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Personnel Policies

Dear Reader:

The following document was created from the CTAS website (ctas.tennessee.edu). This website is maintained by CTAS staff and seeks to represent the most current information regarding issues relative to Tennessee county government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other CTAS website material.

Sincerely,

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Personnel Policies

Reference Number: CTAS-176

Required Policies. State law requires that counties^[1] have written personnel policies in place for all county employees covering four broad areas—(1) leave, (2) wage and hour, (3) non-discrimination and harassment, and (4) drug testing for those employees who are required by law to be tested. T.C.A. 5-23-104. These required policies may be adopted on a countywide basis, or they may be adopted to cover different offices separately.

Optional Policies. In addition to the required written policies, there are many other policies that a county official may wish to put in place for effective and efficient operation of his or her office. These administrative policies are left to the discretion of the county official. While a county official may agree to participate in uniform policies on these optional matters, these policies are not subject to the same procedures for their adoption as are the required written personnel policies, and the official is free to change these optional policies at will. As with all personnel policies, however, an official should place a statement in the policies that lets employees know that the policies are subject to change and do not create any contractual obligation or other expectation of their continuation.^[2]

[1] This law does not apply to any county with a population over 800,000 (Shelby County) or to any county with a metropolitan form of government (currently, Davidson, Moore and Trousdale counties). There are no other exceptions.

[2] See *Williams v. City of Milan*, 2009 WL 989775 (W.D. Tenn. 2009). State law provides that any and all personnel policies governing county employees shall be subject to change at any time, and shall not give rise to any contractual rights or obligations between the county and its employees. T.C.A. 5-23-106.

Required Personnel Policies

Reference Number: CTAS-1097

State law, found at T.C.A. 5-23-101 *et seq.*, requires that each county^[1] have written personnel policies in place covering all county employees on four broad topics. Copies of these policies are filed with the county legislative body and are maintained in the county clerk's office. The law requiring written personnel policies covers only the specified four topics; any other policies a county employer may have or wish to adopt are outside the scope of this law. The four topics are:

1. Leave Policies
2. Wage & Hour Policies
3. Anti-discrimination and Sexual Harassment Policies
4. Drug Testing Policy (only for CDL drivers)

All "county officials" (defined in T.C.A. 5-23-102 as county trustees, registers of deeds, county clerks, judges who employ county employees, clerks of court, sheriffs, assessors, boards of education, and the chief administrative officer of the highway or public works department; also county mayors who choose to adopt separate policies under T.C.A. § 5-23-103(e)) are required to either (1) adopt written personnel policies on the four required topics to govern the employees of their respective offices or departments, or (2) be governed by policies adopted by the county legislative body and the county mayor, which policies govern all county employees who are not covered by separate policies.^[2]

[1] This law does not apply to any county with a population over 800,000 (Shelby County) or to any county with a metropolitan form of government (currently, Davidson, Moore and Trousdale counties). There are no other exceptions.

[2] Officials and department heads that are not included in the definition of "county officials" in T.C.A. 5-23-102 cannot adopt separate policies. See T.C.A. 5-23-103.

Leave Policies

Reference Number: CTAS-1099

Under T.C.A. 5-23-104(a), counties are required to have written policies stating “whether employees are entitled to paid vacation or annual leave, sick leave or other leave, policies for accrual and use of such leave, policies for compliance with state and federal family and medical leave laws and provisions for maintaining leave records.”

There are two kinds of leave: (1) leave that employers are required by law to give, and (2) leave that is left to the discretion of the employer. Leave that falls in the “required” category includes leave under the FMLA, the state’s parental leave law, and some miscellaneous leave laws.

Both the FMLA and the state parental leave law require only *unpaid* leave. An employer may choose to give paid leave, but it is not mandated. The policy should cover all issues, including what 12-month period will be used, whether employees will be required to take accrued paid leave before taking unpaid leave or whether the employee will be able to choose, how employees make a request for leave, and how insurance payments are handled while the employee is on leave. It is suggested that a copy of the FMLA Fact Sheet be included in the policies to ensure that employees are given the required notice of their rights under the FMLA.

The Tennessee parental leave law entitles a female employee to take up to four months of leave for pregnancy, childbirth and nursing an infant. Unless the employer wants to give 12 weeks under the FMLA *and* another four months under this state law, the policy should state that the FMLA leave and state parental leave entitlements will run concurrently, so that employees receive a total of four months under both laws combined.

There are a few other miscellaneous leave provisions required by state and federal law that will need to be included in the policies. These are jury and court duty, voting leave, military leave and Workers’ compensation (in-line-of-duty injury) leave.

The policies also must set out any other types of leave that are given. These include sick leave, vacation, personal leave, administrative leave and any other kinds of leave that employees are allowed to take. The policies should state whether the leave is paid or unpaid, how it accrues, whether it carries over to the next year if it is not used, whether there is a maximum amount an employee can accrue, and whether employees are entitled to payment for unused accrued leave when their employment terminates for any reason.

The policies should set out the procedure for requesting and using leave. Also, the policies are required to set out the procedures used to keep records of employee leave.

Wage and Hour Policies

Reference Number: CTAS-1100

Under T.C.A. 5-23-104, the county must have written policies covering “the compensatory time policy in effect for the office or department or a statement that no compensatory time is allowed, a statement of whether the salary received by salaried employees is intended to cover all hours worked up to and including 40 hours in a workweek in offices or departments where the regular workweek is less than 40 hours, policies for maintaining compliance with the overtime provisions of the federal wage and hour laws, and provisions for recordkeeping.”

These policies cover the requirements of the federal Fair Labor Standards Act (FLSA).

The policies must define the workweek—when it begins and ends, and the number of hours in the regular workweek. If the regular workweek is less than 40 hours, the employer will need to state whether the salary paid to salaried non-exempt employees is intended to cover just those hours in the regular workweek or whether it covers all hours the employee may work up to and including 40 in the workweek.^[1] This is a general policy that establishes the workweek for overtime purposes. It does *not* set individual work schedules—these should be set by the employee’s supervisor.

The policies must include overtime and compensatory time policies. The policies should state whether employees are required to receive approval in advance before working overtime; whether employees who work overtime will be paid in cash or whether they will receive compensatory time off; the procedure for requesting and using comp time; and the maximum amount of comp time an employee can accrue (the federally prescribed maximum is 240 hours for most employees but public safety employees may accrue up to 480 hours). Remember that compensatory time can only be given if there is a voluntary agreement or understanding with the employees that they are willing to accept compensatory time. If compensatory time is not used, employees must be paid overtime for time worked in excess of 40 hours in the workweek and the policy should so state.

Finally, the policies must provide for the recordkeeping procedures for wage and hour purposes.

Sample time record forms

[1] If the salary does not cover all hours worked up to and including 40 in the workweek, then the employer must compensate the employee at the employee's regular rate of pay for any hours worked over the number of hours in the regular workweek up to and including 40, then at the overtime rate for any hours over 40.

Non-discrimination and Sexual Harassment Policies

Reference Number: CTAS-1101

Under T.C.A. § 5-23-104, the county's personnel policies must include "policies on non-discrimination and sexual harassment, including a complaint procedure as required under the federal Americans with Disabilities Act, and guidelines to enable compliance with the fair hiring requirements of the federal equal employment opportunity laws and regulations."^[1]

These policies should include a general statement that the employer does not unlawfully discriminate in employment matters and that illegal discrimination in the workplace will not be tolerated. The policies also should provide some guidelines about hiring practices, such as whether job openings will be posted or advertised, how applications are accepted and any other measures to avoid any appearance of discrimination. Even though the statute only specifically addresses sexual harassment, it is recommended that the policies address all forms of illegal harassment since they are all forms of illegal discrimination. Finally, the policies should provide a statement advising employees what they should do if they believe they have been the subject of unlawful discrimination. Someone should be designated to receive complaints of perceived discrimination/harassment, and an alternate person should be designated in the event that the complainant for some reason feels uncomfortable talking with the first designee (for example, where the person designated to receive complaints is the alleged harasser, the employee should not be expected to make the complaint to him or her). For purposes of the Americans with Disabilities Act (ADA), the person also should be advised to see the county's ADA Coordinator if the problem is not resolved within the office. It is recommended for most counties that they NOT enact a detailed grievance procedure with hearings, findings and complicated processes that the county is not equipped to administer. The purpose of the complaint process is to provide a mechanism for the county to be aware of problems and to make an attempt to remedy the situation before it gets out of hand. All that is needed is the name of a few persons to whom problems should be brought. Choose someone with sound judgment and leave it up to that person to determine the best way to handle the situation. Do not make complicated procedures that cannot or will not be followed. Lawsuits often include allegations that the employer failed to follow its own policies. On the other hand, lawsuits can be based on the employer's failure to take timely and appropriate action once a complaint has been brought to their attention, so the employer should ensure that the person designated will take appropriate steps to resolve the problem.

