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# Statutory Responsibilities

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Dear Reader:

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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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## 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.

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