



Employment Edge 108th Edition—Suggested Updates to Employee Handbooks

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As the new year approaches, many employers are considering whether any changes or updates to their employee handbooks should be made. It is important for employers to periodically review their handbooks to ensure that their policies accurately reflect business practices and to determine if there have been any changes that might warrant a handbook update. As employers consider what updates to make, we recommend that employers keep in mind the following legal developments and recommended policies:

The new Genetic Information Nondiscrimination Act (GINA), which went into effect in November 2009, prohibits discrimination on the basis of genetic information. Genetic information includes the results of genetic tests as well as information about family medical history. As a result of this new law, we recommend that "genetic information" be added to the list of protected classes in nondiscrimination and antiharassment policies. For more information about GINA, [click here](#).

FMLA employers (i.e. employers with 50 or more employees) should update their FMLA policies to comply with the recent changes made to the FMLA by the National Defense Authorization Act for Fiscal Year 2010, which was passed at the end of October 2009. The recent amendments to the FMLA clarify that "qualifying exigency" leave is available to family members of all service members, not just family members of service members who serve in the National Guard and Reserves. In addition, the 26 weeks of military family "caregiver" leave is now available for up to five years after a veteran leaves the service. These changes will likely require most employers to make minor changes to their FMLA policies to ensure that their policies accurately reflect the new law. For more information on these changes, [click here](#).

In addition, new FMLA regulations became effective in January 2009 and required employers to make extensive changes to their FMLA policies. Employers that have not yet made changes to comply with the new FMLA regulations should consult with counsel about the necessary changes. For more information on the changes required by the new FMLA regulations, [click here](#). For more information on the changes made to the FMLA regulations, [click here](#).

3. Charities and other tax-exempt organizations that are required to complete the IRS Form 990 should consider whether they want to add any of the policies mentioned in the revised Form 990 to their employee handbooks. The Form 990 now asks whether an organization has a written whistleblower policy, conflict of



interest policy, and document retention and destruction policy. Charities and other tax-exempt organizations that do not have these written policies may want to consider adopting them. Organizations that have these policies in place may want to review their existing policies to make sure their policies accurately reflect the organization's practices and are consistent with applicable laws. In addition, the revised Form 990 asks for information about executive compensation and the procedures used to approve it, as well as about other policies, processes, and practices. The information requested varies depending upon the type of tax-exempt organization or charity involved. Charities and other tax-exempt organizations should consult with counsel to ensure that they have all the required or recommended policies, practices, and processes in place.

4. As social media and social networking continue to grow, employers that do not yet have a social media or social networking policy should consider whether to adopt one. Although some organizations are actively and effectively using social networking for business and marketing purposes, some employers are also experiencing problems, such as decreased productivity stemming from employee visits to social media sites during business hours or individuals using social Web sites to disclose proprietary information, disparage the employer, and/or harass other employees. The type of social media policy each employer adopts will differ from organization to organization, depending upon whether and how the organization uses social media for business purposes. However, all employers should consider implementing policies that set forth the boundaries of acceptable uses of social networking sites and that make clear that employees can be subject to discipline for inappropriate uses of social media.

If you need assistance with updates to your employee handbook or help with other employment law issues, please contact Carl Crosby Lehmann or another member of the Gray Plant Mooty Employment and Labor practice group. If you have questions about the revised IRS Form 990, please contact Sarah Duniway, Catie Bitzan, or another member of the Gray Plant Mooty Nonprofit and Tax-Exempt Organizations practice group.

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