



[Home](#) | [About](#) | [Contact Us](#) |



GO

[Home](#) > [Employment Policies](#) > [Employee Handbooks \(1971 – 2014\): R.I.P.](#)

Employee Handbooks (1971 – 2014): R.I.P.



By [Kevin Connelly](#) on February 4th, 2014

Posted in [Employment Policies](#), [FLSA](#), [NLRB](#)

Friends, Romans, countrymen, lend me your ears; I come to bury Caesar, not to praise him.

Julius Caesar, Act II, scene 3



It is time to inter handbooks. Yours is undoubtedly an unfair labor practice waiting to happen: if not your social media policy, then your at-will disclaimer; if not those, then your off-duty access rule or your arbitration language. Of course you can fix those policies with appropriate edits **but why?**

For the company history, mission statement, or introductory statement ghostwritten for the Chairman? If those are driving productivity or anything else but sarcasm at your operation (and you can prove it objectively), then your handbook is exempt from this death sentence. Indeed, that blind faith in handbooks is precisely the problem.

For a series of rules? Really? Your handbook is too long and read less than the Gideon Bible in the desk drawer of the party suite in a Vegas hotel. Go ahead: give a pop quiz (outside the law department or the HR department) to discover how little anyone knows. Besides, if this is employment at will, why do you need rules: “you can be fired at any time, for any reason or no reason at all.”

But, rules drive consistency. Yes, each of your managers “is an honorable man” (or woman). And, if you are the rare employer with zero EEO charges and zero discrimination lawsuits or wrongful discharge or retaliation claims, then keep your handbook. But, otherwise, let’s recognize that the best drafted handbooks haven’t brought us to salvation.

STAY CONNECTED

ADD THIS BLOG to your feeds or subscribe by email using the form below.

GO

ABOUT US

The Labor Dish is a blog about legal issues important to U.S. employers. The blog is edited by Terence Smith, Kevin Connelly and Ben Gipson, who are part of the firm’s Labor and Employment practice at DLA Piper. DLA Piper’s lawyers are located in major markets in the United States and many international markets. [More.](#)



Terence Smith



Kevin Connelly



Ben Gipson

RECENT UPDATES

[Employee Handbooks \(1971 – 2014\): R.I.P.](#)

[WHO DAT?](#)

[Successor Liability For Employment-Related Claims: A Pain In The Assets](#)

[Tactics In Addressing Union Information Requests](#)

[Innovate or Die – Managing Millennials in the Workplace](#)

TOPICS

[Class and Collective Actions](#)

[EEO Compliance](#)

[Employment Agreements](#)

[Employment Litigation](#)

[Employment Policies](#)

[FLSA](#)

[International Employment Law](#)

[NLRB](#)

[OSHA/Workplace Safety](#)

LINKS

[Employment, Pensions & Benefits](#)

For clarification on benefits? Absolutely true in a pre-ERISA world but nonsense in the 21st Century. In a world of Facebook and Instagram and Twitter, any justification for VHS era handbooks (and putting it on your intranet isn't modernizing but merely warehousing an artifact that belongs in the Smithsonian) as the best form of employee communication is DOA.

The question is not how to save handbooks but what content deserves to survive in some other form. Let's begin both debates. Having been present at creation of the employee handbook era, I defer to the more modern on form. On content, let me suggest that the list should be very short:

- Employment at will
- *Faragher/Ellerth* compliant harassment policy
- FLSA safe harbor notice (29 CFR §541.603)
- FMLA election options
- No solicitation/no distribution rule
- SOX mandated hotline (even though undercut by Dodd-Frank)

Too radical? Too harsh? Too much left on the cutting room floor?

“ But here I am to speak what I do know.

You all did love him once, not without cause:

What cause withholds you then, to mourn for him?

O judgment! thou art fled to brutish beasts,

And men have lost their reason. Bear with me;

My heart is in the coffin there with Caesar,

And I must pause till it come back to me.

APPENDIX: historical artifacts to review at graveside

Exhibit A – Nordstrom's famous (but now abandoned) 1 page handbook:

[Union Organizing](#)

[Wage-and-Hour](#)

BLOGS

[Education Industry Reporter](#)

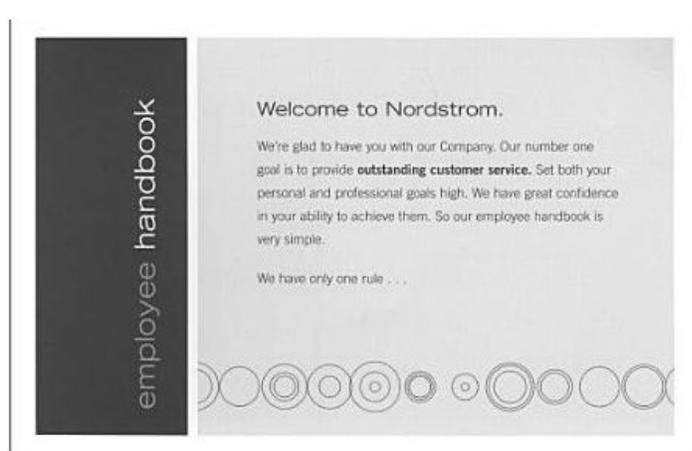
[Health Care Enforcement and Compliance Matters](#)

[Health Care Law Matters](#)

[Re:Marks on Copyright and Trademark](#)

[Technology's Legal Edge](#)

[The Venture Alley](#)



(Turning over the card)

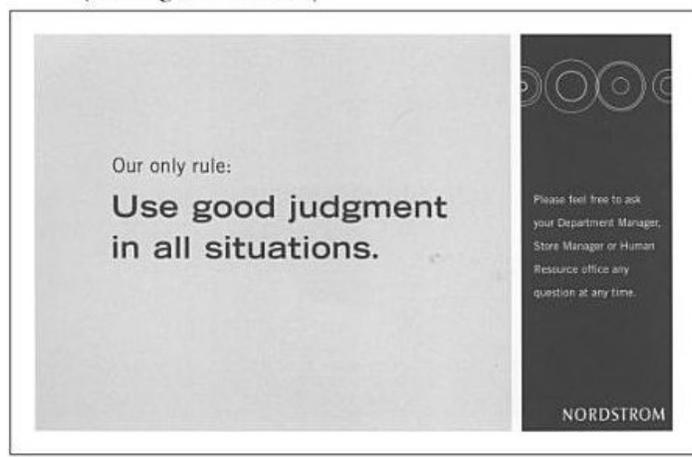


Exhibit B: [a 1974 sample handbook](#) (12 pages)

Exhibit C: a current template handbook recommendation from SHRM (39 pages):
<http://www.shrm.org/templatestools/samples/pages/employeehandbook.aspx>



Print

TAGS: [don't get sued](#), [employment policies](#), [FLSA](#), [julius caesar](#), [nlrb](#)

0 Comments The Labor Dish

d ▾

Sort by Best ▾

Share

Favorite



Start the discussion...

Be the first to comment.

[Back to Top of Page](#)

Copyright © 2014, DLA Piper LLP US. All Rights Reserved.

STRATEGY, DESIGN, MARKETING & SUPPORT BY **LEXBLOG**

[PRIVACY POLICY](#) | [DISCLAIMER](#)