



*Presents*

# **Employee Handbook Essentials for Lawyers and Law Firms**

March 19, 2025  
12:00 pm - 1:00 pm

Presenters:      Anna S. M. McCarthy, Esq.  
                         Stacey E. Trien, Esq.



*presents*

# Employee Handbook Essentials for Lawyers and Law Firms

March 19, 2025  
12 p.m. – 1 p.m.

Stacey E. Trien, Esq.  
Anna S. M. McCarthy, Esq.

# Presented by:



Stacey Trien  
Partner, Adams Leclair LLP



Anna McCarthy  
Senior Associate,  
Harter Secrest & Emery LLP

# Agenda

- The importance of having a handbook
- Required and recommended topics
- New laws that are relevant to employee handbooks and law firms
- Best practices

# Why have a handbook?

- There is no legal federal or New York State requirement to have a handbook.
- However:
  - New York State requires employers to distribute certain written policies and notices to their employees.
  - For larger employers, there is a federal requirement to provide notice of Family and Medical Leave Act (FMLA) rights.
  - Other local jurisdictions may have additional requirements.
    - For example: New York City requires covered employers to notify employees of their right to be free from discrimination based upon pregnancy, childbirth or related conditions. N.Y. Admin. Code 8-107(22)(d).

# Why have a handbook?

- C.Y.A. compliance-based model, but personalize it
- Engage employees
- Tell the business's story and define its culture, brand, beliefs, vision, and values
- Define clear expectations and standards to create consistency and ensure fairness
- Outline responsibilities of the employer and its employees
- Explain internal practices and the working environment
- Legal protection (and possible reduction of legal issues in the first place)

# Required NYS Policies

- Policies on sick leave, vacation, personal leave, holidays and hours. N.Y. Labor Law § 195(5).
- Sexual harassment prevention, including anti-retaliation provision, complaint procedures, and investigation process. N.Y. Labor Law § 201-g(1)(b). See: <https://www.ny.gov/combatting-sexual-harassment-workplace/sexual-harassment-prevention-model-policy-and-training>
- Reproductive health decision-making notice. N.Y. Labor Law § 203.
- Health and Essential Rights Act Policy. N.Y. Labor Law § 218-b(6).
- New York Paid Family Leave Act Policy. N.Y. Workers Comp § 229.
- Blood donation leave. See: <https://dol.ny.gov/guidelines-implementation-employee-blood-donation-leave-1s703>.
- Lactation accommodation. N.Y. Labor Law § 206-c(3).

# Recommended NYS Policies

- Equal employment opportunity statement (\*Be thoughtful about the implications of recent Executive Orders related to DEI.)
- At-will employment
- Accommodations (disability, pregnancy, religious, domestic violence)
- Electronic monitoring (note: required to obtain signed acknowledgement under N.Y. Civ. Rights § 52-C)
- Workplace violence prevention
- Standards of conduct
- Disciplinary procedures
- Confidentiality
- Pay practices (including safe harbor provision) and timekeeping procedures



# Recommended NYS Policies Cont'd.

- Meal and rest breaks
- Performance reviews and pay raises
- Attendance
- Substance abuse
- Social media
- Benefits information (including short-term disability)
- Other leaves: jury duty, witness leave, bone marrow donation leave, military leave, military spouse leave, voting leave
- Employment classifications
- Other:
  - Right to engage in protected, concerted activity
  - Contract disclaimer

# “Red Flags”

- Confidentiality provisions that do not specifically define “confidential information” or fail to identify exceptions for employees to discuss workplace topics
- Prohibition on disrespectful, negative, or rude conduct towards employer or management
- Complete ban on photography or recordings (with limited exceptions)
- Social Media Policy prohibiting “posting incomplete, confidential, or inaccurate information”
- Drug & Alcohol Policy that does not differentiate marijuana use or accommodations for a disability
- Sexual Harassment Policy that is significantly different than the NYS model policy
- Electronic monitoring policy that does not quote the language in N.Y. Civ. Rights § 52-C
- PTO policy that does not allow employees to take sick/safe leave without notice (N.Y. Labor Law § 196-b)

# New Laws and Law-Firm Specific Considerations

# Paid Prenatal Leave

- N.Y. Labor Law § 196-b
- Beginning January 1, 2025, all private sector employers must provide 20 hours of paid prenatal leave to employees to attend prenatal health care appointments in each rolling 52-week period
- Qualifying prenatal health care appointments include physical examinations, medical procedures, monitoring, testing, discussions with a health care provider needed to ensure a healthy pregnancy, end of pregnancy care, and fertility treatment.
- Does not cover a support person (partner/spouse)
- Anti-retaliation provisions

