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**THE EMPLOYEE HANDBOOK:
POST ACT 10**

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Presented by:

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WELD, RILEY, PRENN & RICCI, S.C., was originally formed on January 1, 1991, by the seven attorneys who staffed the Eau Claire office of Mulcahy & Wherry, S.C., a Milwaukee based firm. The practice originally focused only on labor and employment law. Our practice has evolved to emphasize not only labor and employment law, but also worker's compensation, municipal, zoning, administrative, estate planning, business, and civil litigation. Our goal is to provide high quality lawyering to our clients by continuing to look for ways to represent our clients better, more efficiently, and more economically.

► **MINDY K. DALE:** Shareholder. Practices in the areas of public and private sector management labor law, employment law, and municipal, school, and administrative law. Graduate of Indiana University (BS with high distinction) and Indiana University School of Law (J.D., Order of Coif). Member, State Bar of Wisconsin (Labor Law Section), Eau Claire County Bar Association, Wisconsin School Attorneys Association Board of Directors, Eau Claire Regional Arts Council, Western Dairyland Women's Business Center Advisory Board, and Director of Legal and Legislative Affairs for the Chippewa Valley Society for Human Resource Management. Formerly associated with the Labor and Employment Law Department of Barnes & Thornburg in Indianapolis, Indiana, and served as Assistant Corporation Counsel, Eau Claire County.

These materials should serve as a guide and do not purport to cover every requirement of these laws. These materials should not be construed as legal advice or legal opinion on any specific facts or circumstances. These materials are intended for general informational purposes only, and you are urged to consult with your own legal counsel concerning your own situation and any legal questions you have.

EMPLOYEE HANDBOOKS: IMPLEMENTATION AND UPDATING

I. EMPLOYEE POLICY DEVELOPMENT TO REPLACE COLLECTIVE BARGAINING AGREEMENTS

A. Pros and Cons of an Employee Handbook

1. Advantages of having an employee handbook

- a. To establish standardized terms and conditions of employment for employees whose terms and conditions of employment are no longer covered by a collective bargaining agreement.
- b. Promotes good employee relations: It is a valuable communications tool to convey expectations, set the tone for beginning an employment relationship and describe the employer's benefits.
- c. Can be a powerful motivator and an effective tool for reducing turnover, even if an employee doesn't take advantage of certain benefits.
- d. Provides a reference for employees so that they are better able to determine the employer's expectations and reduce potential misunderstandings.
- e. Promotes consistency in dealing with employees. Once an employer has determined what its policies will be, having written policies discourages favoritism and discrimination and encourages applying the rules/policies equally to all employees.
- f. Provides the employer with written documentation and signed acknowledgments which may be helpful in winning potential litigation. If an employer can demonstrate that its rules are reasonable, written, distributed to employees and uniformly enforced, an employer has a greater likelihood of prevailing against lawsuits such as discrimination, unemployment compensation and wrongful discharge.
- g. Demonstrates compliance with all applicable laws, for example, the employer's position on equal employment opportunity.

2. Disadvantages of having an employee handbook

- a. Poor drafting can result in a legal minefield.
- b. Problems arise if an employer's practice varies from practices and procedures detailed in the handbook.

- c. Generic handbooks are problematic if they do not reflect practice.
 - d. Omitting or misinterpreting legal requirements also creates liability issues.
3. To minimize the potential risk of litigation and adverse employee relations issues:
- a. Do not create an employment contract, implied or express.
 - (1) Purpose statement, introduction and employee acknowledgment
 - (2) At-will statements
 - (3) Wis. Stat. exceptions

Instruct supervisors on the intention of the handbook. Supervisors need to understand that the handbook is intended to be used as a guideline and that it is not a contract.

