

PERSONNEL POLICIES:



The Process Workshop

Presented by:

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TITLE

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PERSONNEL POLICY MANUALS: THE PROCESS WORKSHOP

DEFINITION AND OVERVIEW

Personnel policies can be defined as pre-made management decisions affecting the employer-employee relationship. Some of the functions of policies include establishing the standards and expectations the employer has of employees; defining the benefits and privileges offered to employees; providing a structure for compliance with legislation affecting the employer- employee relationship; establishing a basis for certain personnel actions; and helping ensure consistent treatment of employees.

Some managers feel that personnel policies reduce their authority. In reality, personnel policies free the time of the manager to perform more important functions other than handling routine questions and decisions affecting the employer-employee relationship.

The absence of written policies does not mean that an employer does not have personnel policies. The practices that an employer has allowed over a period of time become implied policies and, in many instances, the courts have indicated that these implied policies have the same impact as written policies. A well written, consistently applied set of personnel policies lets employers know what their policies are. Without written policies, employers may not discover what their policies are until they find out about them in a courtroom, which often produces some unpleasant surprises.

It must be remembered, however, that policies are a two-edged sword. While a well written, consistently applied personnel policy system is a highly useful tool for managers, a poorly written or inconsistently applied policy system is like a time bomb waiting to go off in the form of lawsuits.

POLICY MANUALS AND EMPLOYEE HANDBOOKS

Many employers use a single manual to serve both as a personnel policy manual and as an employee handbook. To some degree, this practice adversely affects the efficiency of the policy system. As a result, more employers are using separate personnel policy manuals and employee handbooks.

With the separate system, the personnel policy manual is designed to be a tool for managers and supervisors. It is highly detailed and contains many policies and procedures that are not of general interest to employees. Often, specific guidelines are included to help in compliance with the myriad legislation affecting the

POLICY MANUALS AND EMPLOYEE HANDBOOKS (continued)

relationship between the employer and employee. Even though this manual is not distributed to all employees, it is not normally viewed as a “sacred” document and is available for review by any employee.

The employee handbook is designed to be an easily readable, readily understandable communication document provided to all employees. It is normally written in a first person conversational style and often contains pictures and drawings to illustrate various points. The contents frequently include a welcome, descriptive information about the employer, a summary of benefits, statements concerning the expectations the employer has of employees, and other general information of interest to employees. It is important to state in an employee handbook that it is provided for informational purposes only; that it is not a statement of policy; and that the final authority on personnel policies is the employer’s personnel policy manual.

LOGISTICS ISSUES

Before jumping into a policy project, it is a good idea to give some thought to such things as writing style, format, binding, and other similar details.

The two basic policy formats are the narrative and indexed. The narrative format describes the policy in a series of paragraphs while the indexed format use a series of numbered sentences to describe the policy. In the indexed format, these sentences are on the right three-fourths of the page while the left one-fourth has words or brief phrases which identify the section of the policy being addressed by the sentence or sentence group to the right. The examples of these formats, beginning on page 8 of this outline, should give a clearer picture of each format. Some employers use a hybrid format incorporating features of both. In deciding what type of format to use, consideration needs to be given to ease of use and effectiveness of communication.

Another area to consider is how to bind the manual. While spiral binding, glued backs and other such permanent bindings look good, they are not designed to facilitate the process of updating the manual. Since new legislation, changes in benefit programs, new management philosophies, and other factors will make it necessary to make changes in the manual from time to time, the manual should be designed to add and remove material. Obviously, a three ring binder is the most practical way to meet this need.

Use of a “one page-one policy” system also can ease the process of updating a manual. Under this system, a policy can be any length, but each policy is started on a new page, never at the end of a previous policy. Since each policy stands alone,

LOGISTICS ISSUES (continued)

policies can be added, deleted, or changed in length without disrupting other parts of the manual. An independent numbering system is also useful in this process. An example of such a system would be a manual that has the policies divided into different sections. If the third section of the manual is “Benefits” and the five page “Vacation Policy” is the fourth policy in that section, the second page of that policy might be numbered:

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It is also a good practice to group similar policies under a descriptive category. This gives a logical order to the manual and makes it easier to find a specific policy in the table of contents. Examples of such categories include benefits, employee responsibilities, wage and salary administration, and separations.