# Reproductive Health Decision-Making

- N.Y. Labor Law § 203-e
- Employers are required to notify employees of their rights and remedies under this law. Specifically:
  - Employers are prohibited from accessing personal information regarding an employee's or their dependent's reproductive health decisions.
  - Employers are also prohibited from discriminating or retaliating against an employee for their or their dependent's reproductive health decisions, and employers may not require employees to sign away their rights to make their own reproductive health care decisions.
  - The law also provides employees a private right of action against an employer for a violation of the law.
- In *Compass Care v. Cuomo*, 594 F. Supp. 3d 515 (N.D.N.Y. 2022), the U.S. District Court for the Northern District of New York issued a permanent injunction regarding the notice requirement.
- On January 2, 2025, in *Compass Care v. Hochul*, No. 22-951-cv, 2025 U.S. App. LEXIS 6 (2d Cir. January 2, 2025), the Second Circuit reversed the injunction, reinstating the notice requirement.

# Accommodations: Pregnancy

- Pregnant Workers Fairness Act, effective June 2023
- Regulations issued April 15, 2024
- Employers must make accommodations for a qualified employee or applicant with known limitations related to pregnancy, childbirth or related medical conditions unless it would result in undue hardship.
- Differences in procedure and timeframe when compared to the ADA.
- Even if these regulations are reconsidered, NYS maintains similar protections.

# Accommodations: Lactation

- N.Y. Labor Law § 206-c(3)
- Effective June 19, 2024
- Employers must now provide employees with 30 minutes of paid break time and permit employees to use existing paid break time or meal time for time in excess of 30 minutes, each time the employee has a reasonable need to express breast milk, for up to three years following childbirth.
- No limit on the number of paid breaks throughout the day, except that it will depend upon an employee's individual reasonable needs.
- New state-created policy to distribute upon hire, annually, and after returning to work following the birth of a child.

# Accommodations: Other

- Disability accommodations. N.Y. Exec. Law § 296(2-a)(d); 296(3).
- Domestic violence victim accommodations. N.Y. Exec. Law § 296(22)(c).
- Religious accommodations. N.Y. Exec. Law § 296(10).



# Remote Work

- How and when remote work is approved or appropriate
- Performance standards and evaluation
- Home working environment and availability
- Compliance with company policies
- Equipment
- Security
- Liability (workers' compensation)

# Social Media

- NLRB protections
- Be careful not to overstep
  - Trigger = affects the workplace and/or something brought to an employer's attention
- N.Y. Labor Law § 201-d protects employee off-duty conduct
- Political speech
- N.Y. Labor Law § 201-i limits employer's monitoring of social media
- Consider specific rules for business social media accounts

# Additional Policy Considerations for Law Firms

- Confidentiality
- Conflict of interest
- Use of AI:
  - Open source vs. closed source
  - Copyright considerations

# Acknowledgement Form

- There is no legal requirement to obtain a signed acknowledgement form.
- Note some statutory provisions do require written notice of receipt –can be used for this purpose.
- It can be helpful to demonstrate that an employee has received a copy of necessary information.
- Consider including:
  - Acknowledgement of receipt and responsibility for compliance.
  - Employer's sole discretion to modify, interpret, remove, etc. policies, with or without notice.
  - Effect of new policies or new versions of the handbook
  - Statement that the handbook is not a contract
  - Statement of at-will employment
  - Person or office where questions should be directed

# Best Practices

- Handbooks should be: clear, comprehensive, creative, constructive, critiqued
- Balance between specificity (to create real accountability) and flexibility (for the employer to address unexpected situations)
- Maintain a signed acknowledgement from each employee of their receipt of the handbook
- As your staff grows, keep track of whether you will trigger a policy requirement
- Monitor local, state and federal legal updates
- Update your handbook at least once per year, including incorporating any supplemental policies that you have issued between whole handbook updates and removing or updating any outdated policies

# Best Practices

- If you use a template, make sure you customize it to your business, industry, staff size, and priorities
- Have a balance between specificity (to create real accountability) and flexibility (for the employer to address unexpected situations)
- Consider having a meeting to discuss new policies or the roll-out of a handbook
- Provide training where necessary
- Pay attention to formatting

Questions?



*Thank you for attending the*

*The Women's Bar Association of the State of New York*

*Continuing Legal Education Series*

**Employee Handbook Essentials for Lawyers and Law Firms**

*The program code for this CLE is*

**2025-08-W**

*You must complete the attorney affirmation form and course evaluation form to receive credit for this program.*