- b. Employers should specify that they have the right to change the handbook at any time for any reason and that employees will be notified of any such changes.
- c. Avoid terms such as “probationary period” for new hires.
- d. Never use words such as “permanent” or “temporary” as they suggest different levels of employment security and conflict with the “at-will” concept.
- e. Regarding discipline and discharge policies, do not limit the employer’s ability to react to a situation by specifying detailed procedures. If a progressive discipline system is utilized, include a provision that states management has the right to summarily terminate employees for any reason.
- f. When including a list of work rules, always indicate that the list is not all-encompassing.
- g. Avoid using words and phrases that suggest an employment contract. Caution supervisors against making statements which could be interpreted as guarantees of employment, i.e., "Don't worry, you'll always have a job here as long as you continue doing a good job."
- h. Make your handbook “user friendly” and avoid condescending language or legalese whenever possible. Employees must be able to understand the handbook.

- i. Be as brief as possible while accurately relaying the policies and practices of the municipality.
- j. Leave the details of insurance and pension plans to summary plan descriptions or other existing documents rather than attempting to reiterate this exhaustive information in the handbook. Tell employees where to find the additional information if they want to see it.

B. How to Get Started

1. Committee: Appoint a “Transition Advisory Committee” or subject area advisory committee, such as a “Health Insurance Advisory Committee.”

a. Formally constituted subunits of a government body must comply with open meeting laws.

(1) There are no specific requirements that elected board members be part of a subunit of the governmental body. Examples:

- (a) Ad hoc citizens committees
- (b) Building committees to evaluate sites

The proper standard for a determination of the applicability of the open meeting law is the question of how the entity was formed, i.e., is it a subunit of a governmental body?

b. Any discussions on handbook provisions must be held in open session.

Wis. Stat. § 19.85(1)(c) (considering employment, promotion, compensation or performance evaluation data of any public employee over which the governmental body has jurisdiction or exercises responsibility) ALLOWS a governmental body to go into closed session for:

- (1) Deliberating the establishment of, or changing of, the salary, wages or fringe benefits to be paid to a specific employee.
66 OAG 60 (1977)
- (2) Considering promotion of a specific employee.
- (3) Considering layoffs of specific employees, where due process rights do not require a hearing.
- (4) Considering a reduction in hours of a specific employee absent due process rights.

- (5) Engaging in evaluation of a specific employee.

Governmental bodies MAY NOT go into closed session for the purpose of:

- (6) Discussing the qualifications or salary for a position of public employment, in general, or to set a generic list of standards for interviewing candidates or goals of the employer in soliciting applicants. 80 OAG 176 (1992)
- (7) Dealing with a group of employees (such as setting the salaries for a class of employees).
- (8) Formulation of general policy governing employees (i.e., employee handbooks!).

2. Review & Record: Review most recent collective bargaining agreements and employee/personnel handbooks. Record benefits per employee group for each of the Handbook's Core Policies.
3. Identify Problems: Have there been problems associated with any existing policies or contract provisions?
4. Differentiate Between Employee Groups: For each core policy, should all employee groups be treated the same? Or, are there particular priorities for certain employee groups? For example, you may need to distinguish between exempt and non-exempt staff.
5. Benefit Review: For core policies involving benefits, is the benefit mandated? If mandated, what is the mandated level of benefit or benefit cap? For example, Health Insurance. For State Plan participants, employers may not contribute more than 88% of premium costs; for non-State Plan participants, there is no mandated level or cap.
 - a. Are there ways to manage costs while protecting core policy benefits?
 - b. Do you provide other forms of insurance such as vision and dental?
 - c. What happens to costs if you change the insurance package?
6. Identify Pros & Cons: What are the pros and cons of changing the policy?
7. Implementation: If changing a policy, consider:
 - a. Immediate versus gradual implementation?

