



June 2009 Newsletter

Does Your Employee Handbook Have Implied Contract Statements?

A good business practice is to have your employee handbook reviewed by an experienced HR professional or attorney to insure that you do not have policies or statements in the handbook that could get you into trouble.

A local Silicon Valley company recently found out the hard way just how one word in their handbook could result in trouble for the company. The company's handbook included the statement "we provide all full-time employees with medical, dental, life, STD and LTD free of charge. Full-time employees are responsible for paying 50% of dependent coverage."

Due to the downturn in the company's revenue, the company decided to change this policy during their open enrollment period. They announced that full-time employees would be responsible for 50% of the cost for the employee's coverage and the full amount for dependent coverage for medical and dental insurance. The life, STD and LTD insurances would remain to be free for only the employee's coverage.

A group of employees were not happy with this decision and felt that the company breached a contractual agreement to provide medical and dental insurance free of charge so they hired an attorney. After legal review of the handbook, it was determined that the phrase "we **provide** all full-time employees with medical...." was indeed a contractual statement (implied contract) and the company has been forced to pay for employee medical and dental coverage as stated in the employee handbook.

The company is in the process of changing their handbook language and rolling out the new policy related to employee contributions to health coverage. What effect this will have on employee morale and retention is yet to be determined.

Don't let this happen to you. MyOHR employs HR professionals experienced in writing and updating Employee Handbooks. If you would like to obtain a quote to review your handbook please contact Jaime Orendac at jaimeo@myohr.com.

CA Division of Workers' Compensation (DWC) "Bring 'Em Back Program

California Division of Workers' Compensation (DWC) has developed an incentive program for small employers (less than 50 employees) to bring workers suffering from workplace injuries back to work as soon as possible. The program is designed to help small employers with the cost of providing modifications to the work site, purchase of equipment, tools, furniture and other accommodations in an effort to bring an injured worker back to work. Employers may request reimbursement of expenses to provide these items.

These modifications can include items like a computer keyboard tray and document holder for a worker whose job requires keyboard typing or a "standing" desk for a worker unable to sit for prolonged periods of time due to a workplace injury.

Reimbursements are for actual expenses up to the maximum limit of:

\$1,250	For workplace modifications that bring a temporarily disabled employee back to work
\$2,500	For workplace modifications that bring a permanently disabled employee back to work

There are some restrictions for reimbursement such as completing and submitting the request for reimbursement within ninety (90) days of the date of the expenditure (the filing date may be extended if you show good cause).



For more information and to obtain the DWC-AD Form 10120 Request for Reimbursement of Accommodation Expenses visit the DWC website at www.dwc.ca.gov.

Heat Illness Prevention and Training Requirements

Many California employers mistakenly assume that Heat Illness Prevention Plans and Training only apply to employers with workforces exposed to outside environments and/or exposure to the sun. California Safety and Health Standard, Title 8, Chapter 4 requires ALL California employers to have a heat illness prevention plan and to train supervisors and employees. Failure to train employees and supervisors can result in monetary penalties and in severe situations, the business may be forced to shut down until the training has been completed and violations corrected.

Having a heat illness prevention program or an Injury and Illness Prevention Plan which includes heat illness prevention is not enough. Employers must train their supervisors and employees. The supervisor training must include an emergency process for responding to suspected cases of heat illness.

Do your supervisors know what to do in the event of a power outage resulting in building temperatures above 80 degrees? If not, perhaps it is time to consider providing them with heat illness prevention training.

FACTA Red Flag Regulations – All Employers May Have Liability Concerns

The Fair and Accurate Credit Transactions Act of 2003 (AKA FACT Act or FACTA) contains provisions to help reduce identity theft. This law pertains to financial institutions, creditors, any user of consumer reports (including background checks) and businesses with “covered accounts.” On April 30, 2009 the FTC announced that the new effective date for this law was May 1, 2009 with compliance enforcement beginning August 1, 2009.

A “creditor” is defined as but not limited to “lenders such as banks, finance companies, automobile dealers, mortgage brokers, utility companies and telecommunications companies.” “Covered Accounts” is defined as any account for which there is a foreseeable risk of identity theft. Examples include credit cards, monthly billing statements, social security numbers, driver’s license numbers, medical insurance accounts, etc.

Based on these definitions, all companies, regardless of size, that has access to or maintains any information described above regardless the business purpose must abide by the FACTA regulations.

FACTA requirements:

- Businesses must have a written Identity Theft Prevention Program
- Businesses must require all subcontractors and service providers (i.e., payroll service, outsourced HR consulting, etc.) to also have a written policy/program in place
- Businesses must appoint a “Security Officer” to oversee the company policy and program related to identity theft prevention
- Mandatory training of all employees regarding the company policy and program on identity theft prevention
- The business must have a mitigation plan in place identifying potential risks for identity theft and the precautions taken to mitigate the risk.



MyOHR has training professionals to help you meet all of your training needs.

These articles should not be construed as legal advice or as pertaining to specific situations. Consult with your legal counsel for further information.

Coming in June –

Educational Seminar Regarding Health Savings Accounts

Darrell Perkins of Sterling HSA will be presenting information regarding Health Savings Account programs on **June 25th from 9 a.m. to 11:00 a.m.** This seminar will be offered at:

Leavitt Pacific Insurance Brokers
695 Campbell Technology Parkway, Ste 250
Campbell, CA 95008

To register please RSVP to Linda Railton at lindar@myohr.com.

OHR's quarterly Harassment Prevention Training for Managers

Is it time for your management staff to attend Harassment Prevention Training? Employers with 50+ employees must train their management staff every two (2) years regarding Harassment Prevention. Although not required by law, it is good business practice for smaller employers to also train their management staff.

The next OHR Harassment Prevention Training for Managers session is scheduled for **June 25th at 1:00 pm** in Campbell, CA. To register please RSVP to Linda Railton at lindar@myohr.com.

MyOHR provides key Human Resources consulting and support for small, emerging and mid-size companies. Focusing on Human Resource Legal Compliance, MyOHR assists business in achieving operational efficiency by providing the infrastructure necessary to manage the workforce in compliance with State and Federal requirements. MyOHR is cost effective for companies that have not budgeted for a full-time HR position. Contact Jaime Orendac, SPHR-CA at Jaimeo@MyOHR.com.

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