



Personnel Policies

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Disclaimer: This training is designed to provide general information about the subject matter covered. Neither TAC nor the trainers are engaged in rendering legal advice. If you need legal advice, TAC recommends that you seek the services of a competent attorney who is familiar with your specific situation.

Why do we have a county policy manual?

The county policy ensures compliance with Federal and State laws and provides an affirmative defense in the event of a complaint or lawsuit. The policy is used to communicate benefits, expectations, and procedures to the employees.

The written policy should match your actual practice. If they do not match, the written policy does not matter, and the practice becomes the policy. The county policy manual should be updated as laws and/or procedures changes. At a minimum, they should be reviewed every five years. If policies are changed, employees must be notified of the change. Best practice is to have a signed acknowledgement form signed by all employees when there are changes, or at least every five years.

TAC has a sample policy that includes all recommended policies. Reach out to your HR Consultant.

Legislative Changes

HB 2073: Quarantine Leave

This house bill was effective June 15, 2021, and the county must adopt a policy. It requires paid quarantine leave for Fire Fighters, Peace Officers, Detention Officers, and Emergency Medical Technicians. This is the only required leave related to COVID, any other approved leave for COVID is a Commissioner's Court decision. We have a sample policy.

Other COVID-19 Considerations: Governor Abbot released an Executive Order (GA-36) prohibiting governmental entities and officials from mandating face coverings. There are some exceptions for government owned and operated hospitals and county jails. If an employee has a disability that interferes with their ability to wear a face covering, they may request a reasonable accommodation under the Americans with Disabilities Act (ADAAA). Supervisors should start the interactive process in these situations.

Counties need to be aware of Governor's Orders and every changing mandates. Consult with legal regarding these developing issues.



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HB 1589: Military Leave

This bill was effective September 1, 2021. The county must update their military leave policy. Any county employee who is a member of the Texas military forces, a reserve component of the armed forces, or a member of a state or federally authorized urban search and rescue team called to state active duty by the governor or another appropriate authority in response to a disaster is entitled up to 7 days of paid disaster leave per fiscal year. This leave is in addition to the required 15 days. We have a sample policy.

HB 1359: Mental Health Leave

This bill was effective September 1, 2021. Law enforcement agencies must adopt this policy. The law allows use of paid mental health leave by law enforcement employees of the county who experience a traumatic event in the scope of employment. We have sample policies available.

Recommended Updates

LGBTQ+ ... Are you in compliance?

Federal Supreme Court Ruling on June 15, 2020, expanded the definition of "sex" under Title VII. Individuals who identify under LGBTQ+ are protected from Discrimination and Harassment. EEO and Harassment policies need to be updated. Pronouns, he/she, should be changed to they/them.

Computer Usage: Do's and Don'ts

Cyber Security is no longer an area that can be ignored. Ransomware was one of the biggest contributors, accounting for almost one in 3 breaches. Get with your IT person or company and make sure your data is secure. Make sure your employees take the state mandated Cyber Security training required for each employee that have access to county owned computer devices of any kind. Get signed acknowledgment forms for any devices you give to employees for their business use. Make sure policies say "there is no expectation of privacy when using ANY county owned equipment." Take the time to do security checks in your county – if you do not have an IT department, TAC is here to help!



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Emergency Closures – Are We Prepared?

Your emergency closure policy is critical. Involve all departments impacted to discuss and decide what will happen to pay for those not working. Things to consider:

- Do your policies match your practice?
 - How will employees be notified of the closure?
 - Will employees be paid who do not work?
 - How will employees who work the emergency closure be paid?
 - Will exempt employees be paid differently?
 - Is remote work available?
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Fair Labor Standards Act (FLSA) Exemptions

Under the FLSA there are several exemptions which include: Administrative, Executive, Learned Professional, and Highly Compensated. When an employee is classified as “exempt” it means they have no protection under the law. Be very careful about misclassification – they can be costly. If in doubt keep employees protected under the law by classifying them non-exempt.

There is also a partial exemption of overtime through the FLSA 207(k). (29 C.F.R. 553.201). The 207(k) provision provides a partial overtime pay exemption for fire protection and law enforcement personnel who are employed by a public agency on a work period basis. If your county is using the 207(k) partial exemption, or if you are planning to implement it, your commissioners court MUST take affirmative action to adopt these provisions. If they do not, the Department of Labor will find you in violation and require you to refigure overtime based on a 40-hour work week for the last 2 years. Your cost could be high.

When looking to determine those eligible for the 207(k) exemption, you must consider the 20% rule. (§ 553.212) Some employees may engage in both 207(k) exempt and non-exempt work. For example, you may have a licensed jailer that assists with dispatch. The jailer would be considered law enforcement, so long as the dispatch work does not exceed 20% of the total hours worked by that employee in the work period. If the percent of time exceeds 20%, the employee is not considered law enforcement.

Time Sheets

Timesheets are the only proof you paid an employee accurately. They must be complete and accurate. Time sheets are a government record and falsification is a crime under the Texas Penal Code 37.10. The absence of timesheets creates problems. Be sure to keep accurate records of time worked and have both employees and supervisors sign them.



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Family and Medical Leave Act

FMLA entitles employees to 12-weeks of job protected leave (paid or unpaid) in a 12-month period for specified family and medical reasons. County policy dictates when to pay FMLA. FMLA is a federal law that the county must comply with. Neither the employee or the county may delay the designation of leave if the employee is eligible, and the event is qualifying.

County Requirements

The county is required to post the notice approved by Department of Labor for all employees of the county and applicants to have access to read the notice. Information about family medical leave and the employee's rights must be included in the county policy. The county is required to give an employee written notice of their rights and responsibilities within five business days of the day the county is made aware of a qualifying family medical leave event. The county must also provide written notice designating leave as family medical leave within five business days of the county receiving enough information to determine if the event is qualifying.

Supervisor Responsibilities

Supervisors need to recognize the need to designate leave as family medical leave and cooperate with employees seeking leave. Make sure employees understand their rights and be cautious when dealing with attendance problems. Supervisors should be reasonable, fair and consistent with dealing the with leave requests. Do not retaliate against employees who request or take family medical leave.

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