- b. Cover all employees versus limiting change to new employees or employees with less than a minimum number of years of service?
 - c. If a benefit, threshold of hours worked before eligible?
 - d. Cap on benefit accumulation?
8. Cost: Estimated cost of continuing “as is”; estimated cost savings if modified.
9. Drafting
- a. Tailor the handbook to the employer. “Canned” handbooks or handbook provisions are not as effective.
 - b. Before you finalize a draft of a policy, review it carefully to make sure the policy says what you mean it to say; make sure everyone understands and follows the policies.
10. Dissemination: Review and provide feedback mechanism, for a specified period of time, before implementation.
- a. Department Heads
 - b. Supervisors
 - c. Employees
11. Updating: Review and update the handbook regularly to ensure the contents are current.
- a. New rules or policies should be distributed to employees to be incorporated into the handbook.
 - b. Date each page in the footer so everyone will know when the last revision was made.

C. Issues to Address in the Employee Handbook

- 1. Introductory Matters
 - a. Your introductory message should be personalized and cover the following:
 - (1) Welcome to the job
 - (2) Employer goals/objectives - Mission Statement
 - (3) “Open Door” philosophy

b. Equal Employment Opportunity Policy

- (1) Specify that you are an equal opportunity employer.
- (2) State that equal consideration shall be given to all qualified persons including, but not limited to, the following functions:
 - (a) Hiring, placement, promotion, transfer, or demotion;
 - (b) Recruitment;
 - (c) Compensation for employment;
 - (d) Conditions of employment;
 - (e) Training; and
 - (f) Involuntary layoff or separation from employment.
- (3) The policy objective should be to employ individuals who are qualified for specific work by such job-related standards as experience, demonstrated attitude and skill, education, training, overall ability and other relevant considerations.

c. "Purpose" Statement

- (1) Explains that the purpose of the handbook is to familiarize employees with personnel policies and procedures. It is not a contract of employment.

d. Management Rights

- (1) State that certain rights and responsibilities are imposed on the employer and that the employer reserves any and all management rights regarding employees' employment status.
- (2) The rights include, but are not limited to, the following:
 - (a) Manage and direct employees;
 - (b) Hire, promote, schedule, transfer and assign employees;
 - (c) Lay off employees;
 - (d) Discharge employees or take disciplinary action;
 - (e) Schedule overtime as required;
 - (f) Develop job descriptions;
 - (g) Assign work duties and on-call time;
 - (h) Introduce new or improved methods or facilities or change existing methods or facilities;
 - (i) Contract out for goods and services;
 - (j) Discontinue certain operations; and
 - (k) Direct all operations.

2. Time at Work and Time Away From Work

a. Hours of Work/Work Schedule/Calendars

- (1) Define employment categories as “full-time” or “part-time” status.
- (2) Define exempt vs. non-exempt positions
- (3) Questions to consider:
 - (a) Do full-time employees work 40 hours or less?
 - (b) Are part-timers eligible for benefits? If so, which ones?
 - (c) Are part-timers eligible for pro-rata portion of benefits? If so, how is the pro-ration calculated?
 - (d) Are temporary employees eligible?
 - (e) Are seasonal employees eligible?

b. Payroll and Deductions From Payroll

- (1) Pay Periods
 - (a) Explain the payroll practices of the employer and what will occur if an employee is absent on pay day.
 - (b) Require direct deposit.
- (2) Personal Data Changes
 - (a) Explain to employees that it is their responsibility to notify his/her supervisor of any change in name, address, phone number, marital status, dependents, etc.
- (3) Pay Deductions for Exempt Employees
 - (a) This section requires great detail in order to comply with the new federal FLSA regulations.
 - (b) Specifies all circumstances in which an employer can make deductions from an exempt employee’s earnings.
 - (c) Details a separate and specific complaint procedure to follow with pay deductions of exempt employees.

c. Total Base Wages and Other Forms of Compensation

d. Hours of Work and Overtime

- (1) Differentiate between “exempt” and “non-exempt” employees.