GETTING STARTED - DETERMINING CONTENT

RULE 1 - NEVER COPY ANOTHER EMPLOYER’S MANUAL!!!!

A personnel policy manual is an individual document customized to meet the intent and unique needs of one employer. There is no such thing as a “one size fits all” personnel policy manual - or, for that matter, “one size fits two.” While it is okay to review other manuals to get a feel for the considerations that go into determining the contents of individual policies, each employer needs to go through the process of evaluating their individual needs and designing a custom fit manual to meet those needs. Even a carefully written manual that serves one employer very well may be a nightmare for another employer. Adopting another employer’s manual can lead to confusion as to what policies really mean, and it is not uncommon to discover that you have created a mass of unexpected liabilities that can lead to employee related lawsuits.

Determining the contents of a policy manual is a two step process. The first step is to determine which policies to include in the manual. The second step focuses on the specific content of each policy selected.

Reviewing general policy lists, examining the table of contents of other policy manuals, and reviewing books and other literature on policy development can be helpful in deciding what policies to include. Some considerations in making the final selection include whether a policy is required by law; whether the policy will help describe and set parameters on a benefit; whether the policy will help define and set performance standards for employees; and whether the policy will clarify a significant aspect of the employer-employee relationship. While most of the legislation affecting employees does not require the employer to have a policy, such policies can often be helpful in ensuring compliance.

GETTING STARTED - DETERMINING CONTENT(continued)

In determining the content of individual policies, a first consideration is whether the policy is controlled by law. If so, the policy should be designed around meeting the minimum standards required by the controlling legislation. One effective approach in deciding what to include in a policy is to have a “brainstorming session” in which the members of the policy committee try to think of all the questions an employee might have about a policy. The answers to those questions normally provide a good core for the development of the policy.

WRITING POLICIES - SPECIAL CONSIDERATIONS

An ongoing debate is whether policies should be written in broad or specific terms. Stating a policy very broadly leaves it open to individual interpretation which provides for a high degree of managerial discretion in the application of the policy. In some cases this is desirable, but it must be remembered that a policy subject to multiple interpretations by a manager is also subject to multiple interpretations by employees - and juries tend to be sympathetic to the employee’s interpretation.

In situations where a high degree of control is desired by the employer, as is the case with many benefit policies, those policies should be stated in very specific terms. It is also important to be thorough and precise when preparing such policies. Thoroughness involves addressing every part of the policy you intend to address, and precision involves saying exactly what you intend to say. It is also important to say it such a way that it can be easily understood.

Since policies are a communication tool, they should be stated clearly. Use of short sentences is an excellent method of accomplishing this goal. It should also be remembered that a policy manual is not the place to display an extensive vocabulary. Use of short words with which people are familiar is another technique to ensure that policies are understood.

Four words used in policies have a definite impact on the strength of a policy. These words are shall, will, should, and may. When “shall” or “will” is used, it indicates that adherence to the policy is expected in all situations. “Should” indicates that adherence to the policy is normally expected but, in certain situations, deviation from the policy is acceptable. When “may” is used, it allows complete discretion as to whether the policy is to be followed. “May” is normally used where a benefit is made available to an employee but acceptance of it is entirely up to the employee. When using these four words, it is important to choose the one you really want for the policy because the wrong word can change the intent of the policy. Sometimes, a personnel policy will address an area controlled by another document. This is often the case in policies referring to insurance coverage. Rather than attempting to completely restate

WRITING POLICIES - SPECIAL CONSIDERATIONS (continued)

the contents of the controlling document, it is a common practice to refer to that document and let it be the source of full information.

It should always be remembered that policies are written for all employees. Sometimes, an employer will develop a policy to “take care of a special employee.” This practice can lead to many problems since, over a period of time, it will have to be applied to many other employees.

EMPLOYMENT AT WILL AND PERSONNEL POLICIES

Under the doctrine of employment at will in Texas, an employer can terminate an employee at any time, without notice, for any reason or no reason - except for an illegal reason or unless the employee has a property interest in his job. The employee may also sever the employment relationship at any time.