[1] For employees of county judges, procedures administered by the administrative office of the courts for complaints under the Americans with Disabilities Act may be used, if available.

Drug and Alcohol Testing Policies

Reference Number: CTAS-1102

Under T.C.A. § 5-23-104, the county's personnel policies are required to contain "for any employees who are required by law to be tested, policies and procedures for drug and/or alcohol testing."

Before doing anything on this topic, one question should be answered: Are any employees required to have a commercial driver's license (CDL) to perform their duties? If the answer is no, you are not required to test any of your employees and no policy is required under this act.^[1]

If the answer is yes, then you are required under federal law to have a testing program in place already for your CDL drivers. These policies must be carefully drafted to comply with the state and federal constitutions, as well as the federal law and regulations. It is strongly recommended that counties hire experts in this field to handle the testing program and to assist them in preparing these policies.

Sample Request for Proposals (RFP) to solicit bids for a Drug Testing Program

[1] If you do have a drug testing program in place for any of your employees who are not required to have a CDL, please review Governmental Employee Drug Testing-The Constitutional Issues.

Adoption of Required Policies

Reference Number: CTAS-2048

Adoption of Required Policies by County Officials

Reference Number: CTAS-1098

Each county official (defined in T.C.A. § 5-23-102 as county trustees, registers of deeds, county clerks, judges who employ county employees, clerks of court, sheriffs, assessors, boards of education, and the chief administrative officer of the highway or public works department; this also includes county mayors who choose to adopt separate policies under T.C.A. § 5-23-103(e)) must determine whether he or she wants to adopt policies separately from the rest of the county, or whether it would be better to be governed by the policies adopted by the county legislative body.

There are several things to consider in making this decision. Probably the most important consideration is the method the county mayor and the county legislative body choose for dealing with the countywide policies. Is the need recognized for each affected office to have input and to participate in the process? Does the county already have countywide policies in place that are working? A positive answer to either of these questions points toward joining the rest of the county. It is often helpful to have a single set of policies that cover all county employees. On the other hand, if an office is different in some way that affects the basic policies that are needed and these issues are not adequately addressed by the countywide policies, then the official may want to prepare separate policies.

If a county official chooses to prepare separate policies, the policies are required to be reviewed for compliance with the law by an attorney appointed by the county mayor with the approval of the county legislative body, and then the approved policies must be presented to the county legislative body to be included in the minutes and filed in the office of the county clerk. These policies are *not* subject to approval by the county legislative body. The procedure is set out in T.C.A. § 5-23-103.

If a county official chooses not to adopt separate policies for his or her office, that official's office will be covered by the policies adopted by the county legislative body and the county mayor for all other county employees.

Adoption of Required Policies by County Mayor/County Legislative Body

Reference Number: CTAS-1106

For all county offices that are not covered by separate policies authorized in T.C.A. § 5-23-103, the county legislative body and the county mayor each have responsibilities in connection with the adoption of personnel policies on the four required topics. The procedures are set out in T.C.A. § 5-23-103 and include the following:

- The county mayor, with confirmation of the county legislative body, designates an attorney to review all policies for compliance with the law.
- The county mayor prepares a list of all offices and departments to be governed by the policies, which includes all departments, agencies and boards whose funds are handled by the county trustee (except those filing separate policies), and submits the list to the attorney for review and to the county legislative body for approval.
- The policies may be prepared by one person or several, appointed by the county mayor with confirmation by the county legislative body. The act is very flexible in this regard: one person could be appointed to compile all of the policies, or one person from each office or department on the list could be appointed to a committee, or each office could be directed to develop its own set of policies to be submitted to the county legislative body for review and approval, or some other method could be used.
- When the policies have been prepared, they must be reviewed and approved for compliance with the law by the designated attorney.
- The approved policies must be submitted to and approved by the county legislative body and included in its minutes, and filed in the office of the county clerk.

When making the list of which departments and agencies the policies will govern, there may be some that seem to be hybrid organizations (for example, joint city-county library boards, county health departments, etc.). For these entities, look at the documents under which the entity was formed. If the contracts, resolutions, or other written materials do not state who is considered the employer of the employees of

that entity, the county should go back and make some provision for this (i.e., amend the resolution or contract). This provision is important for liability and other purposes, in addition to the personnel policies.

Attorney Review

Reference Number: CTAS-1107

The county mayor is required to retain, subject to confirmation of the county legislative body, an attorney to review all of the policies that are adopted under this law. The attorney is to review the policies for compliance with this law and with other applicable laws. The county attorney may be retained for this purpose, or the county may retain some other attorney with appropriate expertise. The compensation of the attorney is established by the county legislative body and paid out of the general fund.

This attorney is responsible for reviewing the separate policies adopted by the county officials as well as the countywide policies. The attorney also reviews the list of offices and departments covered by the countywide policies. The board of education is authorized to employ its own attorney. T.C.A. §§ 5-23-103 and 5-23-105.

If a county official filing separate policies disagrees with the designated attorney's conclusion, there is a provision in the act allowing the official to have the policies reviewed by another attorney selected by the official and paid from the fees of the office or from funds budgeted for that office. T.C.A. § 5-23-103.

Approval and Filing of the Policies

Reference Number: CTAS-1110

When the policies have been prepared, they must be sent to the designated attorney for review for compliance with the law.

When the attorney is satisfied that the policies are in compliance with the law, they are submitted to the county legislative body. Depending on the type of policy, the county legislative body either approves the policies or notes their filing, as follows:

- Countywide policies must be submitted to the county legislative body for approval. *The county legislative body must approve or disapprove the policies as a whole.* The county legislative body cannot make changes in individual policies. If the county legislative body disapproves the policies, they must be sent back to the person or group who prepared them for revision and re-submission to the county legislative body for approval. The designated attorney must review any changes as well. The policies must be approved by the county legislative body and filed in the minutes in the office of the county clerk.
- Individual office policies adopted separately by county officials are filed with the county legislative body *but are not required to be approved by the county legislative body.* These separate policies prepared by county officials are submitted only for inclusion in the minutes to be filed in the county clerk's office. The only reason for not accepting these policies for inclusion in the minutes would be failure to obtain the required review and approval of the attorney.

Amendment of Policies

Reference Number: CTAS-2078

Once adopted and approved, personnel policies may be amended, modified, or repealed at any time by the same process used for the original adoption of the policies. Any personnel policies governing county employees shall be subject to change at any time, and shall not give rise to any contractual rights between the county and its employees. T.C.A. § 5-23-106.

Policy Preparation Tips and Suggestions

Reference Number: CTAS-1111

This process will work best with the cooperation of all parties involved. The officials, department heads and supervisors whose offices will be governed by these policies must be given an opportunity to provide the necessary information and input to enable the preparation of practical and workable policies. Lawsuits often result when an employer fails to follow its own policies.

The objective is to have minimum policies in place to enable the county to comply with existing law. The purpose is not to micro-manage offices or departments. The only policies authorized are those listed in the act (leave, wage and hour, anti-discrimination and sexual harassment, and required drug testing). All other personnel policies remain the responsibility of the individual under whose direction the employees work.

Any policies that are not in one of the four required categories are outside the scope of this law and should remain within the official's office. They should not be filed with the county legislative body.