- (2) State that the employer reserves the right to schedule and/or change all hours and schedules of work as deemed necessary.
- (3) State that when additional work is required beyond an employee's normal work schedule, the employee is expected to perform this work when requested.
- (4) State that paid leave is not counted when calculating eligibility for overtime.
- (5) Specify that the employer complies with the Fair Labor Standards Act and applicable rules and regulations for purposes of overtime.
- (6) Compensatory Time Off. If applicable, state that employees may be eligible to earn compensatory time off pursuant to the Fair Labor Standards Act and applicable rules and regulations (public sector employers only).

e. Holidays

- (1) List employees' holidays and specify whether full-time and part-time employees are eligible for the benefit.
- (2) Specify any limitations on receipt of holiday pay.
- (3) Issues to consider:
 - (a) What holidays will be paid days by the employer?
 - (b) Must an employee work the day before and the day after the holiday in order to receive holiday pay for the holiday?
 - (c) What happens if a holiday falls on a Saturday or Sunday?
 - (d) What rate of pay will employees receive for holidays?
 - (e) If a holiday falls during an employee's vacation, does the employee receive an additional day off with pay?
 - (f) Are part-time employees eligible for holiday pay? On what basis?
 - (g) Will employees on medical leave receive holiday pay?
 - (h) Is holiday time included when calculating overtime?

f. Vacations

- (1) Define who is eligible for the benefit as well as the employees' accrual rates.

- (2) Describe procedures applicable to scheduling and accrual of vacation days.
- (3) Issues to consider:
 - (a) What is the purpose of the policy? Is it to reward employees for length of employment? Is it to encourage employees to take time off to rejuvenate so that they return to work refreshed and more productive?
 - (b) Can an employee receive vacation pay instead of taking time off?
 - (c) How will vacation pay be calculated?
 - (d) Who is eligible for paid vacations? If part-timers are eligible, how much do they receive?
 - (e) When do employees receive vacation pay? Is it accrued throughout the year or given at one time (anniversary date or calendar year)?
 - (f) When are employees eligible for their first vacation? Can they take vacation in advance of when it's earned?
 - (g) How many weeks of vacation will be provided for each year of service?
 - (h) Can vacation days be taken in hours, half-days, full-days or full weeks?
 - (i) When do employees have to use their vacation? Is it forfeited if they don't take it or is it paid out?
 - (j) How much notice is required for vacation requests?
 - (k) How do employees request vacation? How is vacation time awarded (seniority, rotation)?
 - (l) What if a holiday or illness occurs during a scheduled vacation?
 - (m) What vacation pay do employees receive at termination?

g. Sick Leave

- (1) Define who is eligible for the benefit as well as the employees' accrual rates.
- (2) Describe procedures applicable to use and accrual of sick days.
- (3) State that the employer may require a physician's note, at its discretion.

h. Family and Medical Leave

- (1) Determine and review leave requirements. *In general*, if at least 50 employees are employed by the employer, *qualified* employees

are covered under state and federal FMLA law. Note: If you are a small employer, you need to periodically review your FMLA status which can change over time.

- (2) State that leaves under federal and state family and medical leave laws will be granted as required by law.
- (3) Identify the employer's specific policies, expectations, and who to contact if they have any questions.

i. Other Leaves

- (1) Specify what leaves exist and who to contact if employees have any questions regarding the specifics.
- (2) Examples of other types of leaves include the following:
 - (a) Funeral leave
 - (b) Personal leave
 - (c) Jury duty leave
 - (d) Leave of absence
 - (e) Emergency leave
- (3) The handbook should explain who is eligible for which leaves and specify that such leaves are unpaid.
- (4) Issues to consider with your leave of absence policies:
 - (a) Are federal and state Family and Medical Leave Acts applicable?
 - (b) How long will an employee be allowed to be gone for each type of leave (medical, family, personal)?
 - (c) Will employees receive pay during a leave of absence?
 - (d) Who is eligible for each type of leave?
 - (e) What is the procedure for requesting a leave of absence?
 - (f) Who approves leaves of absence?
 - (g) Will an employee's position in the municipality be held open during the absence?
 - (h) How much advance notice does the Employer require for a leave of absence?
 - (i) Will employees be eligible for benefits during a leave? Will they continue to accrue benefits (retirement, paid time off, etc.) during a leave?

