



STRENGTHENING THE VOICES  
OF CASA STATEWIDE

# ADMINISTRATION

## TEXAS CASA EXECUTIVE DIRECTORS RESOURCE MANUAL 2



**2023 EDITION**

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# ADMINISTRATION TABLE OF CONTENTS

Texas CASA Standard 7: Human Resources .....	5
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<b>Section 1: Organizational Leadership .....</b>	<b>11</b>
---	-----------

12 Attributes of Great Nonprofit Leaders .....	13
Six Steps to Building Trust in the Workplace .....	14
The Five Best Ways to Build (and Lose) Trust in The Workplace .....	16
Preparing for the Inevitable: A Succession Readiness Checklist .....	18
Executive Director Emergency Succession Plan (Sample) .....	19
The Non-Profit Organization Self-Evaluation Checklist .....	30

<b>Section 2: Managing Employees: Hiring .....</b>	<b>35</b>
--	-----------

Job Analysis & Job Description—Key Tools in the Employment Process .....	37
Want to Know About Job Analysis—And What It Does for You? .....	38
The Job Description .....	40
The Job Description Worksheet .....	42
How to Develop a Job Description .....	44
Discrimination and What You Should Know .....	46
Authorization for Prior Employer to Release Information .....	49
Hiring Issues in Unemployment Claims .....	50
Significant Differences Between Employees and Independent Contractors in Fields Relating to Consultation Services .....	51
Independent Contractors .....	53
FLSA Coverage .....	55
Easy Mistakes That Are Easy to Avoid .....	56
Sample Interview Guide .....	60
Interview Questions by Topic .....	63
Interview Questions .....	67
Applicant Appraisal Form .....	68
Hiring Checklist .....	70
Job References and Background Checks .....	72
New Hire Paperwork .....	76
New Hire Reporting Laws .....	78
Sample Welcome Letters for New Employees .....	80
Rejection Letter: Interviewed Applicant .....	83
Sample Casa New Employee Orientation .....	84
New Employee Onboarding Checklist .....	88
Getting Ready for Interns: A Checklist for Success .....	91

**Section 3: Managing Employees: Compensation ..... 93**

Texas Casa FY22 Network Salary & Benefit Report..... 95  
Texas Payday Law ..... 107  
Request to Approve Overtime ..... 111  
Vacation and Sick Leave ..... 112  
Pay and Benefits ..... 114  
Direct Deposit Authorization ..... 115  
Frequency of Pay ..... 116  
Holiday Policies ..... 121  
Pay Agreements ..... 122  
DOL Fact Sheet #22 ..... 124

**Section 4: Managing Employees: Supervision ..... 127**

10 Tips for Effective Performance Evaluations ..... 129  
Common Performance Review Biases ..... 132  
Why Performance Reviews are Advantageous ..... 133  
Employee Evaluation Form ..... 134  
Orientation Period Performance Review ..... 138  
Performance Improvement Plan Sample Memorandum ..... 142  
10 Steps to Resolving Conflict at Work ..... 144  
First Warning Notice ..... 146  
Second Warning Letter ..... 148  
Sample Letters of Reprimand for Poor Employee Performance ..... 150  
Exit Interview Questionnaire Voluntary Termination ..... 153  
Termination Meeting Checklist ..... 156

**Section 5: Policies and Procedures ..... 157**

8 Topics to Include in an Employee Handbook ..... 159  
Sample Employee Handbook ..... 161  
Personnel File Policy ..... 167  
Reporting and Filing Requirements ..... 168  
Personnel Files ..... 172  
Policy Regarding Use of Social Media by Employees ..... 174  
Texas CBAR Sample Employment Application ..... 178  
Texas CBAR Sample Cell Phone Policy ..... 182  
Request for Travel-Related Reimbursement ..... 183  
Texas CBAR Eligibility Requirements ..... 185  
Texas CBAR- Application for Assistance ..... 187  
Crisis Communication Plan ..... 192

<b>Section 6: Assessments</b> .....	<b>205</b>
HR Assessment .....	207
Employment Audit .....	213

# TEXAS CASA STANDARD 7: HUMAN RESOURCES



**Executive Director Resource Manual  
2023 Edition**

# TEXAS CASA STANDARD 7: HUMAN RESOURCES

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Follows written policies for recruiting, screening, training, supervising, evaluating and developing staff from diverse backgrounds in an equitable and inclusive environment that advances the CASA/GAL mission.

## ELEMENTS OF PRACTICE

### A. MAINTAINS AND ADHERES TO HUMAN RESOURCES POLICIES.

1. The CASA/GAL program has and adheres to written human resources policies and practices that specify the responsibilities of staff. Human resources policies and practices are equitable, clear and consistent.
2. Written human resources policies are made available to all CASA/GAL program staff, which include, but are not limited to:
  - a. Human resources practices.
  - b. Working conditions.
  - c. Wage policies and benefits, as applicable.
  - d. Insurance protection.
  - e. Required and supplemental training, and development opportunities.
  - f. A social media policy.
  - g. A policy requiring all staff and contract workers to disclose any paid employment, contract work, volunteer service or membership on a board of directors that might present a conflict of interest.
  - h. A whistleblower policy.
  - i. A media/crisis communication plan.
  - j. A weapons prohibition policy approved by Texas CASA, stating that individuals are prohibited from possessing any firearm, ammunition or weapon of any kind in CASA/GAL offices or in violation of any state or federal law or regulation. This policy will include the following:
    - i. Prohibition of firearms, ammunition or weapons of any kind being carried or transported by CASA/GAL volunteers while involved in any case-related activity.
    - ii. Law enforcement agents are exempt from this policy.
3. Each staff person receives a copy of the human resources policies and provides a signed acknowledgement of reading and understanding the policies which is kept on file.
4. The CASA/GAL program complies with applicable laws and regulations governing fair employment practices.
5. The executive director and/or appropriate designee reviews at least every three (3) years the human resources policies including equal employment opportunity (EEO), anti-discrimination and anti-harassment policies and practices; updates policies and revises the policies as needed; and submits the proposed policies to the governing board for review and approval.

6. Salaries and benefits are established by considering practices of similar nonprofit organizations in the CASA/GAL program's area.
7. The CASA/GAL program maintains written operational procedures regarding grievances to provide staff, volunteers and community members the opportunity and means to lodge complaints and appeals.
8. The CASA/GAL program acts on any complaints in accordance with its procedures and keeps documentation on file.
9. The complainant is informed of the resolution of any complaint, subject to confidentiality limitations, and a copy of the notification is maintained on file.
10. Written procedures allow for the periodic participation by the executive director or delegate in the governing board's review of human resources policies and for written notification to staff of any changes to the human resources policies.

## **B. RECRUITS AND SELECTS DIVERSE QUALIFIED STAFF.**

1. Recruitment and selection procedures ensure that the needs of the CASA/GAL program are adequately met through an ongoing planning process, which details the type and number of staff required to accomplish its goals and objectives.
2. The CASA/GAL program obtains a written application and conducts an interview with all applicants considered for employment with the CASA/GAL program.
3. The CASA/GAL program is required to complete full screening of any applicants, who must be at least 21 years old, considered for employment prior to finalizing any offer of employment, consistent with Standard 5.B.
4. The CASA/GAL program's selection process for all staff includes discussion about the issues and challenges that impact the children and families the CASA/GAL program serves.

## **C. RETAINS QUALIFIED STAFF.**

1. The CASA/GAL program establishes a succession plan for key staff.
2. The CASA/GAL program retains staff qualified to carry out its CASA/GAL program goals.
3. The CASA/GAL program has a written job description for each position or group of similar positions which clearly specifies qualifications and responsibilities.
4. The CASA/GAL program efficiently manages its administrative systems, including accounting, bookkeeping, human resources records and statistical reporting, and assigns appropriately skilled staff to carry out those tasks.
5. Administrative and/or supervisory responsibility is assigned to staff qualified by experience and training.
6. CASA/GAL program staff meet all applicable state registration, licensing or certification requirements for their assignment and/or use of professional titles.
7. The CASA/GAL program, in its ongoing planning process, details the type and number of staff required to accomplish the CASA/GAL program's goals and objectives.

## **D. ENSURES NEW STAFF RECEIVE ORIENTATION.**

1. The CASA/GAL program provides new staff orientation introducing the National CASA/GAL Association Core Model, Standards for Local CASA/GAL Programs, Role of the local CASA/GAL program, the CASA/GAL program's policies and services including, but not limited to:
  - a. Information about confidentiality laws and CASA/GAL program policies and the staff person's responsibility to abide by these laws.
  - b. Information about the CASA/GAL program's structure, service mandates, relationship to the court and human resources policies including sexual harassment and non-discrimination policies.
  - c. Lines of accountability and authority within the CASA/GAL program.
  - d. Information about pertinent laws, regulations and policies.
  - e. Demographics of the community and the children served by the CASA/GAL program.
  - f. Job responsibilities and description.
2. Newly hired CASA/GAL program directors and volunteer supervisors complete the National CASA/GAL Association Pre-Service Training within six (6) months of hire.

## **E. TRAINS AND DEVELOPS STAFF.**

1. The CASA/GAL program implements a training and development plan for staff that is reviewed annually and ensures that staff complete 12 hours of continuing education annually to improve knowledge and skills to fulfill the requirements of their respective positions and/or advance the CASA/GAL mission.
2. The training and development plan prepares executive directors and volunteer supervisors to effectively support volunteers who work with children who have experienced abuse or neglect. The training and development plan provides information about the court and child welfare system, law and legal process, trauma-informed care, child development, cultural competency, inclusion and diversity issues, the Indian Child Welfare Act (ICWA) and other relevant subjects, and the importance of family reunification when safely possible.
3. A CASA/GAL program considering using a peer coordinator model (or other models utilizing volunteers coordinating other volunteers) must:
  - a. Inform National CASA/GAL Association of intent to explore and/or implement the model, and undergo any required training and adhere to applicable standards, policies and procedures.
  - b. Seek legal counsel before adoption so the requirements of the Fair Labor Standards Act (FLSA) and all applicable laws are considered.
  - c. Engage in a review of insurance considerations, including workers' compensation, to explore implications of such a model.
  - d. Participate in learning opportunities about the peer coordinator model.
  - e. Undergo an organizational assessment to determine need and readiness including considerations around budget, training, recruitment, staffing and organizational culture.
  - f. Develop a written plan and timeline for implementation of the model.
4. A CASA/GAL program that adopts and implements a peer coordinator model (or other models utilizing volunteers coordinating other volunteers):



- a. Has a written job description and policies or procedures for the position of peer coordinator.
- b. Provides adequate supervision for the peer coordinator based on written supervisory policies or procedures and holds them accountable for the performance of assigned duties and responsibilities.
- c. Has a written policy that requires a peer coordinator to participate in equivalent staff orientation, training and evaluation as paid staff.
- d. Maintains that any staff assigned to the supervision of a peer coordinator as a full-time function will not supervise more than 15 peer coordinators.
- e. Maintains that a peer coordinator will not oversee more than 10 volunteer advocates.
- f. Establishes a plan for managing cases assigned to the peer coordinator in the event that the peer coordinator leaves or becomes unavailable.

## **F. SUPERVISES AND EVALUATES STAFF.**

1. The CASA/GAL program provides adequate supervision for its staff and holds staff accountable for the performance of assigned duties and responsibilities.
2. Frequency of individual or group supervision is arranged on the basis of staff needs, the complexity and size of the workload and the staff's familiarity with assignments.
3. The CASA/GAL program supervisor holds regularly scheduled case conferences with staff who supervise volunteers to review progress on each case.
4. The CASA/GAL program develops and implements a system for the periodic evaluation of all staff.
5. At least once a year, the performance of each staff person is evaluated to review performance against established criteria, and the evaluation is documented and kept on file. The staff person actively participates in this process.
6. Staff evaluations include:
  - a. Assessment of job performance in relation to the quality and quantity of work defined in the job description and to the performance objectives established in the most recent evaluation.
  - b. Clearly stated objectives for future performance.
  - c. Opportunity for staff self-evaluation.
  - d. Recommendations for further training and skill building, if applicable.
7. Staff are given the opportunity to sign the evaluation report, to obtain a copy and to include written comments before the report is entered into the human resources record.
8. The CASA/GAL program's human resources policies and practices specify, in writing, the conditions for disciplinary action and termination of employment, including violations of CASA/GAL program policy and/or documented substandard performance. The CASA/GAL program's policies and procedures specify the person or persons with authority to implement disciplinary action(s) and/or terminate employment.
9. The CASA/GAL program has policies and procedures for termination of employment that are in compliance with applicable laws and regulations.

## **G. MAINTAINS HUMAN RESOURCES RECORDS.**

- 1.** Maintains a confidential file or record for each staff person that contains:
  - a. Identifying information and emergency contacts.
  - b. Recruiting and screening documents such as applications, resumes and educational verification.
  - c. Pay and compensation information.
  - d. Job description.
  - e. Training and/or professional development records.
  - f. Performance evaluations with signature page.
  - g. Disciplinary notices.
  - h. Termination of employment notices.
  - i. Letters of commendation or recommendation.
  - j. Time and attendance.
  
- 2.** Separately retains the following confidential information, as applicable:
  - a. Security/background/three unrelated reference checks.
  - b. Employment Eligibility Verification (I-9) forms.
  - c. Self-identified disability, veteran or other status records.
  - d. Medical/insurance forms and records.
  - e. Drug test results.
  - f. Child support/garnishments.
  - g. Requests for employment/payroll verification.
  - h. Workers' compensation claims.
  - i. Internal investigation notes and reports.
  - j. Litigation-related or legally privileged communications and documents.

## Section 1

# ORGANIZATIONAL LEADERSHIP



Executive Director Resource Manual  
2023 Edition



# 12 ATTRIBUTES OF GREAT NONPROFIT LEADERS

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Following are attributes to look for in a great nonprofit Executive Director/CEO. No one has all of these traits, but they are something to aspire to in nonprofit leadership.

1. **Self-Starter.** Great executive directors are goal driven and possess a high degree of motivation and energy. They are “doers.” They have a record of productivity.
2. **Passion for the Organization's Mission.** They are “driven” by the importance of the organization’s mission.
3. **Ability to Accept and Motivate Others.** They have the ability to attract and inspire others, including volunteer board members and staff. They are open to and accept many different types of people.
4. **They are “Servant Leaders”.** They are more concerned about what they can “give” to others rather than what they are going to “get” from the organization.
5. **Deals Well with Conflict.** They can handle adversity with grace. They do not take criticism personally. They keep a sense of perspective.
6. **Think Strategically, but Implement Tactically.** They see the big picture but are able to implement plans effectively in “bite-size morsels” to move the organization forward.
7. **Financial Acumen.** They understand finances. They know how to budget. They recognize both financial opportunities and threats.
8. **Fundraising Skills.** They have knowledge and experience in fundraising techniques, including major gift fundraising.
9. **Ability to listen.** They know how to actively receive input and listen to other viewpoints. They collaborate with others.
10. **Sound Judgment.** They have the ability to sift through alternatives, deliberate, and then arrive at a sound decision.
11. **Persistence.** They do not let obstacles stand in their way and can persevere through difficult times for the organization.
12. **Stamina.** They have physical and emotional stamina. They are able to tolerate long days and still function at an acceptable level.

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# SIX STEPS TO BUILDING TRUST IN THE WORKPLACE

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Trust is about reliability and doing the right thing. It's also a big factor that will determine success in your job and your career—especially in a rough business climate where your value as an employee is closely watched.

Do your colleagues, subordinates or superiors perceive you as trustworthy and honest? How do you perceive them? Trust is a characteristic that builds respect and loyalty, as well as a supportive and safe work environment. Distrust increases tension and negative “on guard” behavior, which can erode the spirit of the team and ultimately productivity.

Below are six steps to build trust in the workplace.

## 1. Be Honest

The first step in building trust is to be honest.

Tell the truth. Even small lies and twisted truths are still lies.

Share honest information, even if it's to your disadvantage.

Don't steal—on expense reports, from the supply cabinet or your colleagues.

## 2. Use Good Judgment

The second step is to know *what* information to share, *when* to share it and *when not* to share it.

- Protect employee's personal information and company or competitors' proprietary information as if it were your own.
- Think twice before sharing a blunt, unsolicited judgment. Extreme honesty may hurt the recipient, ironically destroying trust and the safe environment.
- Don't expect apologies to erase your wrongdoings. Apologies might earn a forgive, but perhaps not a forget.
- Avoid “just between us” secret conversations unless necessary to the benefit of the company.

## 3. Be Consistent

The third step is to be consistent in words and behaviors. It's not enough to be trustworthy only on Tuesdays and Thursdays.

- Show up—every day and on time—and stay at least the required hours.
- Do the work; meet or exceed the job description and company standards.
- Do what you say you will do. Fulfill your promises.

## 4. Be Honest in Nonverbal Communications

Body language experts tell us that more than half of communications' impact is in nonverbal communications. To increase trust through body language:

- Look others in the eye with comfortable and direct eye contact.
- Exhibit open body language with: 1) open arms versus closed across the chest or hands clasped together, 2) hands kept in sight (not behind you or in your pockets) and open (not in a fist), and 3) legs uncrossed with feet flat on the floor, while seated.

## 5. Have a Mutually Beneficial Attitude

Blatant self-serving agendas may cast doubt on one's trustworthiness. In reality, everyone has self-serving agendas, but it is the level of harm to others that determines the level of trust in that person. To increase trust:

- Avoid me, me, me. Genuinely care about others and promote we, we, we.
- Nurture mutually beneficial relationships with open communications.
- Willingly accept information and constructive critique.

## 6. For the Leaders

Trusted leaders are sorely needed. Leaders should be able to:

- Ask the hard questions to build and protect the company.
- Listen and consider others' ideas with an open mind.
- Focus on issues and solutions rather than personalities.
- Set the example, by being responsible and accountable.

[Pat Mayfield is the president of Pat Mayfield Consulting LLC, based in San Francisco and Pleasanton, California. She specializes in business solutions and results.]

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*Pat Mayfield Consulting, LLC*

*By Pat Mayfield, for Yahoo! HotJobs*

# THE FIVE BEST WAYS TO BUILD (AND LOSE) TRUST IN THE WORKPLACE

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Many experts agree that trust is perhaps the most important element of a harmonious, synergistic and efficient work environment. Organizations that have trust among employees are usually successful, those that don't frequently are not.

So, management often asks, "how can we build trust in the workforce, and how can we avoid losing it?" Well, it all starts at the very top, since trustfulness—and trustworthiness—can exist only if top management sets the example, and then builds that example into every department and unit.

I've found there are five excellent ways for leaders to build trust into their teams, and five quick ways to lose it. First let's consider how to **create** it.

1. **Establish and maintain integrity.** It is the foundation of trust in any organization. Integrity must begin at the top and then move down. This means, among other things, keeping promises and always telling the truth, no matter how difficult it might be. If its people have integrity, an organization can be believed.
2. **Communicate vision and values.** Communication is important, since it provides the artery for information and truth. By communicating the organization's vision, management defines where it's going. By communicating its values, the methods for getting there are established.
3. **Consider all employees as equal partners.** Trust is established when even the newest rookie, a part-timer, or the lowest paid employee feels important and part of the team. This begins with management not being aloof, as well as getting out and meeting the troops. This should be followed by leaders seeking opinions and ideas (and giving credit for them), knowing the names of employees and their families and treating one and all with genuine respect.
4. **Focus on shared, rather than personal goals.** When employees feel everyone is pulling together to accomplish a shared vision, rather than a series of personal agendas, trust results. This is the essence of teamwork. When a team really works, the players trust one another.
5. **Do what's right, regardless of personal risk.** We all know intuitively what's "right" in nearly every situation. Following this instinctive sense, and ignoring any personal consequences will nearly always create respect from those around us. From this respect will come trust.

All right, that's the positive. But what about the negative—the five fastest ways to **lose** trust from our co-workers.

1. **Act and speak inconsistently.** Nothing confuses people faster than inconsistency. And if confusion due to contradiction is the only constant, trust is sure to fall victim.
2. **Seek personal rather than shared gain.** One who is out only for him or her self, especially in a team environment, quickly loses the respect and trust of others.
3. **Withhold information.** When the communication channels shut down—both top-down and bottom-up—rumors start and misinformation is believed to be real. Then come denials. True information is often too late, or is never offered. Then trust falls apart.
4. **Lie or tell half-truths.** Untruthfulness is a quick way to break a bond of trust. People may accept it once, even twice, but as the old saying goes, "twice burned..."



