

The Employee Handbook and Performance Standards

March 4, 2021 | by Timothy Ford

Part 1 in the series “Employee Job Performance in the Senior Living Community Workplace Environment”

What Topics Should Be Covered in an Employee Handbook?

Employee handbooks provide written notification of a company's expectations for discipline and productivity in the workplace and serve as a guide to the company's benefits, policies, procedures and practices. In addition to expressing the company's history, mission and values, the handbook should reference federal and [state laws that affect employees](#), such as the Family and Medical Leave Act (FMLA), COBRA, Equal Employment Opportunity Commission (EEOC) anti-discrimination laws, the Americans with Disabilities Act (ADA), the Fair Labor Standards Act (FLSA). Within the procedures section of the handbook, an employee should easily find the company's expectations about conduct, performance, and discipline.

How Often Should an Employee Handbook Be Updated?

It is a best practice to assign a point person to review the handbook annually with counsel to ensure that it reflects any new laws or regulations. Given all the changes over the past year, with work from home orders and health and safety procedures, it is advisable to look at the handbook now and as the pandemic continues to evolve to ensure that your expectations of employees are clear.

While employee handbooks may not make for relaxing reading, employees do appreciate direction and consistency from management, and that includes fully understanding what is expected of them as employees and as members of the workplace community.

The Employee Handbook is Required Reading for Everyone

The employee handbook, despite its name, is not just for employees. The messages within the handbook support the company's culture and daily operations, which means that the handbook is really part of the application and interview process, along with the actual job description.

An applicant's job duties and the employer's expectations must be communicated early on, and the contents of the handbook should guide the interviewer to explain the company's philosophy, operations and protocols. The handbook is not just an orientation tool; rather, it is essential information that pertains to the applicant, the new employee, and to everyone during the course of the employer-employee relationship.

The senior living community is a unique setting; it is critical that anyone who joins the staff follows the work rules and policies. The purpose of the handbook is to protect everyone – owners, administrators, supervisors, employees, residents, patients, and their families. An applicant should be made aware of the community's policies and procedures and the expectation that all staff must adhere to the employee handbook.

Whenever the handbook is updated, all staff must be notified and the revised handbook must be distributed. It is highly recommended that all staff acknowledge receipt in a written format.

Signed acknowledgements should be maintained in [personnel files](#).

The Employee Handbook Sets the Tone for a Positive and Productive Workplace

Leaders of senior living communities and long-term care facilities should develop their employee handbook so that it emphasizes the role of service, as the community serves the needs of many people: residents, patients, caregivers, family members, friends of a resident/patient, and staff at every level and position. In particular, a leader can set the tone for a positive and productive work environment through the policies and procedures that relate to job performance.

An employee's job description should identify job duties and performance objectives. But the employee handbook can provide additional details about performance, including policies about evaluations and consequences of any performance problems. No workplace is perfect, and performance problems will inevitably arise.

Performance Expectations Can, and Do, Change

The pandemic that began in 2020 has generated new work issues and rules for remote working, health and safety, access to technology, and even expectations for participating in video conference calls. These new issues have led to new performance expectations and new problems to solve. But, with or without the pandemic, employers of assisted care and senior living facilities know that the conduct of the employees affects the business.

Even the actions of one employee can impact the workplace environment. Consider the employee who is absent or performs the position poorly, forcing colleagues to bear the burden of that employee's responsibilities. Or the employee who is not meeting the needs of the community's residents or responding to the questions posed by their families. That type of behavior can result in broader problems for the full staff such as employee morale issues, turnover, and complaints by other employees or residents, and these issues have the potential to become legal disputes that require litigation.

Communicating Proactive Performance Management in the Employee Handbook

An important part of curtailing inappropriate behavior is to proactively manage employee performance right from the start and then throughout the course of employment. This approach of proactive performance management requires the employer to define the employee's job description and also communicate the performance standards in the employee handbook.

The employee handbook should clearly explain how performance evaluations are handled, not only in terms of timing (annual or otherwise) but also in terms of the job functions and performance components that will be evaluated. The employer may want to provide a blank employee evaluation

for discussion, to assist a supervisor with discussing the performance expectations for job duties and for community practices that will be measured in the evaluation.

Communication is critical to understanding the components of a job and the expectations the owners/supervisors and employees have about a position. Employee handbooks for senior living centers should set forth how the company operates and who the employees can speak to regarding any concern about the community. Some employers call this their open-door policy and offer coaching and ongoing training, but however it is described, it should establish a climate for communication and a clear way for the employee to provide feedback about anything he or she wants to discuss.

As part of the coaching process, a supervisor should explain how the employee's actions can have a ripple effect on the staff, the residents, and the families of residents, both positively and negatively. Job performance very much aligns to the residents' and families' needs, expectations, and ultimately their satisfaction with the community. For these reasons, the lines of communication about job performance must be open, and the process for evaluating performance must be defined in the employee handbook.

By adhering to (and updating) the employee handbook, the owners/administrators and the staff will have a mutual understanding of expectations and an avenue for performance reviews.

Of note, any issues relative to [sexual harassment](#) absolutely must be verbally discussed and also reiterated in the employee handbook. Some states require sexual harassment training for employees and more states are likely to follow that direction.

Are Employee Handbooks Enforceable?

When an employer has reason to believe that an employee has violated the workplace code of conduct, the employee handbook will once again serve as a guide for the steps the employer will take to react to the incident. This section of the employee handbook is typically known as the progressive discipline policy, and supervisors and administrators must be familiar with, and fully adhere to, its terms for purposes of consistency and compliance with any legal obligations.

The next blog in this series will discuss the employee behaviors that could trigger disciplinary action and will delve into the five steps of a company's progressive discipline policy.

Employee Job Performance in the Senior Living Community Workplace Environment

The pandemic has brought new and sometimes complicated employment law issues to senior living communities. From implementing quarantine protocols to mandating vaccinations, these new issues are demanding owners and administrators to face unique challenges and to protect themselves and their entities from liability claims. In this blog series, Timothy J. Ford, Esq., who represents senior housing, long-term care and assisted living facility owners and management in all aspects of business operations and litigation, offers information and recommendations specific to the workplace environment of senior living communities, and the legal issues that arise from employment.