3. Insurance and Retirement Benefits

a. COBRA

- (1) Explain to employees that under state law and the Federal Consolidated Omnibus Budget Reconciliation Act of 1985 ("COBRA") and subsequent amendments to the Act, employees covered under an employer's group healthcare plan are eligible for continuation of healthcare coverage under the group plan upon the employee's termination (except for gross misconduct) or reduction in hours.
- (2) State that COBRA regulations also allow the employee's spouse and covered dependents to elect continuation coverage upon the employee's death, divorce or legal separation, an employee's entitlement to Medicare, a dependent's loss of dependent status under family coverage, or the employer's filing of a bankruptcy proceeding.
- (3) Inform employees that they, as well as their qualified dependents, will receive notice of mandated insurance continuation benefits at the time of hire or whenever the plan coverage for the employee begins.
- (4) Also inform employees that the Affordable Care Act (ACA) may provide employees with other coverage options. Being eligible for COBRA does not limit an employee's eligibility for a tax credit in purchasing insurance through the Marketplace. Additionally, an employee may qualify for a special enrollment opportunity for another group health plan (such as a spouse's plan), even if the plan generally does not accept late enrollees, if the enrollment request is made within thirty (30) days.

b. Other Benefits

- (1) Create a subsection for each benefit. Consider describing statutory benefits such as worker's compensation and social security.
- (2) Define retirement benefits and contributions.
- (3) Provide minimal detail under each heading and then inform employees that they should contact their supervisor for additional details regarding the benefit from the summary plan description.

4. Technology and Communications

a. Bulletin Boards

- (1) State that the employer may provide a bulletin board in a location convenient for use by its employees.
- (2) Authorization for employees to use the designated bulletin board must first be obtained from management. All persons who post notices, letters, and the like on the designated bulletin boards without first obtaining authorization will be subject to disciplinary action, up to and including termination.

b. Electronic Media Use

- (1) Develop a comprehensive electronic media use policy.
- (2) "Electronic media" is defined to include, but is not limited to, computer systems, cellular telephones, pagers, e-mail, voice mail, and internet access.
- (3) Describe the employer's rights and expectations regarding the responsible use of electronic media and applicable restrictions on such use.
- (4) Describe that all information produced from electronic media is employer property, in all of its forms, including written, spoken, recorded electronically, or printed information and that information is to be protected from accidental or intentional unauthorized modification, destruction, or disclosure.
- (5) Specifically inform employees that all electronic media is the property of the employer and that all documents or messages created by or sent to employees is not private and may be reviewed at any time.
- (6) Inform the employees that use of the employer's electronic media is a privilege and not a right and that violations of applicable policies will result in discipline, up to and including termination.
- (7) Issues to consider:
 - (a) Employer's rights to access, intercept, monitor messages vs. employees' right to privacy.
 - (b) Business use vs. personal use.

- (c) Free from harassment.
- (d) Disclosure of passwords.

(8) Protected concerted activity.

- (a) In recent years, the National Labor Relations Board (NLRB) has issued a number of decisions and guidelines on social media language, as well as confidentiality clauses, found in employee handbooks. While NLRB decisions are directed at private sector employers, the NLRB decisions carry implications for public sector employers since state statutes and legal decisions are often guided by federal rulings and guidance.
- (b) The main thrust of the NLRB handbook rulings is that handbook language should not be overly broad so as to infringe on employee rights, including the right to engage in protected concerted activity. Employers may want to consider “limiting language,” such as: *“Nothing in this policy is intended to restrict employees from discussing with others their wages, hours, and other terms and conditions of employment.”*

c. Political Activities

- (1) Explain the limitations on bringing political activities into the workplace.

d. Solicitation

- (1) Describe that the maintenance of a business atmosphere is important in the operation of the municipality and that this protects employees from undue interference while performing their jobs.
- (2) Unless otherwise permitted by the employer, employees may not orally solicit or distribute written materials for any organization, fund, activity or cause to other employees in work areas while either employee is on working time.
- (3) Employees may solicit other employees or distribute written materials before or after the normal work day, during normal break or lunch times or any other time when they are not working.

