Fine-tuning Your Policies

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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.
Objectives

- Employee policies / employee handbooks
- Commonly missed policies
- Liability control through policies
- Development of the handbook
Employee Policies

Employee Policies are defined as pre-made management decisions affecting the employer-employee relationship.

- The absence of written policies does not mean the county does not have a policy
- A poorly written or inconsistently followed policy can also be high risk for the County
Employee Policies can be challenging in Texas Counties due to their structure.

It is recommended all officials work together as a unified governing body to develop an effective County Employee Policy.
Reasons for Policies

- Meet the requirements of the law
- Describe and set parameters on a benefit
- Set performance standards
- Further define the employer-employee relationship
Employee Policy Wording

Four words used in policies had a definite impact on the strength of a policy. They are:

SHALL WILL SHOULD MAY
The Employee Handbook is designed to be an easily readable and understandable communication document provided to all employees.
Updating the Employee Handbook

- New legislation, court cases and new management philosophy
- Need to be reviewed annually
- The County should have a gatekeeper to keep the latest copy of the County’s Employee Handbook
- Employee Policies should accurately state the County’s procedures and practices for its employees
Prior to adoption

have handbook reviewed by attorney or HR professional

After adopting

distribute to all employees

get new acknowledgement
Commonly Missed Policies

Personnel Files

- basic information included in an employee file
- medical information, I-9, FMLA, WC, ADAAA must be kept separate
- the importance to the employee keeping the file’s information up to date
Commonly Missed Policies

Nursing Mothers Break

• While the FLSA does not require breaks, it does require reasonable breaks for nursing mothers.

• They may take breaks, be given a private location, other than a bathroom, that will be shielded from view and intrusion.

• There can be no retaliation.
Weather/Emergency Closings

- As a general rule, the County does not close its operations unless its employees’ safety is brought into question.
- The Judge is responsible for initiating the closing.
- Some employees will be required to work, and each elected official will control the working hours of their employees.
Commonly Missed Policies

Confidentiality

• While the County is a public entity, employees may acquire confidential (non-public) information.

• Employees who reveal this information may be subject to discipline up to and including termination.

• County will adhere to the Public Information Act requirements

• How the county employee can request privacy (exception from Public Information Act)
Commonly Missed Policies

Workplace Violence

• The County does not condone violence, threats of violence, including jokes.
• All threats will be taken seriously and investigated.
• Employees are required to report behavior in violation.
• It may include a statement regarding firearms.
Commonly Missed Policies

Social Media

- Includes, but is not limited to, online forums, blogs and social networking sites such as Twitter, Facebook, Linkedin, YouTube and MySpace.
- Use of social media becomes a problem when it interferes with an employee’s work or is used to harass supervisors, employees, vendors, members of the public.
- It can not be used to create a hostile environment or harm the goodwill and reputation of the County.
- Employees of the County can not state their views as views of the County.
Commonly Missed Policies

**FLSA Safe Harbor**

- County makes every effort to pay all of its employees correctly.
- In the case of an inadvertent mistake that are called to the County’s attention, the County will promptly make any necessary corrections.
- Directions are included for employees to follow.
Commonly Missed Policies

Whistleblower

- If an employee in good faith alleges a violation, the county must investigate.
- The employee can not be retaliated against.
- If the allegation is found to be intentionally false, the employee may be subject to discipline up to and including termination.
Liability Control

- Employers can pay large $$$ due to charges
- In 2016 the EEOC had almost 100,000 charges filed
- EEOC secured over $400M from employers
- The county’s employee handbook, if well written and well communicated, can help defend the County from this risk
2016 EEOC Charges in Texas

Retaliation (all) - 49.8%
Retaliation (Title VII) - 39.7%
Race - 34.9%
Sex - 29.7%
Disability - 29.8%
Age - 21.5%
National Origin - 12.8%
Color - 4.3%
Religion - 3.8%
Equal Pay Act - 1.0%
Gina - .03%
Policies should:

• Be compliant with Federal and State Law
• Treat all employees consistently and fairly
• Have specific and valid work related reasons for actions and decisions
• Be pre-made decisions to be used
Next are some very important policies that can reduce liability:

- Harassment
- Sexual Harassment
- Discrimination
- Retaliation
Liability Control

Harassment

When it occurs, it can affect the morale of the entire county, or cause irreparable harm to the county’s public image.

It can impact the county financially.

Remember, Harassment is in the eyes of the offended, and not defined by what was intended.
Sexual Harassment

Is unwanted harassment that is based upon sexual advances, requests for sexual favors, verbal and physical conduct of a sexual nature.

It can also cause a hostile environment to those who are directly offended or are a bystander.
Liability Control

Discrimination

Laws that protect employees from discrimination:

• Civil Rights Act of 1964
• Age Discrimination in Employment Act of 1967
• ADAAA
• Pregnancy Discrimination Act
• Genetic Information Non-Discrimination Act of 2008 (GINA)
Retaliation

- Texas Whistleblower Act
- Can also not retaliate if an employee goes out on Workers’ Compensation, or if an employee is on or has used FMLA.
Development

Request a review of your county’s handbook by your HR Consultant

They will review and go over suggestions with the county

The county will then revise their employee policies
When revising your County Employee Policy:

Correct Changes from the last Commissioners Court-approved Employee Policy.
- Reflect changes in the law, county offices, officials

Proof read
- Check page numbers for table of contents
- Make sure you don’t reference deleted policies

Grammar errors/spelling

Have it reviewed
Development

The commissioners court will discuss and approve new policies – ONLY WAY TO GET EXCEPTIONS

The new employee policies will be distributed to county employees, who read and sign acknowledgments

The signed acknowledgement is placed in their personnel file
Disclaimer

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