

Updating Employee and Student Handbooks

NAIS

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Handbook Goals

- Communicate the school's mission and philosophy
- Establish clear rules, policies and expectations
- Provide transparency
- Promote equity and consistency
- Maintain flexibility
- Provide legal defenses
- Ensure compliance with legal requirements



Today's Agenda

- Updates in response to pandemic
- Updates in response to new laws
- Updates to provide clarity / best practices
 - Parents and employees are paying more attention to documents like handbooks and contracts (enrollment and employment) than ever before
 - Be aware of potential challenges when updating handbooks

Employee Handbook

Flexibility

- Employment is “at-will” unless employee has a contract
- School has discretion to update policies
- Handbook is not a contract
- Force majeure and modification language that addresses situations outside of the school’s control
- Ability to modify job duties, require professional development, change schedules or calendar, and modify method of delivering program, if necessary
- Employment contracts / agreements / offer letters should reference the employee handbook
 - Employee agrees to comply with the policies set forth in the employee handbook
 - Do not incorporate the handbook by reference into the contract

Leave and Accommodations

- FFCRA
 - EPSL and EFML expired December 31, 2020
 - Schools may voluntarily extend leave through March 31, 2021 and receive tax credit
 - Prepare to update or remove the policy (unless extended again)
- State leave laws
 - Some states passed expanded paid leave laws
 - Some expire and some do not
- Consider whether additional leave policies offered this year will extend into next year
- Accommodations
 - Re-establish expectation to perform duties on campus, subject to exceptions
- Pay attention to state marijuana laws

COVID-19

- Health and Safety Policies
 - Masks, social distance, daily screening, when to quarantine and medical release to return to school
 - Travel and outside activities (review state and local orders)
 - Address pay arrangements when employee must quarantine and remote work is not possible
 - Comply with OSHA, CDC, and state worker safety protections
- Reserve the right to require vaccinations and testing (COVID-19 vaccine? Flu shot?)
 - Explain possible exemptions (medical or religious) and process to request exemption
- Assumption of Risk
- Confidentiality of health information
- Enforcement considerations

Conduct

- Political Activity
 - First Amendment?
 - Non-profit status
 - General community standards
- Behavior online
 - During remote teaching
 - Social media
 - Texting and e-mail
 - Recording of conversations
- Privacy considerations

Anti-Bias / Anti-Discrimination

- Title VII Policies against discrimination, harassment and retaliation
 - 2020 U.S. Supreme Court held that “sex” discrimination includes sexual orientation and gender identity
- Title IX obligations continue for the duration of the PPP loan (until repaid or forgiven)
- Anti-bias / Anti-discrimination policy
- Establish:
 - School’s policy and commitment to combat discrimination, harassment, and retaliation
 - Define terms
 - Complaint avenues and process
 - Investigation and complaint resolution
 - Promote transparency, consistency, and equity

Other Updates

- Mandatory Reporting
 - Report concerns brought by alumni, former parents, etc.
- Appropriate Boundaries
 - Be specific about what is / is not “appropriate”
- Acceptable Use Policy
 - Address safety and security (passwords, personal devices, personal use of school resources)
- Confidentiality Policy
 - Records being stored at home?
- Conflict of Interest Policy
 - Beware of anti-trust enforcement of no-poaching agreements
- Employee Acknowledgement
 - Employees are expected to read, understand and ask questions about the handbook
 - Employment is at-will, unless a signed contract states otherwise
 - Does the employee need to sign?

Parent/Student Handbook

COVID-19 Updates

- Health and Safety Policies
 - Masks, social distance, daily screening, when to quarantine and medical release to return to school
 - Limit visitors, parties, gatherings, volunteers, assemblies
 - Limit personal travel and outside activities (review state and local orders)
 - Outside sports (what safety measures do they follow? is travel involved? what about the other team?)
 - Quarantine guidelines
- Vaccine / testing / immunizations
 - Reserve the right to require additional vaccinations beyond what state requires (COVID-19 vaccine? Flu shot?)
 - Explain possible exemptions (medical or religious) and process to request exemption
- Force majeure / modifications due to events outside the school's control
- Assumption of Risk
- Confidentiality of health information
- Enforcement considerations

COVID-19 Updates

- Maintain right to make certain modifications for health and safety reasons
 - Policies, practices, and procedures
 - Activities, sports, trips, before or after-care, schedule, calendar, food service
 - Method of program delivery, curriculum, workforce
- Distance learning policies
 - Continue to offer the option or just for periods of shut down or quarantine?
 - Consent to digital platforms
 - Consent to video, recording, use of images, visiting students
 - Discourage parents from “auditing” the class
 - Address one on one communications (counseling, check-ins, tutoring, etc.)
 - Establish behavior and conduct expectations
- Semester or year away policies?

Non-Discrimination Policies

- Diversity and inclusion statement
- Policy against discrimination, harassment, sexual harassment
- Sexual abuse and dating violence
 - What is consent?
- Anti-bias and anti-discrimination policy
 - Define terms
 - Provide clear reporting channels
 - Investigation and complaint resolution process
 - Ensure equity and transparency
 - Expectation of parents / students to support school's initiatives
- Title IX
 - Only during the period of the PPP loan
- Transgender students

Program and Support

- Don't promise a specific program or program delivery method
- Define curriculum requirements
- Address scope of accommodations and process to request
 - Parents / students agree to work collaboratively with schools
 - Agree to get requested tests and evaluations and consent to share information
- Learning resources and support services
- Medication at school
- Counseling services and scope of confidentiality

Enrollment and Home/School Partnership

- Enrollment contract should reference the parent/student handbook and ensure parents consent to comply with policies and procedures in the handbook
- Parental comportment and support of school mission, philosophy, policies, procedures
- Parents must be supportive of the school's commitment to a diverse and inclusive community
- Age of Majority (parents will continue to be responsible for terms of the enrollment contract and students will not prohibit school from communicating with parents)
- Re-enrollment and holding enrollment

Conduct and Behavior Policies

- General conduct and community standards
- Academic integrity
- Attendance and absences
- Acceptable use of technology
- Social media
- Cell phones and electronic devices
- Bullying (including cyber bullying), hazing, retaliation
- Discipline (define scope, provide transparency and equity)
- Reporting disciplinary suspensions or actions to other schools, colleges and universities
- Drugs, alcohol and tobacco
- Weapons
- Right to conduct investigations and search student property, personal devices, lockers, vehicles

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