5. Workplace Policies

a. Discipline

- (1) Explain that employees are also expected to observe reasonable rules of personal conduct governing their behavior on the job. Disciplinary action against employees may be taken for violations of any personnel policies and procedures or for unsatisfactory work performance.
- (2) If applicable, describe that, at the employer's sole discretion, various types of employee discipline may be imposed which include, but are not limited to, the following: verbal warning, written warning, suspension, and termination. None of these disciplinary measures are required to be used before discharge from employment occurs nor are the listed disciplinary actions required to be used in any specific order.
- (3) Reference at least the following examples of behaviors which would normally justify corrective action:
 - (a) Fraud in securing employment;
 - (b) Incompetency;
 - (c) Inefficiency;
 - (d) Unauthorized absences;
 - (e) Repeated absence or tardiness;
 - (f) Neglect of duty;
 - (g) Insubordination or willful misconduct;
 - (h) Dishonesty/theft of municipal property;
 - (i) Assuming duties while under the influence of controlled substances or intoxicants; or possession or use of intoxicants or controlled substances during working hours;
 - (j) Conviction of a felony or misdemeanor the circumstances of which are substantially related to the duties performed;
 - (k) Negligence or willful damage to property;
 - (l) Discourteous treatment of the public or fellow employees;
 - (m) Loss of driver's license or other certification if required for the job;
 - (n) Failure to maintain effective working relationships with other employees or the public;
 - (o) Sexual or other unlawful harassment;
 - (p) Workplace violence;
 - (q) Violation of any lawful order, directive, policy, or work rule.

- (4) Address the following issues:
 - (a) Employer's philosophy on discipline. What will the employer do to assist an employee in correcting unacceptable behavior?
 - (b) Listing of sample unacceptable behaviors. Always add a statement saying that the list includes some, but not all, of the possible conduct which may call for discipline.
 - (c) What steps are included in the disciplinary process? Be careful not to state what each offense will receive in terms of discipline. Always state that based on the severity of the conduct, management will determine the appropriate level of discipline, up to and including termination.

b. Grievance Procedure

- (1) Wisconsin Act 10 creates Wis. Stat. § 66.0509(1m) relating to a local government creating a grievance process. The statute provides in part:
 - (a) A local governmental unit, as defined in s. 66.0131(1)(a), that does not have a civil service system on the effective date of this subsection [July 1, 2011], shall establish a grievance system not later than the first day of the 4th month beginning after the effective date of this subsection [November 1, 2011].
 - (b) To comply with the grievance system that is required under par. (a), a local governmental unit may establish either a civil service system under any provision authorized by law, to the greatest extent practicable, if no specific provision for the creation of a civil service system applies to that local governmental unit, or establish a grievance procedure as described under par. (d).
 - (c) Any civil service system that is established under any provision of law, and any grievance procedure that is created under this subsection, shall contain at least all of the following provisions:

- i) A grievance procedure that addresses employee terminations.
 - ii) Employee discipline.
 - iii) Workplace safety.
 - (d) If a local governmental unit creates a grievance procedure under this subsection, the procedure shall contain at least all of the following elements:
 - i) A written document specifying the process that a grievant and an employer must follow.
 - ii) A hearing officer.
 - iii) An appeal process in which the highest level of appeal is the governing body of the local governmental unit.
- c. Job Transfers and Promotions
 - (1) Explain that temporary assignments of less than a defined duration will not result in a wage increase.
- d. Job Vacancies and Postings
- e. Layoff and Recall
 - (1) Issues to consider
 - (a) Recommended elimination of LIFO.
 - i) No seniority based layoffs if possible.
 - ii) Possible use of attrition and/or volunteers.
 - (b) Performance based layoffs – how to document.
 - i) Solely based on performance or other factors?
 - ii) What factors?
 - (c) Who makes the decision?
 - (2) Bumping rights.
 - (a) Eliminate or modify existing language to provide for increased flexibility. If performance based system, why would you allow bumping?