In making the decision whether to file separate policies, the official should consider the advantages to having one set of policies for all of the employees of the county. For instance, employees may be happier knowing that they are receiving the same benefits as other county employees, and there will be less jealousy between county employees working in different offices. Most of the policies on the required topics throughout the county probably will be similar, with only a few differences. There will be variations, for example, in the overtime policies for the sheriff's office because the overtime law is different for law enforcement employees. Countywide policies can take into account these variations, noting any different provisions that apply to particular offices. Also, with the limitation on the scope of the policies under the act, the county legislative body cannot establish the hours the official's office is open or the actual hours each official's employees are required to work, nor can they make hiring and firing decisions for the official. These remain the responsibility of the official, and this authority is not relinquished if an official decides to come under the countywide policies. The policies under this act are limited to such general things as establishing the number of hours in a regular workweek, and if the workweek is less than 40 hours, stating whether the salary paid to non-exempt salaried employees is intended to cover all hours worked up to and including 40. They also set overtime policies, which for most offices will be the same. As long as the county mayor and county legislative body allow the official to participate in the preparation of the policies and are willing to work with the officials and department heads within the county to arrive at policies that are workable and everyone is reasonably pleased, there are many advantages to policies of countywide application. Finally, the act allows an official to withdraw from the countywide policies if he or she later becomes dissatisfied.

Statutory Responsibilities

Reference Number: CTAS-1112

County officials having some statutory duties related to distribution of information about personnel policies, recordkeeping, and enforcement of the policies.

Distribution of Required Information and Other Duties

Reference Number: CTAS-1105

Each county official and each department head within the county responsible, with respect to the employees of that office or department, is responsible for the following:

1. Ensuring that each employee under his or her direction has received a copy of the personnel policies in effect for that office, including a statement that nothing in the policies is intended to create a contract of employment or to affect the employment-at-will status of county employees, and a statement for each employee to sign acknowledging receipt of a copy of the policies for that employee's office or department and acknowledging that the employee understands that subsequent amendments will be on file at the office of the county clerk.
2. Furnishing to each employee a copy of T.C.A. § 39-16-504, relative to falsifying, destroying or tampering with governmental records.
3. Maintaining all required personnel records, including but not limited to the form I-9 required under federal immigration laws and all wage and hour records required under state or federal law, unless such records are maintained in a central payroll office within the county.
4. Ensuring that all posters and other employee notifications required by the federal Fair Labor Standards Act, the Family and Medical Leave Act, applicable equal employment opportunity laws, and other applicable state or federal laws have been posted or otherwise given to employees. The posters and other helpful information can be obtained free of charge from the federal Department of Labor (DOL) Wage & Hour Division office and Equal Employment Opportunity Commission (EEOC) office nearest your county.

Each official and department head should determine which employees are considered employees of their offices and make certain that the above requirements have been met for each of those employees. While this is not required, it would be a good idea for the county mayor or the county legislative body to send a notice to each official and department head within the county advising them of their responsibilities.

Recordkeeping Requirements

Reference Number: CTAS-1113

T.C.A. § 5-23-101 *et seq.* makes each county official and department head responsible for maintaining

personnel records for employees under their direction, unless they are in a county in which these records are maintained centrally. There are numerous personnel records that must be maintained. Some of these are discussed below.

For non-exempt employees, the FLSA requires the following records to be maintained and preserved:

1. Name in full;
2. Home address;
3. Date of birth if under age 19;
4. Sex;
5. Occupation in which employed;
6. Time and day of the week on which the employee's workweek begins;
7. Regular hourly rate of pay for any workweek in which overtime compensation is due, in accordance with the FLSA's requirements; an explanation of the basis of pay, indicating the monetary amount paid per hour, day, week or other basis; amount and nature of each payment excluded from the employee's regular rate;
8. Regular hours worked each workday and total regular hours worked each workweek;
9. Total daily or weekly straight-time earnings or wages due for each workday or workweek, exclusive of overtime compensation;
10. Total premium pay for overtime hours;
11. Total additions or deductions from wages paid each pay period;
12. Total wages paid each pay period; and
13. Date of payment and pay period covered by such payment.

For exempt employees, employers are required to maintain and preserve records containing all the information and data previously set forth, with the exception of the data required in items 7 through 11. In addition, wage records must be maintained in sufficient detail to permit calculation for each pay period of the employee's total remuneration, including fringe benefits and perquisites.

If compensatory time is used, additional records must be kept detailing its accrual and use.

Recordkeeping under FLSA

Recordkeeping under FMLA

In order to show that employees are lawfully eligible to work in the United States, the federal Immigration Reform and Control Act of 1986 requires employers to maintain a completed Form I-9 for each employee.

Enforcement Provisions

Reference Number: CTAS-1114

To enforce the provisions of the act, the county mayor is authorized to retain the county attorney, or an attorney hired pursuant to T.C.A. § 5-6-106, to file an action in court for a writ of mandamus to compel compliance as provided in T.C.A. § 5-1-107. In addition to the action for mandamus, the county mayor is authorized to pursue any and all other remedies that may be available at law or in equity. This could include making a claim under the county official's bond.

If a court finds a county liable as a result of acts or omissions by any official or employee in connection with the requirements of this act or any policies adopted pursuant to this act, the county has a right of action for reimbursement against the official or employee whose conduct resulted in liability for the county that is not covered by insurance, if the conduct of the official or employee was intentional and knowing.

Sample Personnel Policies

Reference Number: CTAS-1115

Following are samples of various personnel policies that may be used as guides to assist county officials in developing their own personnel policies. These are only examples—there are many other acceptable ways to do these policies and many other choices can be made. Always make sure that the policy accurately reflects what is done or will be done in the county and in the particular office to which it applies. Never adopt a policy that will not or cannot be followed. Consult with the county attorney to ensure that all policies are in compliance with the applicable law.

Introductory Matters

Personnel policies often use terminology that needs to be defined, such as “part-time employee” and the like. These definitions usually appear at the beginning of a personnel handbook, but they also can be placed within the policies where the terms are actually used. Regardless of where the definitions appear, it is very important to define them. When defining categories of employees, avoid referring to employees as “permanent” which could create the implication that the employee cannot be fired except under limited circumstances. A better alternative is “regular.” The term “probationary” also can lead to the inference that an employee who has completed this period will not be fired, although if you carefully set out the terms of probationary employment (such as no accrual of benefits) this term may be used. However, you might want to call these employees “newly hired.” Also, remember that definitions are not policies—they are only used to define terms that you will later use in your policies. The following are only examples of terms that you may need to define. Do not define terms unless they are actually used in your policies.

Definitions

“Full-Time Regular Employees” are those who are hired to work the county’s normal, full time, _____ (____) hour workweek on a regular basis. These employees may be “exempt” or “non-exempt” as defined below.

“Part-Time Regular Employees” are those who are hired to work fewer than _____ (____) hours per week on a regular basis. These employees may be “exempt” or “non-exempt” as defined below.

“Temporary Employees” are those who are engaged to work either full time or part time with the understanding that their employment will terminate upon the completion of a specific assignment. These employees may be “exempt” or “non-exempt” as defined below.

“Exempt Employees” are those who are not entitled to be paid overtime under federal wage and hour laws. Executive employees, professional employees and certain employees in administrative positions are typically exempt.

“Non-exempt Employees” are those who are required to be paid overtime at time and one-half their regular rate of pay, in accordance with federal wage and hour laws, for hours worked over forty (40) in a workweek.

“Newly Hired Employees” are those who have been employed by the county for less than _____ (____) months. These employees accrue no benefits. They may be either “exempt” or “non-exempt.”

Employment at Will Statement

You also should include an employment-at-will statement at the beginning of the personnel handbook. It is important that employees be told that the policies do not create a contract of employment.^[1]

No policy, benefit, or procedure contained herein creates an employment contract for any period of time, or a contractual obligation of any kind. All employees will be considered employees-at-will. Employees may be terminated for failure to satisfactorily perform their duties or simply at the will of the employer, but they shall not be terminated for an illegal purpose.

Miscellaneous Sample Policies

The following policies address miscellaneous issues that the employer may want to include in a personnel handbook.