Illegal reasons for termination include basing the termination in whole or in part on an individual's protected status under law. For example, you could not base a person's termination on his protected minority status under Title VII of the Civil Rights Act of 1964; on the fact that he has filed a complaint with the Department of Labor for alleged violations of the Fair Labor Standards Act; or because he has filed a valid worker's compensation claim.

Property interest means the employee has reason to believe that there is a guarantee of some duration of employment or that a job cannot be taken away without due process. Employers often erode their employment at will rights through statements made in policy manuals which imply that the employee has a property interest in his job. Statements such as “permanent employee,” “employees will only be terminated for just cause,” and use of inflexible progressive discipline systems have been interpreted as giving employees an implied property interest in a job. Policy manuals and employee handbooks need to be carefully worded to keep this from occurring and to protect the employer's employment at will rights.

In addition to eliminating implied contract wording in individual policies, each policy manual and employee handbook should contain a very clearly stated policy of employment at will. This statement should be placed prominently at the front of the manual and not be buried in another policy. It is also a good practice to have each employee sign a statement of receipt and understanding of the employment at will policy. An example of wording for an employment at will statement might be:

“Rawhide County is an employment at will employer. No contract, either

EMPLOYMENT AT WILL AND PERSONNEL POLICIES (continued)

expressed or implied, exists between the County and any employee for any duration. The County retains the right to terminate any employee at any time, with or without notice, for any legal reason or no reason. The County also retains the right to change any condition, benefit, policy, or privilege of employment at any time, with or without notice. The employee also has the right to sever the work relationship at any time, with or without notice.”

REVIEW AND DISTRIBUTION

Prior to the adoption of a personnel policy manual or employee handbook, it should be reviewed by an attorney or human resources professional knowledgeable in labor law issues. By having such a person play the role of “devil’s advocate”, many potential problems, confusing policies, and legal liabilities can be reduced before the manual is distributed.

Once reviewed and adopted, distribution of the manual to all appropriate employees is the next step. If the “Single Manual” system is used, all employees should get a copy. If the “Policy Manual - Employee Handbook” system is used, all employees should receive a copy of the employee handbook and all supervisors, managers, and certain administrative staff employees should receive a copy of the personnel policy manual. In all cases, employees should sign a statement acknowledging receipt of the manual and/or handbook and acknowledging the understanding that they are to comply with the policies contained therein.

After a policy system is adopted, a thorough review of all policies should be made periodically - usually on an annual basis. The purpose of this review is to determine if any changes are needed in the policies resulting from changes in programs, applicable legislation, or other internal or external factors. While it is desirable to update policies as changes occur, this is not always done and the periodic review helps catch some areas of needed change that may have been overlooked.

COUNTY CONSIDERATIONS

Because of its unique organizational structure, establishing a personnel policy system in a county can be quite a challenge. The authority of the commissioners’ court to develop and adopt county wide personnel policies is limited to areas specifically allowed by legislation. However, in today’s litigious society, a well written policy system, that is consistently applied throughout the county, can minimize the chance for employment related lawsuits,

and provide part of the defense if one is filed, thus protecting the county and the individual officials. With this thought in mind, it is

COUNTY CONSIDERATIONS (continued)

recommended that all officials work together as a unified governing body to develop an effective county personnel policy system.

NOTE: This paper is provided for informational purposes only. Nothing in this paper is intended to be, nor should it be construed as, legal advice or guidance. Where legal assistance is needed, the services of a qualified attorney should be sought.

COUNTY OF RAWHIDE

POLICY ON VACATIONS

All full-time regular employees who have worked for the county for less than five years shall accrue vacation at the rate of 6.67 hours per month which equals to 80 hours per year. All full-time regular employees who have worked for five or more years shall accrue vacation at the rate of 10 hours per month which equals 120 hours per year. Part-time regular employees shall accrue vacation the rate of 3.34 hours per month which is equivalent to 40 hours per year.

All eligible employees shall begin accruing vacation on the first day of employment in an eligible position but an employee must work for a minimum of six months in an eligible position before being allowed to take vacation time.

