

Employee Handbooks

Resort Developers Association 2012 Annual Meeting Legal Presentation

NIXON PEABODY

“At Will” Employment Disclaimer

- An employer may terminate an employee for any or no reason, unless it is for one of the “unlawful reasons”
- Unless there is due process and a record showing a legitimate reason for the termination, it will be presumed to be for an improper purpose
- Protect against direct or implied contract of employment
- Notice of “at-will” in the Employee Handbook is the best first defense against such allegations

Harassment

- Lawsuits stemming from allegations of sexual, racial, and ethnic harassment are very common, and a very costly source of workplace litigation
- Must have a written non-harassment policy, or employer has no defense to a harassment claim
- It should contain such things as:
 - › Clear message to all company employees that harassment is illegal and will not be tolerated and those who engage in it will be disciplined or terminated.
 - › The non-harassment policy should describe and give examples of the various type of conduct that is considered harassment.
 - › Detailed complaint process advising employees how to report claims of harassment.
 - › A statement that retaliation for reporting a harassment allegation is illegal and will not be tolerated.

Equal Employment Opportunity Policy

- Federal and state law require employer to provide a workplace with equal employment opportunities
- Employee Handbook should provide a written EEO policy

Leaves of Absence

- Federal and state laws require employers to provide certain types of leaves of absence for eligible employees
- Specific written notice requirements are required
- One example: Family Medical Leave Act of 1993 (FMLA), has detailed, federally required notice requirements on the part of an employer

Disciplinary Process

- Basic levels of due process and consistency
- Progressive discipline

Other Typical Topics

- Workplace Civility
- Employee Safety
- Attendance
- Use of e-mail
- Drug and Alcohol Abuse
- Cell Phone Policy

Miscellaneous

- Changes
- Realistic Policies
- State Laws
- Notice/Employee Signature

Pools

New ADA rules require compliance by March 15, 2012

I. Large Pools vs. Small Pools

- 300 linear feet of pool wall

Large pools must have two approved accessible means of entry, such as a pool lift or sloped entry; smaller pools are only required to have one accessible means of entry, provided that it is either a pool lift or a sloped entry.

II. New vs. Existing

- Existing pools must also comply, but subject to “readily achievable barrier”

Readily achievable means "easily accomplishable without much difficulty or expense."