Residency Requirement

All new employees shall be residents of _____ County or shall become residents of _____ County within six (6) months after employment. Any applicant for employment residing outside _____ County must sign a statement prior to gaining employment status indicating the employee’s willingness to move his or her place of residence. Employees of _____ County must continue to reside within _____ County as long as their employment continues.

All employees of _____ County, employed as of the effective date of this residency requirement, shall be allowed to maintain their existing residences and shall not be required to move into _____ County. Upon moving from the residence an employee maintained as of the effective date of this requirement, the employee must move into _____ County, as provided by these rules and regulations. All employees are required to furnish their employer with notice of a change of address within thirty (30) calendar days of locating to a new residence.

Personnel Files

An individualized personnel file will be maintained on each employee. It is the responsibility of each employee to provide accurate information to the employer. Employees also are responsible for reporting to the employer any change in the information that they have previously provided.

Providing false information is a misdemeanor under T.C.A. § 39-16-504.

Immigration Papers

Upon initial employment, all employees are required to complete a Form I-9 to attest that they are lawfully eligible to work in the United States. Employees are further required to supply to the employer copies of documents proving this eligibility.

Part-Time Employees

Part-time employees [defined in the definitions section] are not entitled to receive any benefits set out in the policies of _____ County except where expressly and specifically provided otherwise. These policies are not intended to establish paid leave of any kind for part-time employees.

Breaks

Employees may take one (1) fifteen (15) minute rest period for each four (4) hours worked. Such rest periods shall be considered a privilege and not a right, and shall never interfere with proper performance of the work responsibilities and work schedule of each department. Break time shall not reduce working time under FLSA.

Compensation Plan

The compensation plan of this office or department is established by assigning each job classification a salary grade which reflects the knowledge, skills and abilities needed to fill that position. Each employee will be compensated based upon the salary grade that is assigned to his or her position. No full-time employee shall be paid at a rate less than the base rate nor more than the maximum rate for a position as set out in the compensation plan.

The compensation plan establishes a salary range within each job. It is designed to provide for merit pay increases to employees as a reward for ability and performance and to compensate employees for their increased value to this county.

Merit pay increases are not automatic. Increases will be granted only upon the recommendations of the employer and will be based upon the ability and performance of the employee.

Termination Pay

An employee whose services are being terminated, either voluntarily or involuntarily, shall be paid for all regular earnings that are due and accrued plus all accrued vacation time, overtime and compensatory time. The employee will not be compensated for any unused sick leave days. In the event of death, the amount owing to the employee shall be paid to the employee's beneficiary designated in writing for this purpose. If no beneficiary has been designated, amounts owing at the time of death will be paid to the surviving spouse, surviving children, or to the estate, as may be required by law.

COBRA

An individual covered by the employee health plan has the right to seek continued health coverage upon the occurrence of certain events, such as termination of employment, which might affect that individual's coverage. The employee or covered individual should consult the health care plan administrator.

[1] See *Williams v. City of Milan*, 2009 WL 989775 (W.D. Tenn. 2009).

Sample Leave Policies

Reference Number: CTAS-1116

Following are some examples of policies that you may use as guides to help you define the leave that employees receive in your particular county.

Sample Policy - Holidays

Reference Number: CTAS-1117

Sample Holiday Policy:

1. *Holidays - On the following legal holidays, county offices will be closed and employees will be excused from work without charge to leave:*

New Year's Day
 Martin Luther King, Jr. Day-
 Presidents' Day
 Good Friday
 Memorial Day
 Independence Day
 Labor Day
 Thanksgiving Day
 Christmas Day

January 1st
 3rd Monday in January
 3rd Monday in February
 Friday before Easter
 Last Monday in May
 July 4th
 1st Monday in Sept.
 4th Thursday in November
 December 25th

When a holiday falls on Saturday, the Friday prior to the holiday is substituted. When a holiday falls on Sunday, the Monday following the holiday is substituted.

2. *Election days - County offices will be closed and employees excused from work without charge to leave on all days established by law for holding county, state or national elections throughout the state.*

3. *Special Pay Provisions - Every effort will be made to allow all employees off on each designated holiday and Election Day. If it is necessary for an employee to work on any of these days, the employee will be compensated at the employee's regular rate of pay, and the employee will receive one and one-half hours of vacation time for each hour actually worked during the holiday.*

Sample Policy - Sick Leave

Reference Number: CTAS-1118

Sample Sick Leave Policy:

A. Earning and Accumulating Sick Days

Sick leave shall be considered a benefit and privilege and not a right. Full time employees will receive full pay during incapacity caused by illness if sick leave is taken. Sick leave is earned at the rate of one day per month (12 days per year). There is no maximum accumulation of sick leave credits. Accumulated sick leave has no value except for the purpose granted, and in the event of retirement or separation, all unused sick leave shall be forfeited.

If an employee is in a paid status for one-half of the month or more, he or she will be credited with one day of sick leave for the month. Otherwise, the employee will not accrue any time for the month.

B. General Sick Leave Rules and Procedures

1. *Use of Sick Leave - An employee may use sick leave allowance for absence due to the employee's own illness or injury. Sick leave also may be used for appointments with a licensed doctor, dentist or recognized practitioners. When appropriate, a partial sick day may be used rather than a full day. Employees who become ill during the period of their vacation may request that their vacation be temporarily terminated and the time changed to sick leave. However, such request must be justified by means of a doctor's statement upon return to work. No employee may give or loan sick leave time to another employee.*
2. *Documentation of Sick Leave - Employees are required to notify the employer as early as possible on the first day of their sick leave absence, and shall notify the employer in advance whenever the need for leave is foreseeable. Employees shall document their use of paid sick leave on leave request forms provided by the Employer for this purpose. Such forms shall be completed by the employee and approved by the employer in advance of the leave when the need for sick leave is foreseeable, and in all other instances as soon as possible after the employee's return to work. An employee who claims sick leave may, at the discretion of the employer, be required to furnish a certificate from a physician stating that the employee was incapacitated from work for the period of absence as a result of sickness or injury, and that the employee is again physically able to perform his or her duties.*
3. *Exhaustion of Sick Leave - Employees who have used all of their accumulated sick leave will not receive financial compensation for additional days needed due to illness or injury. For any additional time needed, the employee will be considered on a leave without pay status unless the employee has accumulated vacation time or comp time remaining and the employee requests such leave.*

Sample Policy - Vacation/Annual Leave

Reference Number: CTAS-1119

Sample Vacation/Annual Leave Policy:

Qualification for Vacation Time - Full time employees (those who work more than 35 hours per week) will earn twelve (12) days of paid vacation per year. Employees begin accruing vacation time as of the date of their employment, but an employee is not eligible to use vacation time until the employee has completed six months of service, at which time six (6) days of vacation will be available. Thereafter, employees will accrue vacation days at the rate of one day per month of service. Part-time employees do not qualify for vacation leave.

Accumulation of Vacation Time - Vacation time may be accumulated and carried forward to the next year in an amount not to exceed 24 days. Any days exceeding the 24-day limit will be lost if not used prior to the end of the current employment year.

Use of Vacation Time - Vacation leave may be used only at times approved in advance by the employer. Requests for vacation leave shall be made using leave request forms provided by the employer for this purpose. Reasonable vacation requests will be honored to the extent possible. If two or more employees request vacation for the same period of time, the employer will determine whether this will create a hardship upon the department. If it is determined that it is not possible for both employees to be on vacation at the same time, the request of the employee who first asked for vacation time will be honored. No employee may give or loan vacation time to another employee.

Termination of Employment - Upon the termination of employment, an employee shall be entitled to payment for any unused vacation time which has accrued, up to the 24-day limit. Payment shall be made based upon the employee's daily rate of compensation at the time of termination.

Sample Policy - Personal Leave

Reference Number: CTAS-1120

"Personal Leave" is an example of a combination leave which is sometimes given by employers *instead of* sick leave, vacations, personal days, and other kinds of leave. It is said to result in lower absenteeism.