The maximum amount of unused vacation time an employee can have at any one time is the amount the employee would normally earn in 18 months. When an employee has reached the maximum accrual, he/she will not be allowed to accrue additional vacation until he/she has used enough time to bring the balance below the maximum accrual level. In a situation where the employee has reached the maximum level of accrual but is unable to take time off because of the needs of the county, the employee will be allowed to accrue additional time if the employee's supervisor prepares a written request for accrual above the maximum and gives the reasons why the employee is unable to take time off. Requests for approval above the maximum must be approved by the department head.

Employees shall be required to take time off for vacations and cannot receive pay in lieu of taking time off.

When an employee resigns, is discharged or has his/her employment terminated for any other reason, the employee shall be paid for all unused vacation provided he/she has worked for the county at least six months in a position eligible to accrue vacation. Employees who resign or who otherwise have their employment terminated before working for the county for six months will not receive pay for unused vacation at the time of termination of employment.

If a paid holiday occurs while an employee is on vacation, the employee shall be paid for the day in accordance with the provisions of the POLICY ON HOLIDAYS and the time will not be charged to the employee's vacation balance.

If an employee becomes ill while on vacation leave, the period of illness may be charged to sick leave if the employee notifies his/her supervisor of the illness as soon as possible. In such situations, the provisions of the POLICY ON SICK LEAVE shall apply.

COUNTY OF RAWHIDE
POLICY ON VACATIONS

Employees shall not be allowed to borrow vacation time against future vacation accrual.

The Personnel Department shall be responsible for keeping records on each employee's vacation accrual, vacation usage and current leave balance. An employee will be able to check his/her present leave balance at any time during the normal working hours of the Personnel Department.

All requests for vacation leave shall be approved by the employee's immediate supervisor and department head before vacation can be taken.

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COUNTY OF RAWHIDE

POLICY ON VACATIONS

- ACCRUAL RATE
1. All full-time regular employees who have been employed by the county for less than five years shall accrue vacation at the rate of 6.67 hours per month which is equivalent to 80 hours per year.
 2. All full-time regular employees who have been employed for five or more years shall earn 10 hours per month which is equivalent to 120 hours per year.
 3. All part-time regular employees shall accrue vacation at the rate of 3.34 hours per month which is equivalent to 40 hours per year.
- START OF ACCRUAL
4. Accrual of vacation shall start with the employee's first day of work in a position eligible to accrue vacation.
- WAITING PERIOD
5. An employee shall not be allowed to take accrued vacation until he/she has been employed for a minimum of six months in a position eligible to accrue vacation.
- REQUEST FOR VACATION
6. All requests for vacation shall be subject to approval by the employee's supervisor and the department head before vacation time can be taken.
- MAXIMUM
7. The maximum amount of unused vacation time an employee shall be allowed to have at any one time is the amount the employee would normally accrue in 18 months.
 8. When an employee has the maximum accrued vacation, he/she shall not be allowed to use additional vacation until sufficient time has been used to drop the balance below the maximum.
 9. If the employee has reached his/her maximum accrual but is unable to take vacation because of the needs of the county, he/she shall be allowed to accrue above the maximum if the employee's supervisor prepares a written statement explaining the circumstances and the department head gives approval for the employee to accrue above the maximum.

COUNTY OF RAWHIDE
POLICY ON VACATIONS

**PAY IN LIEU OF
TAKING TIME OFF**

10. Employees shall not be allowed to receive pay for accrued vacation in lieu of taking time off.

**PAY AT
TERMINATION**

11. An employee who resigns, is discharged or whose employment is terminated for any other reason prior to working for six months in a position which accrues vacation shall not be paid for any unused vacation at the termination of employment.

12. An employee who resigns, is discharged, or whose employment is terminated for any other reason after working for at least six months in a position which accrues vacation shall be entitled to pay for all unused vacation.

**HOLIDAY DURING
VACATION**

13. If a paid holiday falls during an employee's vacation, that day shall be paid in accordance with the POLICY ON HOLIDAYS and the time shall not be charged against the employee's vacation balance.

**ILLNESS DURING
VACATION**

14. If an employee becomes ill while taking vacation leave, the period of illness may be charged against the employee's sick leave balance instead of his/her vacation balance.

15. For this time to be charged to sick leave, the employee shall be responsible for notifying his/her supervisor of the illness as soon as possible .

