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IT'S ALMOST END-OF-YEAR – TIME TO UPDATE YOUR DEALERSHIP'S EMPLOYEE HANDBOOK

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Let's face it – your dealership's employee handbook is likely out of date, even if you just updated it in the past few years. Labor and employment laws continue to undergo significant changes at an astonishing rate. As a result, it is important to periodically review and revise your handbook in order to ensure that policies, practices, and procedures comply with applicable laws and other current obligations and requirements. What better time than end of year, so that you can roll out your revised employee handbook in January 2020?

UPDATING THE EMPLOYEE HANDBOOK – A CHORE NO MORE

So you've resolved to update your dealership's handbook – now what? Think of your employee handbook as a "best practices" guide that sets forth key expectations for employees, as well as any notices or policies that are required by law. Thus, as an initial matter, it is important to realize that there is no one-size-fits-all approach. Policies that may be imperative for some dealerships are unimportant to others.

Generally speaking, employee handbooks should include the policies on the following key topics: equal employment opportunity and non-discrimination/harassment/retaliation; at-will employment; leaves of absence; reasonable accommodations for pregnancy or disability; drugs in the workplace/drug testing; weapons/violence in the workplace; wage and hour; and discipline.

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This listing may not be enough for your organization, however. Your dealership may also need policies that speak to safety rules, use of electronic devices, confidentiality, use of social media, dress and appearance standards, and arbitration of employment disputes if you require employees sign a separate arbitration agreement.

It is also important to ensure that your handbook is specifically tailored to the jurisdiction where you do business – ideally with the assistance of your go-to employment lawyer. Over the past several years, state and local governments have enacted laws that impose requirements upon dealerships over and above what federal law requires. Most notably, state and local laws have expressly codified protections for additional groups of individuals (e.g., members of the LGBTQ community and those with dreadlocks) and have imposed additional paid leave obligations upon dealerships.

Dealerships with multistate operations should be especially careful when reviewing their policies, as something that is a non-issue in one state may land an employer in hot water in another. For example, California prohibits use-it-or-lose-it vacation policies, while Mississippi does not. As another example, Louisiana requires that all accrued vacation be paid out upon separation of employment, but numerous other states have not adopted such a requirement. If you fail to comply with each state's nuances, you may unwittingly subject your dealership to significant penalties.

When updating the employee handbook, be sure to include revised dates or an index of when policies were revised. You should also maintain copies of the revised or superseded policies for a period of time (at least five years). This is particularly critical for online handbooks. You should print out and save a hard copy, and also electronically save it in an archives folder. If an investigation or lawsuit arises, your attorney will want to see the policies that existed at the time relevant to the claim, which may not necessarily be the current version.

TYING UP LOOSE ENDS – OTHER NECESSARY CHORES

While an updated employee handbook is a great start, your end-of-year list must also include a few other chores. First, simply updating the handbook is not enough. You must also distribute the revised version to your workforce and have

employees sign an acknowledgement of receipt (or demonstrate electronic receipt).

Second, you should ensure that the signed acknowledgement is promptly placed in the employee's personnel file (or stored electronically in an organized fashion). All too often, dealerships only learn that the signature on a key document – such as the handbook acknowledgement – is missing after trouble arises. It is better to ensure that you have a 100% signature rate now when things are calm.

What good are your policies if your managers do not know the best way to apply and enforce them? Thus, the third item on this list is for your organization to train your management team on the policies in the employee handbook and how they should be applied. Indeed, this training should occur regularly. If your organization has not conducted management training in the past couple of years, rolling out a revised handbook is a great reason to do it. While you are conducting training for your managers, it may also be a good idea to host an all-employee session to introduce any policy revisions and remind your employees of your workplace rules.

Finally, you have to actually follow the policies in your handbook in a consistent way. Many employment discrimination lawsuits stem from inequitable application and enforcement of policies.

END-OF-YEAR CLEANING – THE NEXT BIG THING?

The end of the year is a great reason to establish new, ongoing habits for your organization. If nothing else, setting aside this time of year to review your employee handbook (even if you decide updates are unnecessary) is a best practice. It will ensure adequate communication with your dealership's workforce, compliance with ever-changing employment laws, and solid evidence that you provide regular training to your management team. But, most importantly, it will reduce your dealership's risk of a legal claim.

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