Sample Personal Leave Policy:

In lieu of sick leave, vacation leave and other types of leave for specific reasons, employees receive paid personal leave which may be used for any reason. The amount of personal leave to which you are entitled depends on your status as an exempt or non-exempt employee, as defined in these policies, and on your length of service with the county, as follows:

Full-Time Regular Non-exempt Employees

Years Service of as of July 1	Annual Personal Leave Allowance	Monthly Accrual
_____ years	_____ day	_____ day
_____ years	_____ days	_____ days
_____ or more	_____ days	_____ days

Full-Time Regular Exempt Employees

Years Service of as of July 1	Annual Personal Leave Allowance	Monthly Accrual
_____ years	_____ day	_____ day
_____ years	_____ days	_____ days
_____ or more	_____ days	_____ days

Part-time regular employees accrue personal leave on schedules proportionate to the above, but one day of leave will be equal to the number of hours the employee is regularly to work per day, so that when taking leave these employees will be paid only for the number of hours they would normally be scheduled to work during that period.

Newly hired regular employees do not accrue any personal leave until they have successfully completed six months of continuous employment, at which time one-half their first year's personal leave will accrue. The balance of the first year's personal leave will accrue upon successful completion of one year of continuous employment.

Temporary employees do not accrue personal leave or any other type of leave except to the extent required by applicable law or as may be specified in such employee's written contract with the county.

Employees will not be paid for unused personal leave.

Sample Policy - Pregnancy Leave

Reference Number: CTAS-1121

Sample Pregnancy Leave Policy:

Pregnancy, childbirth and related conditions will be treated the same as any other temporary medical disability with regard to leave policies. Leave is available under the same terms and conditions as for other similar purposes. In addition to sick leave and annual leave, leave related to pregnancy and childbirth also may be available to eligible employees under the federal Family and Medical Leave Act and/or Tennessee's law governing adoption, pregnancy, childbirth and nursing.

Tennessee law requires that the following provisions be included in these personnel policies; the provisions may or may not apply, depending upon the circumstances:

T.C.A. 4-21-408. Leave for adoption, pregnancy, childbirth and infant nursing

(a) Employees who have been employed by the same employer for at least twelve (12) consecutive months as full-time employees, as determined by the employer at the job site or location, may be absent from such employment for a period not to exceed four (4) months for adoption, pregnancy, childbirth and nursing an infant, where applicable, referred to as "leave" in this section. With regard to adoption, the four-month period shall begin at the time an employee receives custody of the child.

(b)(1) Employees who give at least three (3) months' advance notice to their employer of their anticipated date of departure for such leave, their length of leave, and their intention to return to full-time employment after leave, shall be restored to their previous or similar positions with the same status, pay, length of service credit and seniority, wherever applicable, as of the date of their leave.

(2) Employees who are prevented from giving three (3) months' advance notice because of a medical emergency that necessitates that leave begin earlier than originally anticipated shall not forfeit their rights and benefits under this section solely because of their failure to give three (3) months' advance notice.

(3) Employees who are prevented from giving three (3) months' advance notice because the notice of adoption was received less than three (3) months in advance shall not forfeit their rights and benefits under this section solely because of their failure to give three (3) month's advance notice.

(c)(1) Leave may be with or without pay at the discretion of the employer. Such leave shall not affect the employees' right to receive vacation time, sick leave, bonuses, advancement, seniority, length of service credit, benefits, plans or programs for which the employees were eligible at the date of their leave, and any other benefits or rights of their employment incident to the employees' employment position; provided, that the employer need not provide for the cost of any benefits, plans or programs during the period of such leave, unless such employer so provides for all employees on leaves of absence.

(2) If an employee's job position is so unique that the employer cannot, after reasonable efforts, fill that position temporarily, then the employer shall not be liable under this section for failure to reinstate the employee at the end of the leave period.

(3) The purpose of this section is to provide leave time to employees for adoption, pregnancy, childbirth and nursing the infant, where applicable; therefore, if an employer finds that the employee has utilized the period of leave to actively pursue other employment opportunities or if the employer finds that the employee has worked part time or full time for another employer during the period of leave, then the employer shall not be liable under this section for failure to reinstate the employee at the end of the leave.

(4) Whenever the employer shall determine that the employee will not be reinstated at the end of the leave because the employee's position cannot be filled temporarily or because the employee has used the leave to pursue employment opportunities or to work for another employer, the employer shall so notify the employee.

(d) Nothing contained within the provisions of this section shall be construed to:

(1) Affect any bargaining agreement or company policy that provides for greater or additional

benefits than those required under this section;

(2) Apply to any employer who employs fewer than one hundred (100) full-time employees on a permanent basis at the job site or location; or

(3) Diminish or restrict the rights of teachers to leave pursuant to title 49, chapter 5, part 7, or to return or to be reinstated after leave.

(e) The provisions of this section shall be included in the next employee handbook published by the employer after May 27, 2005.

Sample Policy - Family and Medical Leave

Reference Number: CTAS-1122

Sample FMLA Policy:

Under the federal Family and Medical Leave Act of 1993 (FMLA), eligible county employees are entitled to take up to twelve (12) workweeks of unpaid leave during each 12-month period beginning [insert one of the four 12-month periods chosen in accordance with the FMLA: the fiscal year, the calendar year, a "rolling" 12-month period measured backward from the date of the leave, or the 12-month period measured forward from the date of the leave] for the birth of a child, the placement of a child for adoption or foster care, a serious health condition of the employee that makes the employee unable to perform the functions of his or her job, or the serious health condition of a spouse, son, daughter or parent that requires the employee's presence. Both male and female employees are eligible for leave in connection with the birth or placement of a child or a family illness, but special rules may apply if both husband and wife are county employees. Accrued paid leave may be substituted for unpaid FMLA leave in accordance with the county's paid leave policies. Employees may be required to use their accrued paid leave prior to taking unpaid leave under the FMLA.

Eligible employees are those who have been employed by the county for at least 12 months, and who have worked at least 1,250 hours during the 12-month period immediately before leave is requested.

An employee must provide at least thirty (30) days advance notice of the need to take FMLA leave under normal circumstances. Medical certification also may be required.

Employees returning to work from FMLA leave will be restored to the same position or one with equivalent pay and benefits. Returning employees may be required to provide a certification of fitness for duty prior to being reinstated.

The FMLA also allows eligible employees to take up to twelve (12) workweeks of job-protected leave in the applicable 12-month period for a "qualifying exigency" arising out of the active duty or call to active duty status of a spouse, son, daughter, or parent, and up to 26 workweeks of job-protected leave in a single 12-month period to care for a covered servicemember with a serious injury or illness. Advance notice is required – at least thirty (30) days for foreseeable planned medical treatment and otherwise as soon as practicable. Certification of the need for leave may be required.

It is the policy of _____ County to grant its employees leave in accordance with the requirements of the Family and Medical Leave Act. A copy of the FMLA Fact Sheet #28 setting out the employee's rights under the FMLA and Fact Sheet #28A setting out the employee's rights to military family leave are attached [attach copies of both FMLA Fact Sheets] to these policies, and employees may obtain additional copies of these documents as well as additional information about the FMLA and their rights and obligations under that law from their supervisor, or by contacting _____ at (____) _____ [insert contact information for county attorney or some other knowledgeable person].

In addition to the FMLA, Tennessee has a leave law for adoption, pregnancy, childbirth and nursing an infant (T.C.A. § 4-21-408) which applies to all employers who employ 100 or more full-time employees at a job site or location. This state law allows employees who have been employed for twelve (12) months to take up to four (4) months of unpaid leave for adoption, pregnancy, childbirth and nursing the infant. To be eligible for this leave, the employee must give at least three (3) months advance notice, except in cases of medical emergency. This leave will run concurrently with any leave to which the employee may be entitled under the FMLA or otherwise. Subject to certain conditions, accrued paid leave may be substituted for the unpaid leave. Employees may obtain a copy of the Tennessee leave statute by contacting _____ at (____) _____ [insert contact information for county attorney or some other knowledgeable person].