16. Use of sick leave for illness during vacation shall be handled in accordance with the provisions of the POLICY ON SICK LEAVE.

**BORROWING OF
VACATION**

17. Employees shall not be allowed to borrow vacation time against future accrual.

**RESPONSIBILITY
FOR RECORDS**

18. The Personnel Department shall be responsible for maintaining records for all vacation accrued, vacation taken, and current leave balance for each employee.

COUNTY OF RAWHIDE
POLICY ON VACATIONS

19. Each employee shall be able to obtain his/her current vacation balance from the Personnel Department during the normal working hours of the Personnel Department.

PROCEDURE

20. All requests for vacation leave shall be handled in accordance with the **PROCEDURE FOR REQUESTING VACATION LEAVE**.

PERSONNEL POLICY CHECKLIST

This list has been developed to offer assistance in determining what areas might need to be addressed in a personnel policy manual. Depending on the approach used in policy writing, some of the areas may be combined into one policy while others may take several policies to address properly. Also, staff size, organizational structure, operational philosophies and other factors may eliminate the need for some of the policies listed or create a need for policies in areas not shown. This is not intended to be an all inclusive list, but is provided to help get started on the first steps to developing a personnel policy manual.

INCLUDE IN MANUAL?

<u>POLICY TITLE</u>	<u>YES</u>	<u>NO</u>	<u>UNDECIDED</u>
Employment at will	_____	_____	_____
Employee status	_____	_____	_____
Personnel records	_____	_____	_____
Tardiness and absenteeism	_____	_____	_____
Outside employment and activities	_____	_____	_____
Conflict of interest	_____	_____	_____
Acceptance of gifts	_____	_____	_____
Political activity	_____	_____	_____
Alcohol and drugs	_____	_____	_____
Performance appraisal	_____	_____	_____
Use of equipment and vehicles	_____	_____	_____
Safety	_____	_____	_____
Solicitation	_____	_____	_____
Personal appearance	_____	_____	_____
Nepotism	_____	_____	_____
Promotions	_____	_____	_____
Demotions	_____	_____	_____
Transfers	_____	_____	_____
Licenses and certifications	_____	_____	_____
Discipline	_____	_____	_____

PERSONNEL POLICY CHECKLIST (page 2)

INCLUDE IN MANUAL?

<u>POLICY TITLE</u>	<u>YES</u>	<u>NO</u>	<u>UNDECIDED</u>
Grievances	_____	_____	_____
Work schedule	_____	_____	_____
Workweek	_____	_____	_____
Time sheets	_____	_____	_____
Overtime computation	_____	_____	_____
Overtime pay	_____	_____	_____
Compensatory time	_____	_____	_____
Overtime for law enforcement	_____	_____	_____
Longevity pay	_____	_____	_____
Pay periods	_____	_____	_____
Payroll deductions	_____	_____	_____
Equal employment opportunity	_____	_____	_____
Age discrimination	_____	_____	_____
Sexual harassment	_____	_____	_____
Disability and accommodation	_____	_____	_____
Application procedure and selection	_____	_____	_____
Disqualification of applicants	_____	_____	_____
Termination	_____	_____	_____
Vacation	_____	_____	_____
Holidays	_____	_____	_____
Sick leave	_____	_____	_____
Funeral leave	_____	_____	_____
Jury duty leave	_____	_____	_____
Military leave	_____	_____	_____
Medical insurance	_____	_____	_____

Life Insurance _____

Workers' compensation _____

PERSONNEL POLICY CHECKLIST(page 3)

INCLUDE IN MANUAL?

POLICY TITLE **YES** **NO** **UNDECIDED**

Retirement _____

Social Security _____

Meal periods _____

Break periods _____

Leave of absence _____

Travel expenses _____

Family and Medical Leave _____

POLICY DEVELOPMENT WORKSHEET

POLICY TITLE: _____

SECTION OF MANUAL: _____

BRIEF PURPOSE OF POLICY: _____

DOES ANY LEGISLATION AFFECT THE CONTENT OF THIS POLICY?

_____ **YES** _____ **NO**

IF YES, INDICATE THE LEGISLATION AND LIST THE KEY POINTS:

QUESTIONS TO BE ANSWERED IN THIS POLICY:



