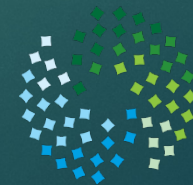


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Employee Handbook Do's and Don'ts

A SYNERGY HUMAN RESOURCES INFO BRIEF



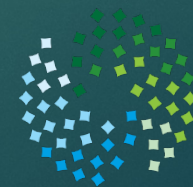
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HUMAN RESOURCES

Your Presenter



MIKE BOURGON
SYNERGY HR

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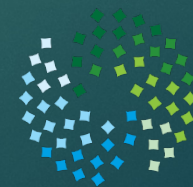


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Introduction

We recommend all employers revise their employee handbooks this year. An up-to-date handbook can mitigate and, in some cases, prevent costly litigation.

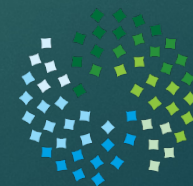
Outdated handbooks, on the other hand, run a high risk of not complying with various rules and laws, and can even be marked as “Exhibit A” in court proceedings.



Introduction

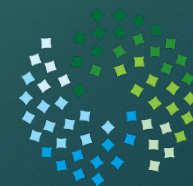
In addition to running afoul of recently developed law (which in turn can result in expensive litigation and create legal exposure for your organization), an outdated handbook also can cause confusion among your employees.

Other noteworthy reasons to have a regularly updated handbook include:



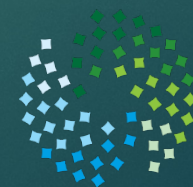
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- Preventing misunderstandings by introducing employees to the company's background, culture and expectations.
- Demonstrating the employer's knowledge of and compliance with applicable local, state and federal laws.
- Generating employee goodwill by showing the employer's commitment to treating everyone fairly and equitably.
- Providing a reference guide to supervisors and managers and ensuring that policies are applied consistently.



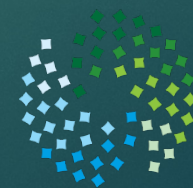
Introduction

- Mitigating against certain claims, such as breach of employment agreement or invasion of privacy.
- Supporting affirmative defenses and shielding against certain claims, including harassment or improper wage deductions.
- Creating additional safeguards via safety-related policies and procedures.
- Reducing the risk of information theft and unfair competition.



Introduction

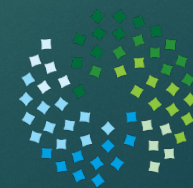
- Educating the decisionmakers on rapidly changing areas of the law such as NLRB decisions, EEOC and DOL guidance, state legalization of cannabis, sick leave laws, and many more.



PUMP Act

Employers should ensure their lactation policy and lactation space are compliant.

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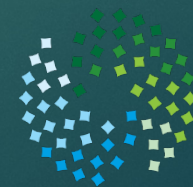


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Leave Laws

There are significant paid leave laws going into effect this year. An addendum is usually recommended if employers have employees in multiple states.

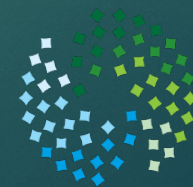
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Labor Laws

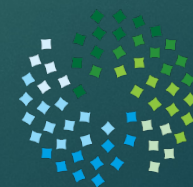
This is a good time to check if an employee could reasonably interpret a handbook policy as having a chilling effect on the employee's right to engage in concerted activities under a new National Labor Relations Act legal standard.



Labor Laws

The National Labor Relations Board issued a pivotal decision affecting workplace conduct rules that impacts essentially all employers. In *Stericycle*, the NLRB adopts a new standard for evaluating the legality of such rules. According to the Board, rules that have a reasonable tendency to chill employees from exercising their rights to engage in concerted activities are presumptively unlawful.

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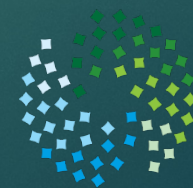


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Labor Laws

The Board's ruling calls into question all existing work rules, and employers should immediately review their employee handbooks and policies to determine whether they comply with the new standard.

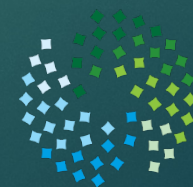
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Labor Laws

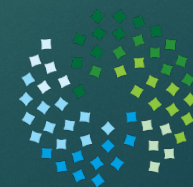
Under this new standard, rules that have a reasonable tendency to chill employees from exercising their Section 7 rights are presumptively unlawful. The NLRB will interpret the rule from the perspective of the “reasonable employee who is economically dependent on her employer and thus inclined to interpret an ambiguous rule to prohibit protected activity she would otherwise engage in.”



Labor Laws

Employers may rebut the presumption only by proving that the rule advances a legitimate and substantial business interest and that the employer is unable to advance that interest with a more narrowly tailored rule. If the employer meets this burden, the rule will be found lawful to maintain.

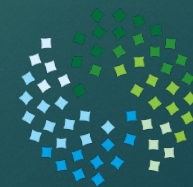
This new standard applies retroactively, so existing work rules will be evaluated under the *Stericycle* standard.



Labor Laws

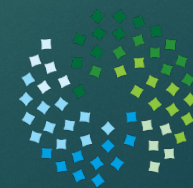
Although the Board did not explain how employers should revise their rules to comply with the new standard, we anticipate the following types of rules could be found unlawful:

- Personal conduct rules, such as those requiring employees to “behave in a professional manner” or refrain from making false statements about the employer;
- “No camera” and “no recording” policies;



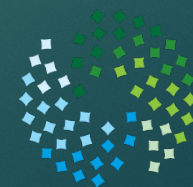
Labor Laws

- Anti-loitering rules that deny off-duty employees access to the workplace; and,
- Policies that mandate employees keep their workplace complaints confidential and/or require them to only discuss such complaints with HR.



Pregnant Workers Fairness Act (PWFA)

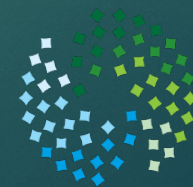
Consider including a policy that specifically discusses the PWFA and ensure compliance with the new EEOC regulations (discussed later).



Harassment Policies

Make sure harassment policies are up to date and follow the EEOC's final guidance (discussed later).

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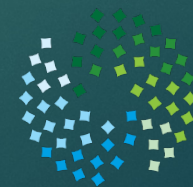


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Non-Competes

Federally, and in many states,
including Minnesota, non-competes
have been harmed.

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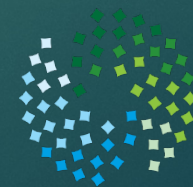


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Form I-9 Changes

Employers who are hiring should look at the Department of Homeland Security's alternative procedure for remote examination of Form I-9 documents and the new Form I-9.

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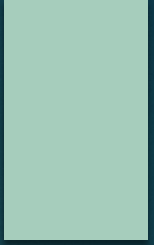


Questions?

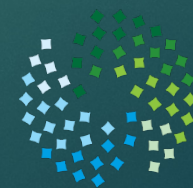
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