

Black and White

Employee handbooks can help set clear expectations for staff

BEN RICHTER

With 2011 Wisconsin Act 10 finally published, school boards, if they have not already done so, should begin working on an employee handbook or handbooks for their employee groups. An employee handbook will serve several purposes.

First, the handbook will assist district administrative personnel in implementing the larger employment policies and goals set by the board. In other words, with respect to the board's employment policies, the employee handbook can serve as the administrative rules for implementing those policies.

For example, once existing collective bargaining agreements expire, boards will no longer be bound by the language that formerly governed leave days. Therefore, a board will have to determine whether it will continue to provide paid and/or unpaid leave days, how many days will be available, the circumstances

in which the leave may be used, and who will have the final authority to approve leave usage.

By putting these decisions to writing in the form of a provision in an employee handbook, the district's administrators will better understand what leave benefits are available to the district's employees as well as any limitations or conditions the board has placed on their ability to approve or deny such leave requests.

May Reduce Complaints

Consistent administration of an employee handbook's provisions can reduce employee complaints and discrimination claims.

If a board has not specified the terms of its employees' pay, benefits and working conditions in writing and administrators make inconsistent employment-based decisions, the administrators' inconsistent treatment of the district's employees could increase the risk of an employment discrimination claim.

For example, if a board has not put its leave provisions in writing and an administrator grants a male employee 10 paid leave days while granting a female employee only five paid leave days, and there's no apparent policy reason or handbook provision to explain the legitimate nondiscriminatory reason for the discrepancy, the female employee may be able to raise a sex discrimination claim.

Selling Point

In addition, by placing employees' terms and conditions of employment in writing, a district will have

a convenient summary document to provide prospective employees during the application and hiring process.

A district can use its handbook to distinguish the salary and benefits it provides its employees from the salary and benefits provided by other districts in the area. In this sense, the handbook, and information contained therein, can be used as a selling point to attract quality applicants and persuade a desirable candidate to accept an offer of employment.

For example, now that the law requires districts to collectively bargain over base wage increases only, boards are free to move away from the traditional experience and educational attainment-based salary schedules and instead implement alternative compensation models.

This shift away from the traditional salary schedule to a system that bases salary adjustments on demonstrated skill and performance will admittedly create some sense of uneasiness amongst experienced teachers. But, more importantly, it will also create an opportunity for school boards to create pay systems that (a) attract teachers in specialty areas and (b) compensate great teachers for their superior classroom performance as opposed to just their increased personal educational attainment and experience.

If drafted correctly, an alternative pay provision in an employee handbook could not only quell the fears of experienced teachers, but also become a source of pride for the board if it allows the district to attract and retain quality educators.

Performance and Expectations

In addition to educating applicants and employees of the pay and benefits they are eligible to receive, the board, through the provisions of a handbook, will also place employees on notice of its performance expectations for them.

Many districts will choose to maintain some level of job security provisions for their employees. For a district that continues to offer its employees job security such as just cause protection even after existing collective bargaining agreements expire, the board will have to be able to show that the employee it intends to discipline or terminate had notice of the district's expectations for that employee, and the employee nevertheless violated that expectation or work rule. If the board cannot show that it placed the employee subject to discipline or discharge on notice of its expectations, the board's subsequent disciplinary action may not survive a claim that the board violated the employee's constitutional right to due process.

Meeting New Requirements

Finally, 2011 Wisconsin Act 10 imposes new requirements on all school districts, even those that have extended their collective bargaining agreements, and an employee handbook would be an appropriate vehicle to address those new requirements.

Help from the WASB

The WASB model employee handbook

To help districts make the transition from collective bargaining agreements to employee handbooks, the WASB attorneys have created a model employee

handbook to cover district employees' terms and conditions of employment. The handbook is now available for purchase on a subscription basis.

The handbook is an annual subscription; however, the content within the handbook will be updated throughout the course of the year as needed due to legislative changes and/or court or agency decisions.

