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## Business Update Employee Handbooks by Bernadette Starzee

### Annual updates ensure they comply with new laws and reflect changes in your business.

Changes in state and federal laws make this a good time to update your company's employee handbook.

During the past year, a new state human rights law added victims of domestic violence to the list of protected groups, necessitating changes to the wording of equal opportunity employer statements and related policies, said Chris Valentino, a partner in the Melville office of Jackson Lewis, who gives seminars on updating employee handbooks and related topics.

Companies that must comply with the Family Medical Leave Act will need to update their policies to reflect significant changes that went into effect last January, said Sima Ali, a labor and employment law consultant with Employment Practices Advisors Inc. in Northport. According to Ali, these amendments had a far-reaching impact on definitions, eligible members and leave periods.

Company policies should also reflect a recent law that requires companies to grant lactation break leave to nursing mothers. "The company must make a reasonable effort to provide nursing mothers with time and a private area to express breast milk, as well as storage for the expressed milk," said Valentino, who noted another relatively new law requiring companies to grant employees time off (up to three hours per year) for donating blood.

It's also important to review and update your handbook annually to make

sure your policies are meeting the needs of your business.

For starters, employee handbooks should include the company's equal opportunity employer statement, its anti-harassment and antidiscrimination policies, and a procedure by which an employee can make a complaint.

Although many policies aren't legally mandated, companies that go without them risk consequences.

"If employees don't have an avenue for bringing complaints to management's attention, management may not find out about a harassment situation and be able to correct the problem," said **Jonathan Trafimow**, a partner who heads the employment law practice group at **Moritt Hock Hamroff & Horowitz** in Garden City. "And there are certain state and federal defenses that the employer will not be able to utilize if it doesn't have a policy against discrimination and harassment and a complaint procedure in place."

A staple of the handbook is the employment-at-will statement, which, for a nonunion employer, should say that the company can change the terms and conditions of employment for any reason, except an illegal one, unless there is a contract restricting that right.

Additionally, the handbook should detail, among other matters, termination-of-employment procedures; employee benefits; work-force violence, drug, alcohol and smoking policies; employee classification definitions; and policies regarding overtime and personal time off.

"Companies in New York are not required to give employees paid time off," Valentino said. "But if they do, the

policy has to be in writing."

According to Ali, electronic communications is a hot issue this year.

"A lot of companies are writing or revamping technology policies to include guidelines regarding the use of social media and smart phones," she said, noting that the category has implications for wage-and-hour matters as well as how the employee uses the company name in electronic media. "You don't want employees setting up a fan page on Facebook about how much they hate your company," she said. Updating technology policies requires analysis of recent case law, Ali said, as technology is evolving faster than the statutes.

An important goal of the annual review is to tweak your policies to better meet your company's needs.

For instance, **Trafimow** said, think about whether it would be beneficial or detrimental if your employees worked more (paid) overtime. "If you're looking to discourage overtime, make it a policy that the supervisor must approve any overtime in advance," he said. Or companies that are looking to deploy a sales force over a broad geographic area without maintaining offices in the remote locations should create a policy that defines when remote employees are considered to be working and how they will be compensated.

Besides updating your policies annually, be sure to have a legal review of your employee handbook every three to five years, or whenever there are significant changes to your company.