

# Your Employment Policy & Procedure Manual

Slater C. Elza  
Underwood Law Firm  
(806) 379-0347  
[slater.elza@uwlaw.com](mailto:slater.elza@uwlaw.com)



# Why Have One?

- Express your goals and mission statement.
- Clearly explains your work place policies.
- Every employee receives same information.
- Employees know and understand expectations.
- Buy yourself valuable legal protections.

# Not a Contract

- Absent a specific agreement to the contrary, the employee or the employer may terminate the employment at will, whether for good cause, bad cause, or no cause at all.
- Any agreement to modify at-will status must be clear, express and specific.
- Cannot let your policy and procedure manual change this basic law.

# Cautions

- There is no perfect policy handbook.
- You cannot just find someone else's policy handbook.
- More complicated does not mean better.
- Cannot evolve on a case-by-case basis.

# Cautions

- Without a written policy, your customary practices become the City policy. Examples include:
  - Time off;
  - Tardiness;
  - Computer use.
- Account for employees who cannot read.
- Account for employees who do not speak English.

# Distributing the Policy Handbook

- Distributing Handbook to all employees is as important as drafting it.
- In legal action, you are required to prove the
  1. Policy existed; *and*
  2. That the employee had or should have knowledge of it.
- You must develop a standard mechanism for distributing policy handbook to employees:
  - Orientation sessions.
  - Training sessions.

# Receipt and Acknowledgment

- Employee receipt and acknowledgment form:
  - Employees sign and date;
  - Employee has read and understands the policies;
  - Reaffirm “employment at will” status; and
  - Keep in employee’s personnel file.
  - If you are a civil service City, check with your attorney.

# Updating the Policy Handbook

- You must change policies to meet the development of the law at least every two years.
- You must change policies to meet how your City operates.
- It is better to be proactive than reactive.
- Date amendments to your policies.
- Updated policies must be distributed and acknowledged.



# Consistently Enforce

- Necessary to get the full benefit of your policy Handbook.
- Inconsistent enforcement can lead to discrimination charge.
- Cannot overlook misconduct by good employees.
- Write policy with both worst and best effects in mind.

# Consistently Enforce - con't

- Make sure no one but City Administrator or Council has authority to amend policies.
- Must have policies that you can live with, every time, with everybody, every day.
- Monitor departments to assure they don't have inconsistent policy/orders.

# Let's Start with These...

- A general disclaimer page:
  - Policies serve as a *guide* for the employee/employer relationship.
  - Manual contains only general information and guidelines.
  - It is not intended to be comprehensive or to address all possible matters.
  - Manual does not confer any contractual rights.
  - Manual can be amended at anytime with or without prior notice.
  - No supervisor or employee can alter the terms of your employment.

# Disclaimer

*The policies and procedures found in this employee handbook serve as guide only, and may change from time to time at the sole discretion of the City. The policy manual contains only general guidelines, and is not intended to address all possible matters. The City reserves the right to change or modify any of the provisions contained in this policy handbook at any time, with or without notice. No supervisor or employee may alter the terms of your employment.*

The following checklist includes some of the major topics that you may wish to address in an employee handbook or policy manual. It is not intended to be an exhaustive list; rather, consider it to be a starting point:

- **Employment at Will Statement and Disclaimer** – no employment contract has been created, the employment relationship is indefinite in duration;
- **Notice of Employer's Right to Unilaterally Change Policy Handbook;**
- **Non-discrimination and Equal Employment Opportunity Policy;**
- **Policy prohibiting retaliation;**
- **Policy against sexual harassment and acknowledgment form;**
- **Introductory or training period (as opposed to "probationary period");**
- **Drug and Alcohol Policy;**
- **Smoking Policy;**
- **House rules (i.e., use of company credit cards, expense accounts, parking, weather emergencies, behavior by employees when representing the company off site);**
- **Grievances and complaints;**
- **Leaves of absence;**
- **Conflict of Interest and Confidentiality;**
- **Access to Personnel and Employee Files;**
- **Accidents and Safety;**
- **Reference Inquiries;**
- **Weapons Policy; Acknowledgment, Release and Consent form;**
- **Zero-Tolerance Workplace Violence Policy;**
- **Information considered confidential;**
- **Use of company equipment to make personal telephone calls;**
- **Telephone monitoring policy;**
- **Voice mail, e-mail, the Internet;**
- **Pay days, hours of work, overtime requirements;**
- **Employee evaluations;**
- **Discipline, Rules of Conduct, Termination;**
- **Deductions from pay;**
- **Absenteeism/Attendance/Tardiness policies;**
- **Neutral leave of absence policy (duration, procedures for requesting leave, obligations during leave, status of compensation and benefits, return to work);**
- **Employee benefits;**
- **Holidays;**
- **Vacations (eligibility, accrual, pay in lieu, pay upon termination);**
- **Sick leave (eligibility, pay in lieu, use, pay upon termination, procedures for requesting such leave, FMLA if applicable);**
- **Other Leaves of Absence (voting, personal, military, funeral, jury duty);**
- **Form Acknowledging Receipt and Agreement to be Bound By Employee Policy Handbook.**

# Diversity Policy #1

- City provides equal employment opportunities to all employees and applicants for employment without regard to race, color, religion, gender, sexual orientation, gender identity, national origin, age, disability, genetic information, marital status, amnesty or status as a covered veteran or any other protected class in accordance with applicable federal, state and local laws.

# Diversity Policy #2

- City complies with applicable federal, state and local laws governing nondiscrimination in employment in every department of the City. This policy applies to all terms and conditions of employment, including hiring, placement, promotion, termination, layoff, recall, transfer, leaves of absence, compensation and training.