Sample Policy - Bereavement/Funeral Leave

Reference Number: CTAS-1123

Sample Bereavement Leave Policy:

In the case of death in the employee's immediate family, the employee will be given three (3) working days paid leave which will not be charged to vacation leave. Immediate family is defined as the employee's spouse, parent, child, brother, sister, mother-in-law, father-in-law, grandparent, grandchild, legal guardian or legal dependent.

Sample Policy - Voting Leave

Reference Number: CTAS-1124

Sample Voting Leave Policy:

Any person entitled to vote in an election in this state may be absent from work for a reasonable period of time, not to exceed three hours, necessary to vote while the polls are open in the county where the employee resides. The employer may specify the time the employee may be absent. The employee will receive regular compensation during this period and leave time will not be affected. Voting time shall not be counted as working time for overtime computation.

Sample Policy - Jury and Court Duty

Reference Number: CTAS-1125

Sample Jury/Court Duty Policy:

The employer encourages all employees to fulfill their duty to serve as members of juries or to testify when called in both Federal and State courts. The following procedures shall apply when an employee is called for jury duty or subpoenaed to court:

- 1. The employee will be granted a leave of absence when the employee is subpoenaed or directed by proper authority to appear in Federal or State court as a juror or a witness.*
- 2. The employee will receive his or her regular compensation for the time actually spent serving as a juror or witness and traveling to and from court.*
- 3. The employee may retain all compensation or fees received for serving as a juror or as a witness.*
- 4. If the employee serves as a witness or juror for more than three hours during the day, the employee will be excused from work for the entire day. Otherwise, the employee must report back to the employer at the conclusion of service.*
- 5. The above provisions concerning compensation for time in court do not apply if the employee is involved as a party in private litigation. On these occasions the employee must take vacation leave, comp time or leave without pay.*

Sample Policy - In Line of Duty Injury Leave (for counties covered by Workers' Compensation)

Reference Number: CTAS-1126

Sample Workers' Compensation Policy:

Any employee sustaining an injury or an illness during the course and scope of his or her employment which is determined to be compensable under the provisions of the Workers' Compensation Law shall be entitled to receive in-line-of-duty injury leave. This leave shall not be counted against any accrued sick leave that the employee has accumulated. The employee is not permitted to substitute any other paid leave. Benefits that are receivable by the employee will be determined by the provisions of the Workers' Compensation Law.

Sample Policy - In Line of Duty Injury Leave (for counties not covered by Workers' Compensation)

Reference Number: CTAS-1127

Sample In-Line-of-Duty Injury Policy:

Notice of Injury - Every injured employee or his or her representative shall, immediately upon the occurrence of an injury, however minor, give or cause to be given to the employer written notice of the injury. The employee shall not be entitled to benefits hereunder from the date of the accident to the giving of such notice, unless it can be shown that the employer had actual knowledge of the accident.

Injuries Not Covered - No benefits shall be allowed for an injury due to the employee's willful misconduct or intentional, self-inflicted injury, or due to intoxication, or sports-related injury unless participation in sports activities is required by the job description, or willful failure or refusal to use a safety appliance or perform a duty required by law. This exclusion does not apply to mandatory physical fitness programs as developed and mandated by the employer.

Period of Compensation - Injury leave shall extend for such time as the injured employee is unable to return to work, but in no event beyond six months for the same or recurring injury.

Compensation Received - During the period of time that the injured employee is on injury leave, he or she will be entitled to receive full pay, subject to all other provisions and qualifications set out herein. The employee will continue to earn vacation and sick leave.

Use of Sick Leave - An employee who is injured in the course of employment will be granted injury leave, and such leave will not be charged against the employee's sick leave nor may an employee use sick leave for in-line-of-duty injuries.

Role of Employer's Medical Examiner - The determination of character, degree and duration of occupational disability is the responsibility of the Medical Examiner for the employer. Employees will be required to return to work after the approval of the Employer's Medical Examiner, in consultation with the injured employee's attending physician. If there are conflicting opinions from the Employer's Medical Examiner and the injured employee's attending physician, the final determination shall be left to the employer's governing body.

Extended Injury Leave - Whenever an employee is on extended leave due to a work related injury or illness, the employee must provide the employer with an update of the employee's medical condition every 30 calendar days. The employer has the right to instruct the employee to be evaluated by the employer's medical examiner. The employer shall be responsible for placing the employee back to work as soon as he or she is physically capable of resuming employment. If at any time it is medically indicated that the employee will not be able to return to work prior to the expiration of six months, the employee, or the employer on behalf of the employee, shall file an application for a disability pension.

Sample Policy - Administrative Leave with Pay

Reference Number: CTAS-1128

Sample Administrative Leave with Pay Policy:

Absence with pay for administrative purposes may be granted by the employer. Such leave must be for a good cause as determined by the employer. This leave shall not exceed five (5) working days per year unless exceptional circumstances exist.

Sample Policy - Administrative Leave without Pay

Reference Number: CTAS-1129

Sample Administrative Leave without Pay Policy:

Any employee, at the discretion of the employer, may be granted leave without pay for sufficient reason as determined by the employer. During the period of absence, the employee will not accrue vacation, sick leave or other benefits. The absence without pay leave shall not extend for a period in excess of one year.

Sample Policy - Military Leave

Reference Number: CTAS-1130

Sample Military Leave Policy:

Regular employees who are members of any military reserve component, including the Tennessee army and the air national guard, will be granted a leave of absence for all periods of military service during which they are engaged in the performance of duty or training for this state or for the United States under competent orders. While on leave, the employee will receive his or her regular

compensation for a period not exceeding twenty (20) working days per calendar year, plus any additional days that may result from a call to active state duty by the Governor. Such requested leave shall be supported with copies of the armed forces orders.

Regular employees will be granted a leave of absence without pay for the purpose of being inducted into or otherwise entering military duty. If not accepted, the employee will be reinstated at the same rate of pay and without loss of seniority, benefits or status. If accepted for service, the employee may be eligible for reinstatement upon being released from active duty upon meeting the conditions set out in T.C.A. Title 8, Chapter 33, relative to employees in military service, and in accordance with the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), 38 U.S.C. §§ 4301 - 4333.

Employees in military service shall be governed by the requirements of, and shall have all of the rights and benefits conferred upon such persons by state law found in T.C.A. Title 8, Chapter 33, and under USERRA.

Sample Wage and Hour Policies

Reference Number: CTAS-1131

All county offices are required to have written wage and hour policies in place. Following are some sample policies that may be used to comply with the law.

Sample Policy - Workweek

Reference Number: CTAS-1132

Sample Policy Defining the Workweek:

The workweek for employees of _____ County begins at 12:01 a.m. on Sunday and ends at 12:00 midnight on Saturday each week. The regular workweek for _____ County employees is _____ (____) hours. Employees who are paid on an hourly basis will receive compensation at their regular rate of pay for all hours worked up to and including 40 in the workweek. The salary paid to salaried employees is compensation for all hours worked by such employees up to and including 40 in the workweek. The actual work schedule for each employee will be arranged by that employee's supervisor.

Sample Policy - Overtime

Reference Number: CTAS-1133

Sample Overtime Policy:

"Overtime" is defined as time worked in excess of 40 hours in a workweek. Non-exempt employees, as defined herein, who work over 40 hours in a workweek are entitled to compensation for such hours, either in cash at the rate of one and one-half times their regular rate of pay, or (with a prior agreement or understanding between the employer and employee) compensatory time off at the rate of one and one-half hour for each hour of overtime worked. Employees shall not work overtime without first receiving the approval of their supervisor. Any employee who works overtime without obtaining advance approval of the supervisor as required may be subject to disciplinary action, up to and including termination of employment.

Sample Policy - Compensatory Time

Reference Number: CTAS-1134

Sample Compensatory Time Policy:

Compensatory time may be given to those employees who work overtime as provided in the section on "Overtime" and with whom the county has a prior agreement or understanding that the employee will accept compensatory time in lieu of cash payment for overtime. Employees are encouraged to use their accrued compensatory time, and the county will make every effort to grant reasonable requests for the use of compensatory time when sufficient advance notice is given and the workplace is not unduly disrupted. The maximum number of compensatory time hours that an employee may accrue is _____. Any employee who has reached this maximum shall not work any additional overtime until the employee's accrued compensatory time has fallen below the maximum allowed, unless the employee receives advance written authorization and receives payment in cash for any such additional overtime. The county reserves the right at any time to pay an employee in cash for any or all accrued compensatory time and/or to require the employee to

use accumulated compensatory time.