- (3) Recall rights.
 - (a) Eliminate automatic recall? Encourage application for vacancies.

- f. Performance Evaluations
 - (1) State that the employee's supervisor will conduct performance evaluations.
 - (2) Explain that these evaluations can serve as an assessment of employee performance and a tool for planning career development.
 - (3) Issues to consider:
 - (a) What is the employer's philosophy and process regarding employee appraisals?
 - (b) What criteria are employees evaluated against (quality and quantity of work, dependability, job knowledge, judgment, initiative, etc.)?
 - (c) What is the purpose of the appraisal (pay adjustment, developmental)?
 - (d) When are appraisals done on employees (anniversary date vs. calendar year)?
 - (4) If performance evaluations are not linked to wage increases, then consider not doing them at all.

- g. Personnel Files
 - (1) Explain an employee's right to view and augment their personnel file.

- h. Separation from Employment
 - (1) Define separation of employment to include resignations, retirement, reduction in workforce, failure to return from approved leave, discharge from employment, or disability.
 - (2) Explain that two (2) weeks' notice is requested if the employee resigns and that compensation and benefits which have been earned and accrued will be credited to the employee pursuant to law.

- (3) Issues to consider:
 - (a) Does the employer want to receive notice before an employee quits? How much notice is requested?
 - (b) How will benefits be handled (insurance, paid time off, retirement)?
 - (c) Does the employer require a written notice of resignation?

6. Workplace Environment

a. Workplace Safety Policy

- (1) Specify that acts or threats of physical violence, including intimidation, harassment and/or coercion which involve or affect the employer or which occur on employer's property are considered misconduct and will not be tolerated.
- (2) Explain that any employee who has been a recipient of a threat of violence or a victim of an act of violence is to make a report to the employer. Such reports will be kept confidential to the maximum extent possible and may be used in the employer's investigation.
- (3) Issues to consider:
 - (a) Provide for a safe and secure workplace.
 - (b) How threats and acts of violence will be dealt with.
 - (c) Procedures for reporting such threats or acts of violence.

b. Discrimination, Harassment, and Retaliation Policy

- (1) Articulate that harassment of employees - in any form - is unacceptable, will not be condoned, and will subject the harassing employee to discipline, up to and including termination. Prohibition against harassment also includes employee harassment of customers, clients and members of the public, not just other employees.
- (2) Detail employer's work rules and examples of unacceptable harassment.

- (3) Detail the reporting procedure to follow if the employee believes he/she is being harassed.
- (4) The policy should assure employees that all complaints will be investigated promptly and appropriate action will be taken to stop any inappropriate conduct.
- (5) Policy should specifically prohibit retaliation against any employee filing a complaint.

c. Prohibition of Illegal Drug and Alcohol Use

- (1) Forbid the unlawful use or possession of drugs and possession or consumption of alcohol during work hours.
- (2) Establish safety rules regarding drug and alcohol use.
- (3) State that violations of such rules will result in discipline, up to and including termination.
- (4) Issues to consider:
 - (a) Drugs and alcohol are not allowed on the employer's premises.
 - (b) Employees cannot be under the influence at work.
 - (c) Employees may not distribute drugs or alcohol on work time or on work premises.
 - (d) Should employees be allowed to have alcohol at employer-related functions?
 - (e) Does the employer have an "Employee Assistance Program" available for employees with drug or alcohol problems?

7. Additional Policies for Consideration

a. Absences and Punctuality

- (1) Emphasize the importance of regular attendance and that absences disrupt the continuity on the job and other employees.
- (2) State that excessive absenteeism, for whatever reason, may warrant disciplinary action, up to and including termination.