- 5. Be closed-minded.** An unwillingness to consider other ideas and points of view, and/or to create an atmosphere of, "it's going to be my way or the highway..." will certainly cut-off communication and eventually shatter trust.

When we look at the truly successful organizations of both today and yesterday, we find their leaders fostered these five principles of creating trust. Consider the great military leaders of history (Augustus Caesar, Oliver Cromwell and George Washington), as well as the genuinely beloved political leaders (yes, there actually have been some: Joan of Arc, Peter the Great and Gandhi). And then there are the highly respected industrial leaders (Henry Ford, Lee Iacocca and Jack Welch). All of these great leaders built trust among their superiors, peers and subordinates, and it was this that spurred success and greatness for themselves, their units, alliances and companies.

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# PREPARING FOR THE INEVITABLE: A SUCCESSION READINESS CHECKLIST

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When the following conditions are in place, an agency can expect a relatively smooth transition to new leadership whenever it might occur. An agency might determine which elements below are lacking in its current operations and then create a “succession plan” or “capacity building plan” that prescribes activities and timelines for filling the gaps. The agency is then ready for leadership transitions, foreseen or unforeseen.

- A strategic plan is in place with goals and objectives for the near term (up to three years), including objectives for leadership talent development.
- The board evaluates the executive director annually on general performance and achievement of strategic goals.
- The board, based on its annual self-evaluation, is satisfactorily performing its major governance jobs—financial oversight, executive support and oversight, policy development and strategic planning.
- The executive’s direct reports, based on annual evaluations, are judged as solidly skilled for their positions.
- The top management cohort, as a high performing team:
  - Has a solid team culture in place in which members support one another and can reach decisions as a group efficiently and harmoniously;
  - Shares leadership of the organization with the executive in having significant input to all major agency decisions;
  - Can lead the organization in the absence of the executive; and
  - Has authority to make and carry out decisions within their respective areas of responsibility.
- Another staff person or board member shares important external relationships (major donors, funders, community leaders) maintained by the executive.
- A financial reserve is in place with a minimum of three months’ operating capital.
- Financial systems meet industry standards. Financial reports are up to date and provide the data needed by the board and senior managers responsible for the agency’s financial strength and viability.
- Operational manuals exist for key administrative systems and are easily accessible and up to date.
- Top program staff have documented their key activities in writing and have identified another staff person who can carry their duties in an emergency.

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*Succession Planning for Nonprofits*

# EXECUTIVE DIRECTOR EMERGENCY SUCCESSION PLAN (SAMPLE)

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Leadership plays an essential role in the success of a nonprofit organization. A change in Chief Executive Leadership is as inevitable as the passing of time.

The Board of Directors of (CASA Program) recognizes that this is a plan for contingencies due to the disability, death or departure of the Executive Director. If the organization is faced with the unlikely event of an untimely vacancy, (CASA Program) has in place the following emergency succession plan to facilitate the transition to both interim and longer-term leadership. This plan should also facilitate a planned exit and assist the board in developing appropriate strategies for recruitment. A planned exit for the Executive Director should ideally be a six—12 month period during which search and transition committees are formed and active.

The Board of (CASA Program) has reviewed the job description of the executive director. The job description is attached. The board has a clear understanding of the Executive Director’s role in organizational leadership, program development, program administration, operations, board of director’s relationships, financial operations, resource development, and community presence.

## SUCCESSION PLAN IN EVENT OF A TEMPORARY, UNPLANNED ABSENCE: SHORT-TERM

A temporary absence is one of less than three months in which it is expected that the Executive Director will return to his/her position once the events precipitating the absence are resolved. An unplanned absence is one that arises unexpectedly, in contrast to a planned leave, such as a vacation or a sabbatical. The Board of Directors is authorized (or authorizes the Executive Committee) of (CASA Program) to implement the terms of this emergency plan in the event of the unplanned absence of the Executive Director.

In the event of an unplanned absence of the Executive Director is to immediately inform the Board Chair (or highest ranking volunteer board member) of the absence. As soon as it is feasible, the Chair should convene a meeting of the Board or Executive Committee to affirm the procedures prescribed in this plan or to make modifications as the Committee deems appropriate.

At the time that this plan was approved, the position of Acting Executive Director would be:

Should the standing appointee to the position of Acting Executive Director be unable to serve, the first and second back-up appointees for the position of Acting Executive Director will be:

- (1)
- (2)

If this Acting Executive Director is new to his/her position and fairly inexperienced with this organization (less than three years), the Executive Committee of the Board of Directors may decide to appoint one of the back-up appointees to the acting executive position. The Executive Committee may also consider the option of splitting executive duties among the designated appointees.

## AUTHORITY AND COMPENSATION OF THE ACTING EXECUTIVE DIRECTOR

The person appointed as Acting Executive Director shall have the full authority for decision-making and independent action as the regular Executive Director.

The Acting Executive Director may be offered: (check one)

- A temporary salary increase to the entry-level salary of the executive director position
- A bonus of \$ \_\_\_\_\_ during the Acting Executive Director period
- No additional compensation.

## BOARD OVERSIGHT

The board member(s) responsible for monitoring the work of the Acting Executive Director shall be the Board Chair, taking care to be sensitive to the special support needs of the Acting Executive Director in this temporary leadership role. The Board Chair may assist the Acting Executive Director by accessing other non-profit managers locally to provide guidance and support.

## COMMUNICATIONS PLAN

Immediately upon transferring the responsibilities to the Acting Executive Director, the Board Chair (or his/her designee) will notify staff members, members of the Board of Directors and key volunteers of the delegation of authority.

As soon as possible after the Acting Executive Director has begun covering the unplanned absence, Board members and the Acting Executive Director shall communicate the temporary leadership structure to the following key external supporters of (CASA Program). This may include (but not be limited to) government contract officers, foundation program officers, civic leaders, major donors and others (please specify names and contact info):

- a. Judge of the Juvenile Dependency Court
- b. Presiding Judge for Monterey County Superior Court
- c. Director of Social Services
- d. Executive Director of (State) CASA Association
- e. National CASA Association

Chief Executive Officer: Michael Piraino—Phone:(800)628-3233 or (206)270-0072

Fax:(206)270-0078 100 West Harrison, North Tower Suite 500, Seattle, WA 98119

- f. Primary contacts for major funders:
- g. Other, specify:

## COMPLETION OF SHORT-TERM EMERGENCY SUCCESSION PERIOD

The decision about when the absent Executive Director returns to lead (CASA program) should be determined by the Executive Director and the Board Chair. They will decide upon a mutually

agreed upon schedule and start date. A reduced schedule for a set period of time can be allowed, by approval of the Board Chair, with the intention of working their way back up to a full-time commitment.