# EEO Conduct Policies

- Support Equal employment opportunities.
- Prohibit unlawful discriminatory practices.
- Prohibit harassment on basis of any protected trait.
- Complaint process with alternative reporting paths.



# Workplace Bullying #1

- City defines bullying as “repeated inappropriate behavior, either direct or indirect, whether verbal, physical or otherwise, conducted by one or more persons against another or others, at the place of work and/or in the course of employment.”
- Such behavior violates this manual which requires that all employees will be treated with dignity and respect.

# Workplace Bullying #2

- Bullying may be intentional or unintentional. However, it must be noted that where an allegation of bullying is made, the intention of the alleged bully is irrelevant and will not be given consideration in findings or issuing discipline. As in sexual harassment, it is the effect of the behavior upon the individual that is important.

# Progressive Discipline

- City reserves the right to combine or skip steps.
- Discipline is based on each situation, nature of offense, and history of any relevant prior corrective actions.
- Outline the discipline process. In setting deadlines be mindful that key players (e.g. City Manager, Department Director) may be on sick or annual leave. Allow sufficient days or a designee to act.
- Provide for paid or unpaid leave pending investigation.
- Allow for a performance improvement plan/re-training.
- Won't matter if you don't document.

# Return of City Property

- Must return City property at time of separation.
- Can result in deductions from final paycheck
  - Must have written authorization.
  - Cannot result in final pay that is less than min. wage.
- Encourage exit interviews but cannot force unwilling employee (Prompt Pay Act).
- Inform of COBRA rights.

# Confidentiality #1

- Our citizens and others with whom we do business entrust the City with important information relating to their businesses and personal lives. It is our policy that all information is considered confidential and will not be disclosed to external parties or to other employees without either a “need to know” or a legal right of access. If an employee is uncertain whether information is considered confidential, he/she is to first check with his/her immediate supervisor.
- Department Directors and City Attorney will assist in training and guidance for compliance with Public Information Act which compels disclosure of certain information.

# Confidentiality #2

- This policy is intended to alert employees to the need for discretion at all times and is not intended to inhibit normal business communications or disclosures required by law.
- All inquiries from the media must be referred to [insert name, title, contact information].

# Outside Employment

- Employees are allowed to engage in outside work or hold other jobs, subject to certain restrictions as outlined below.
  - Activities and conduct at off-duty jobs must not compete with, conflict with or compromise the City's interests or adversely affect job performance and the ability to fulfill all City job responsibilities.
  - Employees are prohibited from performing any services while off-duty that are normally performed by the employee for the City.
  - Employees may not use sick leave to work an off-duty job. Fraudulent use of sick leave will result in disciplinary action up to and including termination.

# Electronic Communication & Internet Use

- The following guidelines have been established for using the Internet, City provided cell phones, e-mail, computers, data terminals, fax machines and all other devices (“technology”) in an appropriate, ethical and professional manner:
  - Internet, City provided technology (e.g., cell phones, laptops, computers) and services may not be used for transmitting, retrieving or storing any communications of a defamatory, offensive, illegal, discriminatory, harassing or pornographic nature.



# Electronic Communication & Internet Use –con't

- Employees may not copy, retrieve, modify or forward copyrighted materials, except with permission or as a single copy to reference only, or other listed exception to the U.S. Copyright law.
- State your rules on Bring Your Own Device (e.g., access security, storage, removal of data from workplace)

# Electronic Communication & Internet Use –con't

- Right to monitor means:
  - All City supplied technology and City related work records belong to the City and not to the employee. The City routinely monitors use of City supplied technology.
  - Violations of this Technology Use Policy may be subject to disciplinary action up to and including termination of employment.

# Performance Reviews

- Conducted annually and, at the end of any probationary period or performance enhancement plan.
- Meet with employee to discuss.
- Copies retained in personnel file.
- Pay increases are not guaranteed.

# Payment of Wages

- Pay dates.
- How paid.
- Holiday pay.
- Time reporting.
- Meals/breaks.
- Overtime/Comp time.
- On-Call pay.
- Vacation and sick pay.
- Certification pay
- Call Back Minimum

# [Paid] Leave

- Sick leave
- Personal leave
- Bereavement leave
- Hardship
- FMLA
- Voting & Jury Duty leave
- Military leave
- Lactation/Breastfeeding—next
- Annual/Vacation
- Holidays—See below

# Breast Feeding/Expressing

***TEX. GOV. CODE, ch. 619 (HB 786, 2015):***

Public employers must:

**(1)** Have a policy;

**(2)** Have a place other than multi-user bathroom; shielded from view & free of intrusion;

**(3)** Allow reasonable break time(s)

# HOLIDAYS

-- are for everyone

*These holidays are observed by the City as a matter of expediency due to predominant business closures and observances within the community that we serve. However, the City endeavors to make reasonable accommodation for those employees who may wish to observe other religious holidays. Contact ....*

# Benefits

- Cities are not required to offer some of these. But if you have them, then have a policy for each one:

Medical Insurance.

Flexible Spending Account.

Group Life Insurance .

Short/Long Term Disability.

Retirement Plan.

Workers compensation benefits.

Employee assistance program.



# How We Can Screw Up

- Routinely deviating from our policies.
- Inconsistent application of policies.
- Adoption of illegal policies.
- Policies inconsistent with practices.
- Continuing outdated policies.
- Use of other company's policies.
- Overly restrictive policies.
- Overly vague policies.

# Golden Rules

*Always view your policy and procedure manual as an exhibit in a lawsuit.*

*Always view your handling of a problem with an employee as a jury or judge may view the fairness of the situation.*

# THANK YOU!

Slater C. Elza  
Underwood Law Firm  
(806) 379-0347  
[slater.elza@uwlaw.com](mailto:slater.elza@uwlaw.com)