Compensatory Time Agreement

The federal wage and hour laws require a prior agreement or understanding before compensatory time may be given to employees in lieu of cash payment for overtime. This can be accomplished through the county's policies, but some counties may wish to have a signed agreement with employees who receive compensatory time. The following is an example of a compensatory time agreement, although there are other acceptable methods of evidencing an agreement. The employer should give one copy to the employee and place the other copy in the employee's personnel file.

SAMPLE COMPENSATORY TIME AGREEMENT

In accordance with the Fair Labor Standards Act, _____ County has a policy of granting employees compensatory time off in lieu of compensation for time worked in excess of 40 hours in a workweek (or other permissible schedules for law enforcement, firefighters, and certain other employees). A copy of this policy is on file in the office of the County Clerk. I understand that compensatory time will be granted at time and one half for all time worked in excess of 40 hours (or other permissible work schedules). I further understand that accrued compensatory time may be used in accordance with county policy and the applicable laws, rules and regulations of the U. S. Department of Labor. I voluntarily and knowingly agree to accept compensatory time off in lieu of cash compensation for overtime work and to the use of accrued compensatory time off in accordance with the county's policy and the laws, rules and regulations of the U. S. Department of Labor.

Employee signature

Date

Sample Policy - Time Records

Reference Number: CTAS-2079

Sample Time Records Policies:

Time Records - Example 1

Employees are required to record their hours worked on the forms provided for this purpose. Both exempt and non-exempt employees are required to fill in this form daily and, at the end of the workweek, sign and forward them to the supervisor for review and processing. Employees must ensure that the actual hours worked and leave time taken are recorded accurately. Falsifying these records is a crime under T.C.A. § 39-16-504.

Time Records - Example 2

Employees shall work a set schedule Monday through Friday, from 8:00 a.m. until 4:30 p.m., with one-half hour during which the employee is totally relieved of all duties for lunch. Each employee shall sign a schedule showing that particular employee's work schedule. For any day the employee varies from the established work schedule, the employee is required to file with the supervisor a signed schedule variance form, which shall show the exact hours worked during the work day, and shall show sick leave, holiday leave, and vacation time taken. Employees must ensure that their actual hours worked and leave time taken are recorded accurately. Falsifying these records is a crime under T.C.A. § 39-16-504.

Sample Non-Discrimination and Harassment Policies

Reference Number: CTAS-1135

Counties are required to have written non-discrimination and harassment policies. Following are examples of policies that you may use as guides.

Sample Policy - Equal Employment Opportunity

Reference Number: CTAS-1136

Sample EEO Policy:

It is the policy of _____ County to provide equal employment opportunities to all individuals

regardless of race, color, religion, sex, sexual orientation, gender identity, national origin, age, disability, status as a Vietnam-era veteran or special disabled veteran, or status in any other group protected by law. This policy extends to all terms and conditions of employment, including but not limited to hiring, placement, promotion, termination, layoff, recall, transfer, leaves of absence, compensation and training. It is the policy of _____ County to make reasonable accommodations for qualified individuals with known disabilities unless doing so would result in undue hardship.

It is the policy of _____ County to maintain a respectful work and public service environment. _____ County prohibits and will not tolerate any form of unlawful harassment by or toward any employee or official on the basis of race, color, religion, sex, sexual orientation, gender identity, national origin, age, disability, status as a Vietnam-era veteran or special disabled veteran, or status in any other group protected by law. Any employee or official who engages in such behavior is subject to disciplinary action, up to and including termination of employment.

Employees or applicants with questions or concerns about any type of discrimination or harassment in the workplace are encouraged to bring these issues to the attention of the immediate supervisor or department head. Employees can raise concerns and make complaints without fear of reprisal and with the assurance of protection from harassment or retaliation. Anyone found to be engaging in discrimination or harassment in violation of county policy will be subject to disciplinary action, up to and including termination of employment. A finding of a violation of county policy does not, however, amount to a finding of unlawful discrimination or harassment; in order to further its objective of equal employment opportunities the county may, but shall not be required to, interpret its policy more broadly than federal or state law mandates.

Sample Policy - Hiring Practices

Reference Number: CTAS-1137

Sample Hiring Policy:

_____ County does not discriminate in its hiring practices on the basis of race, color, religion, sex, sexual orientation, gender identity, national origin, age, disability, status as a Vietnam-era veteran or special disabled veteran, or status in any other group protected by law. In order to give all interested parties an opportunity to apply for positions as they become open, job openings will be posted in the courthouse on the main bulletin board. All qualified applicants are urged to apply. Applicants must apply for a specific job opening. Employment applications will not be accepted unless a specific position is open at the time the application is submitted. Applications are not retained after the position for which the application was submitted has been filled. Anyone applying for a subsequent opening must submit a new application.

Sample Policy - Discrimination/Harassment Complaint Procedure

Reference Number: CTAS-1138

Sample Complaint Procedure Policy:

Discrimination, including harassment, in the workplace on the basis of race, color, religion, sex, sexual orientation, gender identity, national origin, age, disability, genetic information, veteran status, or status in any other group protected by law is illegal. If an employee believes that he or she has been subjected to illegal discrimination or harassment related to employment with _____ County, the employee should report the incident promptly to the county official or department head under whose direction the employee works. If the problem is not resolved within a reasonable time, or if for any reason the employee feels uncomfortable reporting the problem to the county official or department head, then the problem should be reported to the county _____. The county _____ may act as a mediator between the affected employee and the county official or department head under whose direction the employee works to assist them in reaching an acceptable resolution of the problem, but the county _____ has no legal authorization to make employment decisions on behalf of the county official or department head. A conclusion by the county that disciplinary action should be taken does not constitute a finding of unlawful discrimination or harassment; in order to further its objective of equal employment opportunities the county may, but shall not be required to, interpret its policy more broadly than federal or state law mandates. No adverse personnel action will be taken against an employee for reporting an incident of discrimination or harassment or for assisting in the investigation of a complaint. However, disciplinary action may be taken against an individual who intentionally and maliciously provides false information in connection with a complaint.

Sample Policy - Religious Accommodation

Reference Number: CTAS-1139

Sample Religious Accommodation Policy:

Efforts will be made to accommodate the religious observance and practices of an employee unless such accommodation is unreasonable and would result in an undue hardship on the conduct of business. In making these decisions supervisors will consider such factors as business necessity, financial costs and expenses, and resulting personnel problems.

Sample Policy - Disability Accommodation

Reference Number: CTAS-1140

Sample Disability Accommodation Policy:

It is the policy of [name of county] to assure equal employment opportunity to persons with disabilities on the basis of qualifications and ability to perform the job. There shall be no discrimination in terms of employment opportunities, wages, hours of work, or other terms or conditions of employment or benefits.

An individual with a disability is one who has a physical or mental impairment that substantially limits one or more major life activities, a record of such an impairment, or who is regarded as having such an impairment.