## SUCCESSION PLAN IN EVENT OF A TEMPORARY, UNPLANNED ABSENCE: LONG-TERM

A long-term absence is one that is expected to last more than three months. The procedures and conditions to be followed should be the same as for a short-term absence with one addition:

The Executive Committee of the Board of Directors will give immediate consideration, in consultation with the Acting Executive Director, to **temporarily** filling the management position left vacant by the Acting Executive Director. This is in recognition of the fact that for a term of more than three months, it may not be reasonable to expect the Acting Executive Director to carry the duties of both positions. The position description of a temporary manager would focus on covering the priority areas in which the Acting Executive Director needs assistance.

## COMPLETION OF LONG-TERM EMERGENCY SUCCESSION PERIOD

The decision about when the absent Executive Director returns to lead (CASA Program) should be determined by the Executive Director and the Board Chair. They will decide upon a mutually agreed upon schedule and start date. A reduced schedule for a set period of time can be allowed, by approval of the Board Chair, with the intention of working the way up to a full-time commitment.

## SUCCESSION PLAN IN EVENT OF A PERMANENT CHANGE IN EXECUTIVE DIRECTOR

A permanent change is one in which it is firmly determined that the Executive Director will not be returning to the position. The procedures and conditions should be the same as for a long-term temporary absence with one addition:

The Board of Directors will appoint a Transition and Search Committee within one week of notification to plan and carry out a transition to a new permanent executive director. The Board will also consider the need for outside consulting assistance depending on the circumstances of the transition and the board's capacity to plan and manage the transition and search. The Transition and Search Committee will also determine the need for an Interim Executive Director, and plan for the recruitment and selection of an Interim Executive Director and/or permanent Executive Director.

## CHECKLIST FOR ACCEPTANCE OF ALL TYPES OF EMERGENCY SUCCESSION PLANS

- **Succession plan approval:** This succession plan will be approved by the Executive Committee and forwarded to the full Board of Directors for its vote and approval. This plan should be reviewed annually.

- **Signatories:** The Board Chair, the Executive Director, and the Acting Executive Director shall sign this plan, and the appointees designated in this plan.
- **Organizational Charts:** Two organizational charts need to be prepared and attached to this plan. Prepare and attach an organizational chart reflecting staffing positions and lines of authority/reporting throughout the organization. Prepare and attach a second organizational chart that reflects how that structure will change within the context of an emergency/unplanned absence of the Executive Director.
- **Important Organizational Information:** Complete the attached *Information and Contact Inventory* and attach it to this document. Also attach a current list of the organization’s board of directors.
- **Copies:** Copies of this Emergency Succession Plan along with the corresponding documentation shall be maintained by The Board Chair, the Executive Director, the Acting Executive Director Appointee, and the organization’s attorney.

## INFORMATION AND CONTACT INVENTORY FOR (CASA PROGRAM)

Knowing where your organization’s key information is located is critical so that if an emergency succession should occur, your organization would be able to quickly continue work in the most efficient and effective way

### *Nonprofit.*

	Onsite Location	Offsite Location	Online URL
IRS Determination Letter			
IRS Form 1023			
Bylaws**			
Mission Statement**			
Board Minutes			
Corporate Seal			

## Financial Information

Employer Identification Number (EIN)  
#:

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	Onsite Location	Offsite Location	Online URL
Form 990s**			
Current and previous audited financial statements**			
Financial Statements (if not part of the computer system and regularly backed-up)			
State or District Sales-Tax Exemption Certificate			
Blank Checks			
Computer passwords**			
Donor Records			
Client Records			
Vendor Records			
Volunteer Records*			

*\*Note: Nonprofits that are heavily volunteer-based may need to know the following information about their volunteers who they are, how to contact them (home/work phone, email, cell, etc.), where they live/work, expertise, special skills, or any information related to their usefulness or willingness to help the agency (for example, volunteer Jane Doe can walk to our satellite office, lift heavy boxes and knows CPR).*

*\*\*Note: Reference information can also be found in the Executive Director's office in a binder labeled "Office References".*

**Auditor**

Name: \_\_\_\_\_  
Phone Number: \_\_\_\_\_  
Email: \_\_\_\_\_

**Bank**

Name(s): \_\_\_\_\_  
Account Numbers: \_\_\_\_\_  
Branch Representative(s): \_\_\_\_\_  
Phone Number: \_\_\_\_\_  
Fax: Email: \_\_\_\_\_

**Investments**

Financial Planner/  
Broker Company: \_\_\_\_\_  
Representative Name: \_\_\_\_\_  
Phone Number: \_\_\_\_\_  
Email: \_\_\_\_\_

Who is authorized to make transfers? \_\_\_\_\_  
Who is authorized to make wire transfers? \_\_\_\_\_  
Are there alternatives? \_\_\_\_\_  
Who are the authorized check signers? \_\_\_\_\_  
Is there an office safe? \_\_\_\_\_  
Who has the combination/keys? \_\_\_\_\_



### ***Legal Counsel/Attorney***

Name:

Phone Number:

E-mail:

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### ***Human Resources Information***

Employee Records/Personnel Info\*

I-9s

Onsite Location	Offsite Location	Online URL

\*Names, home addresses, phone numbers, email, emergency contacts, etc.

### ***Payroll***

Company Name:

DONE IN HOUSE USING QUICKBOOKS

Account Number:

Payroll Rep:

Phone Number:

Email:

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### ***Facilities Information***

Office Lease (for renters)

Deed (for owners)

Main Office:	Remote Office:

## ***Building Management***

Company Name:

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Contact Name:

---

Phone Number/Email:

---

Office Security System\*\*

---

Company Name:

---

Account Number:

---

Representative Phone Number:

---

Representative Email:

---

Broker Phone Number/Email:

---

*\*\*Note: Reference information can be found in the Executive Director's office in a binder labeled "Office References".*

## Insurance Information

### General Liability / Commercial Umbrella Company/Underwriter:

Policy Number:

Representative Phone Number:

Representative Email:

Broker Phone Number:

Broker Email:

### Directors & Officers Liability

Company/Underwriter:

Policy Number:

Representative Phone Number:

Representative Email:

Broker Phone Number:

Broker Email:

### Disability Insurance (long-term)

Company/Underwriter:

Policy Number:

Representative Phone Number:

Representative Email:

Broker Phone Number:

Broker Email:

### Dental

Company/Underwriter:

Policy Number:

Representative Phone Number:

Representative Email:

Broker Phone Number:

Broker Email:

### Health Insurance

Company/Underwriter:

Policy Number:

Representative Phone Number:

Representative Email:

Broker Phone Number:

Broker Email:

### Unemployment Insurance

Company/Underwriter:

Policy Number:

Representative Phone Number:

Representative Email:

Broker Phone Number:

Broker Email:

## Workers' Compensation

Company/Underwriter: \_\_\_\_\_

Policy Number: \_\_\_\_\_

Representative Phone Number: \_\_\_\_\_

Representative Email: \_\_\_\_\_

Broker Phone Number: \_\_\_\_\_

Broker Email: \_\_\_\_\_

Date of Completion for Information and Contact Inventory: \_\_\_\_\_

Name of Person Completing Document: \_\_\_\_\_

The Emergency Succession Plan and the supporting documents (the information and contact inventory, job descriptions, and organizational charts) should be reviewed and updated annually.