- (3) Explain that any time an employee is unable to work, they must notify their manager or supervisor as far in advance as possible and that failure to call or report for duty as scheduled may result in automatic termination of employment.
- (4) Issues to consider:
 - (a) The employer's philosophy on employee absences and tardiness.
 - (b) Incorporation of language from unemployment compensation disqualification for excessive absences and tardiness.
 - (c) How much absenteeism will be tolerated before disciplinary action is taken?
 - (d) What is an excused and unexcused absence? Scheduled or unscheduled absence?
 - (e) What are the procedures employees should follow if they need to be absent or late (when and who to call, what information is to be provided)?
 - (f) What happens if an employees fails to call in an absence?
 - (g) Are medical excuses required? If so, after how long?

b. Phone Use

- (1) Describe the limits of telephone and cellular telephone use during the work day.
- (2) Inform employees that they are forbidden at all times from talking on the phone while driving during work hours or any time the employee is using an employer vehicle.

c. Safety and Accident Prevention

- (1) Tell employees that they must report any and all injuries to their supervisors immediately.
- (2) Encourage suggestions from employees regarding safety.

- (3) All employers should have a safety policy which includes, at least, the following:
 - (a) Job safety is everyone's responsibility.
 - (b) All employees must adhere to employer's safety policies or will be subject to disciplinary action.
 - (c) Unsafe conditions should be reported immediately to management.
 - (d) All accidents, regardless of severity, must be reported immediately.
 - (e) Procedures to be followed in the event of an accident or injury.
 - (f) Horseplay will not be tolerated.
- d. No Smoking Policy
 - (1) Forbid smoking in employer's buildings and vehicles and any non-smoking areas.
- e. Code of Ethics Policy
 - (1) Purpose statement.
 - (2) For public sector employees, reference applicable statutes: Wis. Stats. § 946.10, Bribery of public officers and employees, § 946.11, Special privileges for public utilities, § 19.41, Code of ethics for public officials and employees.
 - (3) Conflicts of Interest - specify that employees must divulge any potential conflict of interest situations. Examples include, but are not limited to, financial and personal interests, gifts and favors, representing private interests before municipal agencies or courts, secondary employment, and contracts with the municipality.
- f. Appearance and Grooming
 - (1) Provide for a "dress code" that explains employees are to dress appropriately for their particular positions and practice good personal hygiene.

- (2) Itemize unacceptable items, such as insulting or demeaning messages or illustrations imprinted on clothing or accessories which may interfere with job performance.
- (3) Issues to consider:
 - (a) What about personal hygiene (cleanliness)?
 - (b) What about hair (for safety reasons)?
 - (c) What casual clothing is allowed (t-shirts, shorts, etc.)? Consider including some statement regarding tight or revealing apparel.
 - (d) Are there any protective clothing requirements?
 - (e) What about jewelry, perfume, shoes and other accessories (e.g., tattoos, body piercings)?
- g. Nepotism
 - (1) Prohibit supervisors from hiring a person related to them to work under their direct supervision unless authorized and approved by the municipal Council or Board.
- h. Attendance at Conferences and Conventions and/or Continuing Education and Training
 - (1) If applicable, explain that employees may attend conferences and conventions or continuing education programs that are likely to improve their job-related knowledge and skills, subject to the sole discretion of his/her supervisor.
- i. Travel Expenses
 - (1) State that employees shall be compensated for travel expenses under guidelines established by the employer.
 - (2) Require reimbursement requests to be reviewed and authorized by the supervisor.
- 8. Employee Acknowledgment and Receipt of Handbook
 - a. An acknowledgment form is an important part of any employee handbook.

- b. Without the acknowledgment, the employee is always free to say that he/she was unaware of the work rules.
- c. Always get a signed acknowledgment form from each employee who receives an employee handbook.
- d. The acknowledgment should be kept in an employee's personnel file.

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