Workplace conduct and social media.

During the Obama presidency, the Na-

tional Labor Relations Board (NLRB) scrutinized social media policies and other workplace conduct standards limiting employer policy and oversight of employee behavior and communications. Now the pendulum has begun to swing the other way under the Trump administration allowing employers to implement reasonable and common-sense policies that regulate employee behavior and communications.

For example, the Board has already overruled a previous standard striking down employer policies if they could be “reasonably construed” to curb employee discussions about wages and working conditions - even if the policies weren’t intended to do so. The Board’s new standard will consider whether the employer has a legitimate justification for such a rule. As such, employers should have an expert like SESCO review their workplace conduct and social media policies to not only ensure that they are compliant, but also provide proper protection to the employer for an employee’s inappropriate behavior.

2. **Arbitration agreements.** While SESCO has rarely been in favor of arbitration agreements as they can be extremely binding and restrictive, employers should pay close attention to pending federal cases relating to the enforceability of these agreements and class action waivers to ensure that employee handbooks comply with relative rulings. Although the law in this area is in a state of flux, the Supreme Court will be ruling on this issue in a matter of months and as such, any changes or revisions to arbitration agreements or the implementation thereof should



be delayed. SESCO will monitor the Supreme Court’s activities and inform our clients as soon as there is clear direction.

3. **Harassment.** Sex harassment news has swept across the country in the last weeks and months as leading men in Hollywood and politics have been ousted due to a flurry of allegations. Therefore, it’s time for all organizations to review anti-harassment policies and procedures to ensure that they are up to par. Further, employers should review open-door complaint procedures as well as train management and employees on company policy and related procedures.

In particular, an effective policy needs to adequately inform employees how to register a complaint and this policy needs to provide multiple avenues for complaining. State requirements must be taken into account as well. In 2017, the following states revised sex harassment training requirements:

- California - The state has expanded current supervisor training requirements. Covered employers must add to their harassment prevention training content on harassment

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HANDBOOK REVIEWED

based on gender identity, gender expression and sexual orientation.

- Maine - Effective November 1, 2017, Maine's amended sex harassment training law requires employers in the state with 15 or more employees to use a compliance checklist provided by the state Department of Labor to develop a sex harassment training program and keep a record of all training.

Finally, for all practical purposes, all employers under the EEOC, Title VII, should train all managers and supervisors on sex harassment regulations and anti-harassment policies and procedures. If an employer does not, in any state, the employer is fighting an up hill battle should a complaint of harassment end up in an EEOC charge or lawsuit.

4. **Parental leave.** Another trend sweeping the country is states passing and expanding parental leave laws. In California, for example, businesses with 20-49 employees are required to offer job-protected baby-bonding leave. In New York, many employees will be now eligible to take paid family leave.
5. **Disability and other accommodations.** In 2017, the number one EEOC charge was retaliation due to a disability. It is critical employers understand their obligation to provide leave, even beyond the 12 weeks afforded under Family and Medical Leave to accommodate a disability or medical condition. The U.S. Courts and the Equal Employment Opportunity Commission are at odds with this issue. The Seventh U.S. Circuit Court of Appeals stat-

ed that while ADA may require brief periods of leave, an extended leave of absence beyond FMLA time isn't a reasonable accommodation. However, the Equal Employment Opportunity Commission and other courts disagree with the Seventh Court. Therefore, employers should carefully review all policies and ensure that they comply with developing laws in this area.

6. **Paid leave laws.** Leave laws continue to be on the rise with states and municipalities requiring employers to provide various leaves to employees such as paid sick leave, military leave, etc. For example, Arizona, Vermont and Washington recently enacted paid sick leave laws. Also, a host of other cities have enacted or amended sick leave ordinances, including:
 - Chicago
 - Minneapolis
 - Saint Paul
 - San Francisco
 - Others

When SESCO conducts a review or develops a new employee handbook, we ensure that all federal, state and local/municipality employment laws and regulations are adhered. We fully expect more and more states passing these types of rules and regulations.

7. **Employee health and safety (OSHA).** An effective employee handbook should always adequately protect the health and safety of their employees. This includes providing notice to employees on the employer's right to conduct drug and alcohol testing and promote a drug-free workplace. While an increasing number of states

have legalized marijuana for medical (i.e. Arkansas, Florida, North Dakota and West Virginia recently enacted laws) and/or recreational purposes (i.e. Maine, Massachusetts and Nevada recently enacted laws), marijuana remains illegal under federal law. As such, drug and alcohol policy needs to reflect not only federal, but also state rules and regulations as well as protect the employer as just because it may be legal, doesn't mean the employee is fit for duty -- no different than alcohol or other prescription medication abuse.

Employers should also make note in their policies regarding the **use of mobile devices and texting** while driving. Among states recently enacting or amending laws in this area include:

- Arkansas
- California
- North Dakota
- Texas
- Washington

In summary, employment laws and regulations are becoming more complex by the day. It is critical that your organization associate itself with a firm that has proven, practical hands-on experience in understanding and complying with federal and state employment regulations. SESCO is very proud of its long history in assisting employers across all 50 states with their day-to-day HR and employment law compliance questions and needs to include reviewing and developing effective employer policy and employee handbooks.

SESCO Client Feedback

"Hello Bill, thank you again for an incredibly helpful and informative web presentation (Family Business Succession Planning)! We ended up having 20 people join us, and all of them stayed until the end! I will certainly remind the Member Services Representatives that anyone who was unable to attend today is welcome to reach you via email for some personalized guidance. Thanks again! Have a great day." ~ Heather Braatz, CCO, CPC, Education Manager - National Funeral Directors Association

Special Thanks to New SESCO Clients!