## SIGNATURES OF APPROVAL

\_\_\_\_\_  
CASA Program name):

\_\_\_\_\_  
Board Chair

\_\_\_\_\_  
Individual Selected as Acting Executive Director

\_\_\_\_\_  
Executive Director

\_\_\_\_\_  
Acting Executive Director's Current Title  
Date

*We acknowledge the leadership of Transition Guides (notably Tom Adams and Don Tebbe, as well as plan guidance from Karen Gaskins Jones, and Victor Cheers) in guiding The Center for Nonprofit Advancement in grasping the impact of Succession Planning and Executive Transitions. Additional thanks to Troy Chapman of the Support Center for Nonprofit Management of New York City, Tim Wolfred of CompassPoint Nonprofit Services for their guidance on the development of this document. The Information and Contact Inventory document is adapted by permission from the Nonprofit Coordinating Committee of New York City.*

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*Author: CASA of Monterrey County*

# THE NON-PROFIT ORGANIZATION SELF-EVALUATION CHECKLIST

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## INTRODUCTION

The checklist below is meant to provide a quick overview of the health of your major organizational systems. It does not produce an organizational evaluation and will not let you know if your services are effective or efficient. It will, however, let you know if you have the systems in place that are necessary to operate effectively and efficiently.

## BOARD OF DIRECTORS

- The Board of Directors is elected by a membership that represents the community that the organization serves.
- The Board of Directors is elected by a membership that represents the people who use or benefit from the programs and services of the organization.
- New Board members are given an information package on assuming their position that includes:
  - Board minutes from the previous two years
  - Financial statements from the previous two years
  - Annual and Auditor's Reports for the previous two years
  - A copy of the Constitution and By-Laws
  - An organization chart
  - Summaries of all programs/services
  - Copies of any program/service evaluations from the previous two years
  - A list of key staff and their positions
  - Brief biographies of all Board Members.
- New Board members are given an orientation to the organization within their first month on the Board.
- Board job descriptions covering all Board positions are provided to all Board members.
- The Board meets at least quarterly.
- Written agendas are sent out before meetings.
- Minutes are sent out shortly after Board meetings.
- The Board sets annual goals for its own work.
- The Board evaluates its performance annually.
- The Board evaluates the C.E.O. annually.
- The Board has a process for handling emergencies between meetings.

## POLICY MANAGEMENT

- The organization has a Values Statement that is reviewed regularly.
- The Mission Statement is reviewed by the Board at least every two years.
- The Constitution and By-Laws are reviewed by the Board at least every three years.
- In addition to the standard sections, the By-Laws have policies covering Board member conflict of interest, Board members who apply for jobs with the organization, Board member absenteeism, and Board member liability.
- The Board sets annual goals for the organization.
- The organization has a Strategic Plan that is reviewed regularly.
- Every program/service that the organization provides has a set of measurable objectives/outcomes that are approved by the Board or its delegate committee.
- The Board controls signing authority

## FINANCIAL MANAGEMENT

- The organization has a realistic annual budget and a plan for achieving it.
- Financial statements are presented to the Board at least quarterly.
- Financial statements provide comparative information for the previous year and for the current budget.
- The Board Treasurer is skilled at financial analysis.
- The organization has unrestricted operating reserves to cover a minimum of three months' operating costs.
- The cost of fund raising does not exceed 25% of funds raised.
- At least 75% of all expenses are directed to the Charitable Objects of the organization.
- The organization has an annual independent audit.

## RISK MANAGEMENT

- Limits are put on over-spending without Board approval.
- All staff/volunteers who are in regular contact with vulnerable people or who are in a position of authority over vulnerable people are screened by police.
- The organization carries Directors and Officers liability insurance.
- The organization carries a minimum of \$2 million liability insurance.
- The organization has, regularly educates its staff and volunteers on, and enforces policies on discrimination and harassment.
- The organization has, and enforces policies on, confidentiality where appropriate.
- The organization has policies on the use of office equipment.
- The organization makes all mandatory government filings and payments on time.

- Fund raising activities follow the ethical guidelines set out by the Canadian Society of Fund Raising Executives and/or the Canadian Centre for Philanthropy.
- Independent contractors meet all the requirements of the Canada Revenue and Customs Agency for independent contractors.

## HUMAN RESOURCES MANAGEMENT

- Staff are hired on a competitive basis through a formal process.
- The organization has a written personnel policy.
- The personnel policy is provided to all staff.
- The organization has a written volunteer policy.
- The volunteer policy is provided to all volunteers.
- Every staff person and volunteer has an up-to-date job description.
- Staff/volunteers are provided with a comprehensive orientation to the organization within one week of arriving.
- Staff/volunteers are evaluated annually.
- Evaluations are growth oriented.
- Staff/volunteers are provided with opportunities to upgrade their skills.
- Staff/volunteers are provided opportunities for promotion and/or change in assignment.
- The organization recognizes staff and volunteer achievement.
- Administrative staff turnover is under 15% annually.
- Program staff turnover is under 15% annually.

## PROGRAM/SERVICE DELIVERY

- Programs/services are delivered to meet identified needs.
- Goals that cover output and outcome are set for every program/service.
- Individuals from all levels of the organization participate in planning processes.
- Service users are involved in program planning.
- Programs are physically accessible.
- Programs are culturally accessible.
- Programs are linguistically accessible.
- Programs are provided by staff and volunteers with appropriate training and expertise.
- Eligible human service users are not denied service because of an inability to pay.
- The organization communicates regularly with its stakeholders.



## EVALUATION

- Every program/service is evaluated against its output and outcome goals annually.
- Program and administrative evaluations are compiled and published annually.
- The results of all evaluations are used in annual planning.
- Service users are involved in evaluations.

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*Author: Ernie Ginsler*

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## Section 2

# MANAGING EMPLOYEES: HIRING





# JOB ANALYSIS & JOB DESCRIPTION—KEY TOOLS IN THE EMPLOYMENT PROCESS

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The employees you hire are absolutely critical to your company’s success. With so much at stake, it is important to develop a job analysis and job description for each position in your company to ensure you are hiring and retaining the best possible people.

## JOB ANALYSIS

The job analysis covers such key areas as the purpose or reason the job exists, job location or setting, and qualifications in terms of skills and knowledge necessary to complete the tasks. Once you have completed your job analysis, you are ready to develop your job description, which outlines a position’s responsibilities and requirements.

## JOB DESCRIPTION

A well-developed job description will be a key resource to help you review employee performance, select employees, develop recruitment advertising, and make sure your compensation is competitive so you can attract the best talent. Be sure in developing your analysis and description that you have adhered to all federal equal employment opportunity laws and applicable state discrimination laws. If you have any questions, please consult an employment law attorney who knows your state laws.