The handbook will have a one-time cost of \$1000 (\$750 for WASB Policy Resource Guide subscribers) and an annual subscription cost of \$500 thereafter.

The model handbook is organized into six different parts and includes sections that are specific to teachers, administrators, support personnel, temporary employees, and extracurricular coaches and advisors. The handbook also includes various model forms and optional provisions, provides links to additional information, and comes with selected model employment policies.

Over 130 districts have already ordered the WASB handbook, and for those boards still considering their options, a preview of the WASB handbook is available on our website at wasb.org. □



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For example, the Act requires school boards to adopt a grievance procedure by the first day of the fourth month following the date in which Act 10 is published (Oct. 1, 2011).

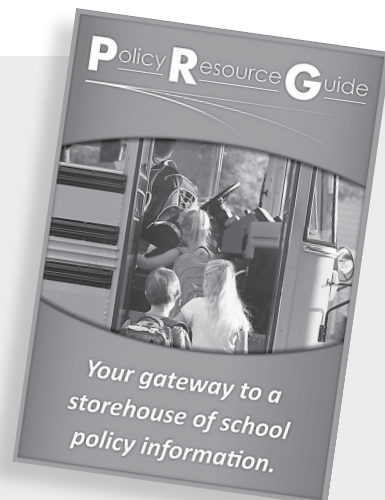
The grievance procedure must: (1) be in writing; (2) address workplace safety, discipline and termination; (3) allow any grievances to be heard by an impartial hearing examiner; and (4) allow for an appeal process in which the highest level of appeal is the board of education. By placing such a grievance procedure in an employee handbook, the board will satisfy the statutory mandate that it be in writing, place administrators on notice of how the grievance procedure should be administered, and place employees on notice of their statutory rights. ■

Richter is a WASB staff counsel.

WASB Policy Resource Guide

The WASB Policy Resource Guide is now available to school leaders. It is a new web-based policy information tool designed to assist school boards and administrators in policy development and implementation. For each policy topic addressed, the Policy Resource Guide provides a background information resource that identifies key policy and legal considerations related to the topic as well as electronic links to applicable state laws and additional resources.

The Policy Resource Guide also contains actual sample policies on each policy topic, drafted by WASB policy experts, which will give each subscribing school district a substantial head start on creating and updating their local policies to meet local needs. The policy samples and other resources are updated to keep pace with changes in legal requirements and with new ideas that can be considered as policy options. For more information, visit www.wasb.org and select the "Policy" tab. □



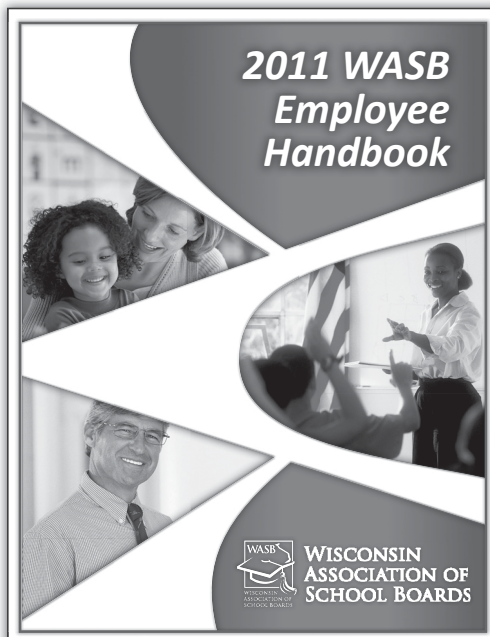
NEW IN 2011!



Introducing the NEW WASB Model Employee Handbook.

Drafted by the experienced WASB staff counsels to help Wisconsin school districts address employment benefits, conditions of work and processes for handling employee complaints.

Purchased for an initial fee, the WASB Employee Handbook will be updated annually for subscribers.



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