Texas Groundwater Summit

Texas Alliance of Groundwater Districts
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I knew exactly what to do. But in a much more real sense, I had no idea what to do.
Office “Duhs”

• You should have a policy!
• You should implement the policy!
• You should update the policy!

Ask: What is our office culture? What can management support and apply across the board?

Don’t say what you won’t do.
Your policy should include:

• At Will Employment Statement

• Personnel Policy is Not a Contract

• EE Acknowledgement
I have cause. It is because I hate him.
I. Discrimination and Harassment

Title VII of Civil Rights Act | Texas Labor Code Ch 21

Federal and state law prohibit employment discrimination as follows:

• Unfair treatment on basis of race, color, religion, sex (including pregnancy, gender identity, and sexual orientation), national origin, age (40 or older), disability or genetic information.
• Harassment on the basis of these things

• Denial of a reasonable workplace accommodation

• Retaliation

Some examples . . .
Religion

*Can’t discriminate and must accommodate

Unless it would be an undue hardship on the ER’s operation of its business, an ER must reasonably accommodate an EE’s religious beliefs or practices
Discrimination Based on Sex

• Treating an EE differently than other EEs because they are male or female (including pregnancy); includes stereotypes and assumptions based on sex.

• Sexual harassment can be unwelcome advances, requests for sexual favors, and other verbal or physical harassment of a sexual nature.
I love the smell of bacon on a woman.
II. Wage/Hour Laws

*Fair Labor Standards Act*

EE categories:

- full-time non-exempt; required to pay overtime
- full-time exempt; not required to pay overtime

Comp time an option for government ERs – at same rate!
III. Leave Benefits

• Beware of local ordinances! 
  *Example: City of Austin*

• Family and Medical Leave Act (FMLA)
EMPLOYEE RIGHTS UNDER THE DEPARTMENT OF LABOR WAGE AND HOUR DIVISION

LEAVE ENTITLEMENTS

Eligible employees who work for a covered employer can take up to 12 weeks of unpaid, job-protected leave in a 12-month period for the following reasons:

- The birth of a child or placement of a child for adoption or foster care;
- To bond with a child (newborn or foster care) within one year of the child’s birth or placement;
- To care for the employee’s spouse, child, or parent who is suffering from a serious health condition;
- To care for an employee’s own spouse, child, or parent who is suffering from a serious health condition;
- To care for a family member’s serious health condition that makes the employee unable to perform the employee’s job;
- To qualify as a caregiver in the foreign deployment of a military member who is the employee’s spouse, child, or parent;
- An eligible employee who is a covered environment’s employee, spouse, parent, or next of line who may also take up to 13 weeks of FMLA leave in a single 12-month period for care for the veteran’s caregiver with a serious injury or illness;

An employee does not need to use leave in one block. When it is medically necessary or otherwise permitted, employees may take leave intermittently or on an as-needed schedule.

EMPLOYERS & PROTECTIONS

Employers may choose, or an employee may require, an as-arranged paid leave while taking FMLA leave. If an employee requests paid leave from the FMLA leave, the employer must consider the employee’s request for leave for that purpose.

While employees are on FMLA leave, employers cannot reduce health insurance coverage as if the employees were not on leave.

Upon return from FMLA leave, employees must be returned to the same job or one nearly identical to it with equivalent pay, benefits, and other employment terms and conditions.

ELIGIBILITY REQUIREMENTS

An employee who works for a covered employer must meet these criteria in order to be eligible for FMLA leave. The employer must:

- Have worked for the employer for at least 12 months;
- Have worked at least 1,250 hours in the 12 months before taking leave; and
- Work at a location where the employer has at least 50 employees within 75 miles of the employee’s workplace.

Eligibility requirements apply only to eligible employees.

REQUESTING LEAVE

Generally, employees must give 30 days’ advance notice of the need for FMLA leave if it is not possible to give 30 days’ notice, the employer must notify the employee as soon as possible and, generally, follow the employer’s usual procedures.

Employees do not have to show a medical diagnosis, but must provide sufficient information to the employer so it can determine if the leave qualifies for FMLA protection. Sufficient information could include information on whether the employee is or will be unable to perform the job functions, that a family member cannot care for the family member on a regular basis, and that continuing the employment would result in serious health consequences.

EMPLOYER RESPONSIBILITIES

If an employee notifies an employer that an employee’s leave for leave for a reason that may qualify under the FMLA, the employer must notify the employee if the employee is eligible for FMLA leave and if eligibility exists also provide a notice of rights and responsibilities under the FMLA. If the employee is not eligible, the employer must provide a reason for ineligibility.

Employees must notify its employees if it will be designated as FMLA leave, and if so, how much time will be designated as FMLA leave.

ENFORCEMENT

Employees may file a complaint with the U.S. Department of Labor, Wage and Hour Division, or may bring a civil lawsuit against an employer.

The FMLA does not apply to any federal or state law prohibiting discrimination or requiring a state or local law or collective bargaining agreement that provides greater benefits or medical leave rights.

For additional information or to file a complaint:

1-866-4-USWAGE
(1-866-487-9243)
TTY: 1-877-889-5627

www.dol.gov/whd

U.S. Department of Labor | Wage and Hour Division

WHD 131-201-PM 06/16

Is Your Office “The Office”?
IV. Workplace Violence

Zero tolerance!

Your policy should:

- List prohibited conduct
- Outline reporting procedures
- Encourage see something, say something
IF I HAD A GUN WITH TWO BULLETS AND I WAS IN A ROOM WITH HITLER, BIN LADEN AND TOBY...

I WOULD SHOOT TOBY TWICE
Complaint Process

Should be clear in your policy and actually implemented as written!

Explain:

- Reporting
- Chain of command
- Investigation

Complaints to the Texas Workforce Commission
Resources

EEOC: www.eeoc.gov

TWC: www.twc.texas.gov

Dept. of Labor: www.dol.gov