The following are benefits associated with developing the job analysis and job description:

- Providing essential job-related information necessary to making decisions on whether to hire additional staff.
- Providing an opportunity to clearly communicate a job’s responsibilities and functions to employees and management.
- Sharpening the focus on job functions, responsibilities and skills needed to meet the company’s business goals.
- Playing a key role in performance reviews.
- Helping evaluate compensation levels based on job requirements.
- Establishing standards and requirements necessary to the selection process.
- Identifying job functions that will require additional training.
- Identifying health and safety risks and working conditions that may require special training.

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# WANT TO KNOW ABOUT JOB ANALYSIS—AND WHAT IT DOES FOR YOU?

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A job analysis is a process used to collect information about the duties, responsibilities, necessary skills, outcomes, and work environment of a particular job. You need as much data as possible to put together a job description, which is the frequent result of the job analysis.

If you miss critical information, you could end up not paying an employee correctly or hiring someone who lacks an essential skill needed for performing the job.

The job analysis is useful in providing an overview of the fundamental requirements of any position.

Additional outcomes of a job analysis include making employee recruiting and hiring plans, position postings and advertisements, and performance development planning within your performance management system. The job analysis is a handy tool that you can use to populate any of these processes for employment success.

## HOW TO DO A JOB ANALYSIS

Certain activities will help you create a successful job analysis. The job analysis may include the following activities:

- **Reviewing the job responsibilities of current employees.** It is critical that you ask the actual employees who are doing the job what they do every day on the job. Frequently, HR and management (especially senior management) have no idea what the day to day functions of any job are. They may see the output but they have no idea what work actions and behaviors go into producing it.

If you're asked to list your current responsibilities for a job analysis, be thorough. Don't just say "produce monthly reports." Say, "gather the data from six different departments, check the data for accuracy using a custom designed Access tool that I created and maintain, and etc, etc, etc." If you leave off the details, they may think that your report is generated by a button that you push once a month to produce.

Make certain that you have described your daily duties in sufficient detail so that your organization is able to hire a qualified new employee who has the capacity to do the job.

- **Doing Internet research and viewing sample job descriptions online or offline highlighting similar jobs.** While you never want to copy another company's job description, looking at several is helpful in writing your own job descriptions.

You can find sample job descriptions by searching for "[Job Title] Sample Description" or you can look at job postings for positions companies are currently hiring. You can also look at LinkedIn to see how people describe their accomplishments in a job.

You can also see the job descriptions that are listed on such sites as Salary.com. All of this searching can help you figure out how to word the job analysis and help remind you of tasks and responsibilities that you may have forgotten.

- **Analyzing the work duties, tasks, and responsibilities that the employee filling the position needs to accomplish.** Not every job within a company is optimized. You may find duties that are undone or projects that you should move from one department to another.

When you're doing a job analysis, make sure you look at the needs of the company and at any unassigned or illogical responsibility. Then, work with management to add the proper tasks to the proper job analysis.

- **Researching and sharing with other companies that have similar jobs.** Sometimes companies will happily share information about their job descriptions. There are also salary survey companies, where you can match up your jobs to their descriptions and share salary information. But, they can also help you figure out what to include in your own job descriptions.
- **Articulate the most important outcomes or contributions needed from the position.** Sometimes you get so caught up in the tasks that you forgot to look at the needed outcomes. For instance, if it's the report that is needed, all the gathering and auditing of data is worthless without the final analysis and report.

Sometimes, you can identify holes in your organization and figure out a way to fill them by doing job analyses.

The more information you can gather, the easier you will find the actual writing of the job description. You don't need to worry about pretty language. You want a functional job description more than anything else. Make sure it is clear and concise. Ask yourself, "If somebody else read this, would they know what the person in this position actually does?"

Don't put off writing job descriptions. You will find them invaluable when you look at salary and compensation when hiring and promoting, and when evaluating whether or not a job meets the qualifications for exemption from overtime.

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*Author: Susan M. Heathfield*

*Updated February 01, 2017*

*The Balance, About, Inc.*

# THE JOB DESCRIPTION

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A well-written job description is vitally important to making sure your employees understand a job's responsibilities and requirements. It is also a key resource to help you review employee performance, hire employees, develop recruitment advertising and make sure your compensation is competitive so you can attract the best talent.

When developing your job description, be sure to comply with disability nondiscrimination laws such as the Americans with Disabilities Act. Compliance guidance is available from the Office of Disability Employment Policy and the Job Accommodation Network (JAN). For more information on recruiting and hiring people with disabilities, please see the U.S. Department of Labor's page on Hiring People with Disabilities.

The following are a number of the major components of a good job description:

## JOB SUMMARY OVERVIEW

A summary statement is a brief outline of a job's purpose and goals and should be about three or four sentences. The job description details, such as tasks and experience, will be covered in the remaining parts of the job description.

## GENERAL INFORMATION

Job title and classification?the job title should be concise (e.g., Senior C# Developer). Be sure to indicate whether the job is exempt or nonexempt under the Fair Labor Standards Act.

## WORKSITE LOCATION

Management/reporting responsibilities—identify this position in terms of direct reports and position in the company organization chart

## TASKS

- Identify no more than 10 tasks (for example, managing accounts payable, managing payroll administration). Be as concise as possible--try to keep the task descriptions to one line each. Be sure to also include a basic statement that communicates other responsibilities that may be required within the scope of this position.
- Your tasks should be organized in a logical manner. Begin each task description with an action verb such as develop, organize or coordinate.
- When describing each task, include the purpose of the task when possible. For example: ?Update marketing database to assure all client information is current?.

## SKILLS

- Identify the skills, expertise, and knowledge base necessary to perform each task listed in the job description.



- Describe any special skills that require additional training, certification, etc.

## EXPERIENCE

- Identify relevant past experience required.
- Include any special professional certifications that may be required.
- Include any special education requirements.
- Work Conditions
- Work hours
- Travel requirements
- Unusual environmental conditions
- Compensation
- Pay range and benefits information
- Bonuses and any other incentives

## COMPANY DESCRIPTION

When using the job description for recruiting purposes, it's important to include a description of the company as well. Remember, you are selling the candidates on working for your company--so it is important to make a great first impression.

## DISCLAIMERS

A disclaimer can be typically placed at the end of the job description to provide flexibility in adding or changing job responsibilities. The following is an example of a disclaimer: "This job description may be changed to include new responsibilities and tasks or change existing ones as management deems necessary."

## REVIEW JOB DESCRIPTIONS REGULARLY

It's a good idea to review job descriptions on a regular basis as tasks and requirements may change. In addition, you want to make sure you have realistic expectations about the jobs being performed.

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# THE JOB DESCRIPTION WORKSHEET

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Job Title: \_\_\_\_\_ Department: \_\_\_\_\_

List job duties (Examples: answering phones, application development, lifting 20-lb. boxes).