Service Tire Truck Centers
Bethlehem, PA

Blountville Utility District
Blountville, TN

Holly Ridge Tire Pros
Holly Ridge, NC

95 Tire Pros
Plummer, ID

Extra Mile Tire and Service
Milton, GA

Car Concepts, Inc.
Hurst, TX

Nocks Tire Pros
Pocomoke City, MD

Dyke Tire and Battery Tire Pros
Richmond, VA

Stananco Tire Pros and Power Equip-
ment
Jackson, GA

Dixie Tire Pros
Spartanburg, SC

Interstate Realty
Bristol, TN

First Century Bank
Tazewell, TN

Protection Strategies, Inc.
Oak Ridge, TN

Reese's and Sons Tire Pros
Cottonwood, AZ

Nevil Tire Pros
Statesboro, GA

Gary's Auto Care and Tire Pros
Portland, OR

Road Mart Tire Pros
Lynn Haven, FL

HealthNet Federal Credit Union
Cordova, TN

Lifespan Health
Savannah, TN

Home Instead Senior Care
Annandale, VA

Riddleberger Brothers
Mt. Crawford, VA

Community Care Network of Virginia
Henrico, VA

Top 8 Challenges Managers Face and How to Deal with Them

If anyone has ever been in a management position, you'll understand that it is the most difficult position in the organization. Although management may have its share of perks and rewards, normally managers are under the most stress, have the most responsibility, work the longest hours and are responsible for the organization's success and bottom line.

Being a manager means that you have to deal with the most difficult issues and the following are the top 8 issues that managers face on a daily basis:

- 1. Confronting an employee performance problem.** Dealing with performance problems has been and always will be the major source of a manager's stress. SESCO recommends to clearly articulate, preferably in writing, a position's responsibility, train and orient the employee to the job, hold the employee accountable and effectively reward or coach for better performance. Postponing discussions or avoiding the coaching or discipline process makes it much worse.
- 2. Terminating an employee.** Obviously, terminating an employee is something managers don't like to do. Ensure that the employee handbook is clear and properly articulated and that if terminating an employee, the employee is not surprised.
- 3. Making the right hiring decision.** Normally, a manager is in dire need to fill a position as most organizations can staff very leanly. As such, the stress of an open position will create a "fast" hire without the proper vetting of the candidate to include reference checks, background checks, personality and skills testing. Hire slow, fire fast.
- 4. Making a difficult decision.** When making a difficult decision, ask yourself, "Can I live with this decision long term, what if this decision was made public company-wide? How would I feel if this decision affected me?"

Always count to 10 when making
- 5. Challenging your boss.** Ultimately, we all report to someone. And we don't always agree with the direction or goals established. The best thing is always try to put yourself in your boss's shoes. If you ever feel as if you need to challenge your boss, do it in a way where you submit an idea or solution that will help him or her achieve their objectives.
- 6. Team conflicts.** Team or individual conflicts is a way of life in the employment environment. When there are complaints, try to distinguish between a job-related complaint or personal conflict. Task conflict can be healthy and lead to consideration and development of alternative ideas. However, personal conflict is toxic and must be addressed either through coaching, disciplinary action or termination.
- 7. Losing a highly-productive employee.** Don't wait until your start employee(s) shows up with an offer letter or letter of resignation. By then it's too late. Make sure that your highly-productive employees are paid what their worth, are challenged, supported by you and are learning. Most importantly, let them know how much you care about and appreciate them.
- 8. Burnout.** Managers work long hours and normally under very stressful conditions. Front and middle-line managers take the brunt of customer, employee and operational expectations. Take care of your health and always keep a perspective on the things in life that really matter (faith, family and friends). Take vacations and take care of yourself. However, if you do not like what you are doing, life is too short and plan to do something else.

SESCO strongly recommends training for managers and supervisors on the basic do's and don'ts as relates to employment regulations and company policy.

tough decisions. Even sleep on a tough decision over night.



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SESCO Client Corner



Brenntag Mid-South

Brenntag Mid-South, headquartered in Henderson, Kentucky, is a full line distribution company servicing the mid-south and southern states. Brenntag Mid-South employs experienced, technically educated and trained representatives familiar with the various challenges facing today's chemical industry.

Since their inception in 1947, they've remained committed to creating value for their customers, employees, and suppliers through innovation, technology, and operational expertise.

Continually striving towards improvements, Brenntag Mid-South brings the latest technology and logistics to their distribution system, thereby assuring the customer gets the right product, on time, every time.

SESCO is proud to call Brenntag Mid-South a valued client!

SESCO's Spring Seminar Series 2018

Bristol, VA

Courtyard by Marriott

March 7-8, 2018

Effective Leader/Manager

April 4-5, 2018

**Human Resources -
Understanding the Basics**

May 2-3, 2018

**Human Resources for the Advanced
Professional**

Richmond, VA

Virginia Community Healthcare Association

March 7-8, 2018

Effective Leader/Manager

April 25-26, 2018

**Human Resources -
Understanding the Basics**

May 9-10, 2018

**Human Resources for the Advanced
Professional**

(SESCO has partnered with one of our valued clients, Virginia Community Healthcare Association, to host our Richmond Seminar Series.)

Visit our website at www.sescomgt.com

State and National Business and Trade Associations, Chambers of Commerce and Human Resource Associations are welcome to contact SESCO to book a professional speaker for annual conventions and seminars. Contact Bill Ford at 423-764-4127 or by email bill@sescomgt.com.