

# Using E-mail to Notify Employees of Personnel Policy Changes

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Using e-mail to communicate changes in your personnel policy to employees can expose you to risk. A recent court decision highlighted the pitfalls of relying on technology to communicate changes to employees, but also provided direction on how best to accomplish this task using e-mail.

In *Campbell v. General Dynamics Government Systems Corp.* 407 F. 3d 546 (1st Cir. 2005), a federal court of appeals court held that the e-mailed notice to an employee of the change to mandatory arbitration was inadequate. The company changed its policy requiring that employee disputes be handled with mandatory arbitration instead of through the court system. The company notified its employees by e-mail of this change.

The employee bringing the lawsuit was an employee-at-will who was fired for absenteeism. He sued in the courts alleging discrimination under the Americans with Disabilities Act. The company made a motion to stop the court case and make the employee use arbitration under its mandatory arbitration policy. The employee argued that he never saw or accepted that policy. The focus of the case was whether the e-mailed notice was sufficient to notify the employee of the new policy.

The court found that the e-mail did not give adequate notice for the following reasons:

- It required the employees to go to links to actually review the new policy in the handbook;

- It did not provide a way for the employees to acknowledge receipt of the policy;

- It did not indicate that by continuing to work, the employees had accepted the policy;

- E-mails were not the way that the company generally notified employees of personnel changes; and

- It did not state directly that arbitration would be mandatory and that the employees were waiving their rights to use the court system.

The court indicated that e-mails could be used for notification of personnel policies and offered some specific suggestions on how the employer could provide adequate notice through e-mail.

- Any significant change in policy such as implementing mandatory arbitration should be placed in the text of the e-mail rather than relying on the employees clicking on links;

When the change involves a new contractual provision, the employer should use contract type language indicating that following the new policy is a condition of continuing employment;

Require the employees to affirmatively accept the new contractual provisions by replying to the e-mail or signing an acknowledgement form; and

Use e-mails on a regular basis to give notice of such personnel changes

Before you make any policy changes, you should also check to see if there are any specific statutes in Minnesota with notice requirements that apply to the particular topic. (i.e. arbitration, union issues).

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