Application Process

Persons with disabilities are guaranteed the same application process as other applicants. Assistance may be provided when needed, such as the following:

- (a) A reader may be provided for completing an application or written examination for qualified applicants who are vision-impaired or functionally illiterate.*
- (b) Waiver of a driver's license may be requested for qualified disabled applicants who are not allowed to drive.*

Employment Physical

New employees working in _____ positions are required to take a physical examination after an offer of employment has been made. The physical examination will be conducted at the [name of county] Health Department at county expense. If a physical limitation is determined which prevents an otherwise qualified individual from performing the essential functions of the job, the appointee can still retain the position if reasonable accommodation can be made. The possibility of reasonable accommodation shall be determined by the applicant and the employer. Information obtained in the pre-employment physical shall be confidential to the extent provided by law, except for the following:

- (a) Supervisors shall be informed of any restrictions on the duties required for reasonable accommodation.*
- (b) Safety personnel shall be informed of any possibility of emergency treatment.*

Reasonable Accommodation

A department shall make reasonable accommodation to the known physical or mental limitations of an otherwise qualified individual with disabilities. The specific accommodations needed shall be determined jointly by the individual and the employer with technical assistance provided by the ADA Coordinator for [name of county]. Reasonable accommodation may include, but shall not be limited to:

- (a) making facilities readily accessible to and usable by persons with disabilities, and*
- (b) job restructuring, job sharing or modified work schedule, acquisition or modification of equipment or devices and other similar actions.*

In determining whether an accommodation would impose an undue hardship on the operation of the department, factors to be considered include:

- (a) the overall size of the specific work area or program with respect to the number of employees and budget,*
- (b) the type of operation, and*
- (c) the nature and cost of the accommodation needed.*

It is the responsibility of the employee or applicant to make known to the employer the need for an accommodation.

Accessibility

Each department is required periodically to survey its programs and physical facilities to determine if they are accessible to persons with disabilities. If structural problems are found, it is the responsibility of [name of county] to budget for changes. Non-structural problems requiring some form of reasonable accommodation will be addressed on an individual basis. The ADA Coordinator will provide technical assistance in areas of accessibility related to employment.

Complaints

Individuals who believe that they have been subjected to discrimination on the basis of a disability are encouraged to report the incident in accordance with the complaint procedure included with the county's policy on Equal Employment Opportunity, or discuss the matter with the county's ADA Coordinator, _____, or both.

Sample Policy - Sexual Harassment

Reference Number: CTAS-1141

Sexual harassment, when it was first recognized, was treated somewhat differently than other forms of workplace harassment. As the law has developed over the years, this form of harassment is being treated essentially the same as the other forms of harassment and a separate policy is not necessary. However, counties may wish to adopt a separate policy addressing this issue. Following is an example of such a policy:

One particular kind of harassing behavior is sexual harassment. Sexual harassment, which can consist of a wide range of unwanted and unwelcome sexually directed behavior, is defined as:

Unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when:

- (1) Submitting to the conduct is made either explicitly or implicitly a term or condition of an individual's employment or of obtaining public services; OR*
- (2) Submitting to or rejecting the conduct is used as the basis for an employment decision affecting an individual's employment or public services; OR*
- (3) Such conduct has the purpose or result of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.*

Neither sexual harassment nor any other form of unlawful harassment will be tolerated in the workplace. Employees are urged to report alleged incidents of unlawful harassment. No adverse personnel action will be taken against any employee who reports such incidents or who assists in an investigation of a complaint. Anyone found to be engaging in harassment in violation of county policy will be subject to disciplinary action, up to and including termination of employment. A finding of a violation of county policy does not, however, amount to a finding of unlawful harassment; in order to further its objective of equal employment opportunities the county may, but shall not be required to, interpret its policy more broadly than federal or state law mandates.

Sample Drug-Free Workplace and Drug Testing Policies

Reference Number: CTAS-1142

The Drug Free Workplace Act of 1988 requires local governments who receive federal grant funds to maintain a drug-free workplace. This does not, however, require drug testing. Following is a sample drug-free workplace policy.

Drug-Free Workplace Policy

_____ County is committed to providing a safe work environment and to fostering the well-being and health of its employees. This commitment is jeopardized when any county employee illegally uses drugs on the job, comes to work under their influence, or possesses, distributes or sells drugs in the workplace. Therefore, _____ County has established the following policy:

- 1. It is a violation of _____ County policy for any employee to possess, sell, trade, or offer for sale illegal drugs or otherwise engage in the illegal use of drugs on the job.*

2. *It is a violation of _____ County policy for anyone to report to work under the influence of illegal drugs.*
3. *It is a violation of _____ County policy for anyone to use prescription drugs illegally. (However, nothing in this policy precludes the appropriate use of legally prescribed medications.)*
4. *Violations of this policy are subject to disciplinary action up to and including termination.*
5. *As a condition of employment with _____ County, employees must abide by the terms of this policy and must notify _____ County in writing of any conviction of a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after such conviction.*

It is the responsibility of county employees' supervisors to counsel employees whenever they see changes in performance or behavior that suggest that an employee has a drug problem. Although it is not the supervisor's job to diagnose personal problems, the supervisor should encourage such employees to seek help and advise them about available resources for getting help. Everyone shares responsibility for maintaining a safe work environment and co-workers should encourage anyone who may have a drug problem to seek help.

Employees needing treatment information should call [name of local employee assistance program, employer's employee assistance program director, a qualified physician, etc.]

The goal of this policy is to balance our respect for individuals with the need to maintain a safe, productive and drug-free environment. The intent of this policy is to offer a helping hand to those who need it, while sending a clear message that the illegal use of drugs is incompatible with employment at _____ County.

Drug Testing Programs. CTAS does not provide sample drug testing policies, but instead recommends that counties contract with a reputable expert to handle the program, including the development of the drug testing policies (Sample Drug Testing Program Request for Proposal). It is essential that the policy accurately reflect the testing program as it is carried out in the county. For more information on Drug Testing programs, see Drug and Alcohol Testing.

Sample Forms and Acknowledgments

Reference Number: CTAS-1143

Employers often include provisions in their personnel manuals advising employees that policies may be changed at any time, as well as a form for the employee to sign acknowledging receipt of the policies. Following are samples of these provisions:

Amendment of Policies

It is the responsibility of all employees to carry out and comply with the rules and regulations contained in this manual. The employee should be aware that these rules and regulations are subject to periodic review and change by the employer. Before relying upon the provisions set out herein, it is the employee's responsibility to check with the employer to see if any changes have occurred.

Sample Employee Acknowledgment Form - Receipt of Policies

EMPLOYEE ACKNOWLEDGMENT [two copies — give one to the employee and place the other copy in the employee's personnel file]

By signing this form, I acknowledge that I have received a copy of the personnel policies currently in effect for my office as of this date, and I understand that it is my responsibility to read and comply with the policies.

These policies cannot and are not intended to answer every question about my employment with _____ County. I understand that I should consult [county official] regarding any part of the policies that I do not understand or any questions I may have about my employment with _____ County that are not answered in the policies. The current policies will always be on file in the office of the County Clerk, and I may examine them there at any time during normal business hours.

The policies are necessarily subject to change, and I acknowledge that revisions may occur from time to time. I understand that all changes to the policies will be filed in the office of the County

Clerk. Although my employer will usually provide me with notice of changes, I understand that changes will apply to me regardless of whether I receive actual notice. I understand that revised information may supercede, modify or eliminate any or all of the policies at any time. All information contained in the policies is subject to applicable state and federal laws, rules and regulations, and I understand that to the extent that any such laws may conflict with any provision of the policies, such laws, rules and regulations will control.

I have entered into my employment relationship with _____ County voluntarily, and I acknowledge that there is no specific length of employment and that my employment may be terminated by me or by my employer at will, without cause or prior notice, at any time.

I acknowledge that none of the _____ County's policies may be construed to create a contract of employment or any other legal obligation, express or implied, and that any policy may be amended, revised, supplemented, rescinded or otherwise altered, in whole or in part, at any time, in the sole and absolute discretion of _____ County.

Employee Name (type or print)

Employee Signature Date

Notice Regarding Falsification of Governmental Records. A copy of Tennessee Code Annotated § 39-16-504 is required to be furnished to all employees under T.C.A. § 5-23-107, and should be included in all personnel manuals. The statutory language is as follows:

T.C.A. § 39-16-504. Government record; destruction, tampering or fabrication.

(a) It is unlawful for any person to:

- 1. Knowingly make a false entry in, or false alteration of, a governmental record;*
- 2. Make, present, or use any record, document or thing with knowledge of its falsity and with intent that it will be taken as a genuine governmental record; or*
- 3. Intentionally and unlawfully destroy, conceal, remove or otherwise impair the verity, legibility or availability of a governmental record.*

(b) A violation of this section is a Class E felony.

Source URL: <https://www.ctas.tennessee.edu/eli/personnel-policies>