Duty	% Of Time Spent On Duty	Frequency of Duty			Is Duty an Essential Function?	
		Regularly	Periodically	Rarely	Yes	No

3. Required skills or knowledge:

4. Required education:

5. Why is the identified education required?

6. Required licenses or permits:

## WORKING CONDITIONS:

<input type="checkbox"/>	Seated
<input type="checkbox"/>	Stooping
<input type="checkbox"/>	Climbing
<input type="checkbox"/>	Ladders
<input type="checkbox"/>	Repetitive motion
<input type="checkbox"/>	Lifting (how much _____ and how often _____)
<input type="checkbox"/>	Reaching
<input type="checkbox"/>	Workplace chemicals
<input type="checkbox"/>	Heat
<input type="checkbox"/>	Cold
<input type="checkbox"/>	Outside work
<input type="checkbox"/>	Travel
<input type="checkbox"/>	Other (explain):

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# HOW TO DEVELOP A JOB DESCRIPTION

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## JOB DESCRIPTIONS PROVIDE CLEAR DIRECTION AND LEGAL PROTECTION

Develop job descriptions to help you articulate the most important outcomes you need from an employee performing a particular job. Job descriptions are a communication tool to tell coworkers where their job leaves off and the job of another employee starts.

They tell an employee where their job fits within the overall department and the overall company. They help employees from other departments, who must work with the person hired, understand the boundaries of the person's responsibilities.

Finally, job descriptions are an integral piece of the performance development planning process.

Your goal in hiring is to find the brightest, most competent, flexible, reliable, multifaceted employees you can find. A job description, if not viewed as a straightjacket, helps your successful recruiting in several ways. A job description:

- causes the manager of the position and any other employees already performing the job to agree on the responsibilities and scope of the position,
- helps Human Resources know the knowledge, skills, education, experience, and capabilities you seek in your new employee, so an effective recruiting plan is formulated,
- informs candidates about the duties and responsibilities of the position for which they are applying,
- informs employees who are assisting with the interview process about the questions to ask candidates and what you seek in the new employee, and
- may protect you legally when you can demonstrate why the candidate selected for a position was your most qualified and culturally suited applicant.

## STEPS IN DEVELOPING JOB DESCRIPTIONS

Use these steps to develop your job descriptions.

- **Gather the appropriate people for the task.** The manager to whom the position will report takes the lead in developing a job description, but other employees who are performing similar jobs can contribute to its development, too. Additionally, if the position is new and will relieve current employees of workload, they should be part of the discussion. A first position? The manager or company owner can develop the job description on his or her own.
- **Perform a job analysis.** You need as much data as possible to develop a job description. The job analysis may include:
  - the job responsibilities of current employees,
  - Internet research and sample job descriptions online or offline highlighting similar jobs,
  - an analysis of the work duties, tasks, and responsibilities that need to be accomplished by the employee filling the position,

- research and sharing with other companies that have similar jobs, and
- articulation of the most important outcomes or contributions needed from the position.

The more information you can gather, the easier the actual task of developing the job description will be.

- **Write the job description.** Your company may have a format for job descriptions so check with Human Resources. Often, however, all HR expects is a list of the responsibilities and they prefer to develop the final format congruent with other job descriptions across the company.

These are the normal components of the job description:

- Overall position description with general areas of responsibility listed,
- Essential functions of the job described with a couple of examples of each,
- Required knowledge, skills, and abilities,
- Required education and experience,
- A description of the physical demands, and
- A description of the work environment.

Your company and your process may vary, but these components give the employee clear direction.

- Review the job description periodically to make sure it accurately reflects what the employee is doing and your expectations of results from the employee.
- Use the job description as a basis for the employee development plan (PDP) An employee's job description is integral in the development of his or her quarterly employee development plan.

An effective job description establishes a base so that an employee can clearly understand what they need to develop personally, and contribute to your organization. Develop job descriptions to provide employees with a compass and clear direction.

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*Author: Susan M. Heathfield*

*Updated July 24, 2016*

*The Balance, About, Inc.*

# DISCRIMINATION AND WHAT YOU SHOULD KNOW

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Federal law as well as the law of most states prohibits discrimination based upon race, sex (including certain protections for lesbian, gay, bisexual, and transgender (LGBT) individuals), religion, color, gender, national origin, age, disability or genetic information. In some states and in some specific cities, discrimination based upon other factors (such as marital status) is also prohibited.

As a general rule, information obtained and requested through the pre-employment process should be limited to that which is essential for determining if a person is qualified for the job; whereas, information regarding race, sex, national origin, age, and religion are irrelevant in such determinations. The general assumption is that if an employer makes an inquiry regarding one of these factors, the employer intends to use that information--and making an employment decision based upon such criteria is unlawful. Therefore, questions which may indicate the applicant's race, sex, national origin, disability status, age, religion, color or ancestry should generally be avoided.

## RACE AND ETHNICITY

Applicants should not be asked questions regarding their race or ethnic background during the interview.

## GENDER

Generally, there are no appropriate questions based on the applicant's gender during the interview process. The only exception to this rule is that gender can be a bona fide occupational qualification (BFOQ) when the position justifies hiring a candidate of a specific gender (for example: hiring a female actress to portray a woman in a play). Some specific areas of discrimination include:

- It is against the law to reject a female candidate because she is pregnant, or planning to have a child at some future date.
- Avoid all questions regarding marital status, number of children, child care arrangements, etc.
- Questions as to availability to work should be exclusively related to the following: What hours can you work? What shift(s) can you work? Can you work on weekends and/or holidays?

## AGE

The Age Discrimination in Employment Act of 1967 bars discrimination against persons age 40 or over. Be careful to avoid running any advertising that is age-biased, such as "We need a young, energetic person," or any question during the interview process that deters employment because of age.

## CITIZENSHIP / NATIONAL ORIGIN

Applicants are protected from discrimination based on their national origin. Questions related to an applicant's national origin, such as their birthplace, ancestry, or origin of name, should be avoided. So you should not ask an applicant where he/she was born, or where his/her parents were born.

Before the offer, the only discussion about citizenship status that may lawfully occur is whether the applicant is currently eligible to work in the United States. This question should be asked for all candidates. Following the offer stage, the successful applicant will be required to submit documentation of eligibility to complete the I-9 form requirements.

## ARREST OR CONVICTION RECORDS

The Equal Employment Opportunity Commission and many states limit the use of arrest records in making employment decisions. Be sure to check with your state laws on this issue. This is a particularly sensitive area of questioning and it is prudent to check with an attorney who knows your state laws, as well as with your state department of labor regarding if and how to formulate these questions.

## FINANCIAL STATUS

An interviewer should not ask if an applicant owns or rents a home or car, or if wages have been previously garnished, unless financial considerations for the job in question exist. Any employer who relies on consumer credit reports in its employment process must comply with the Fair Credit Reporting Act of 1970 and the Consumer Credit Reporting Reform Act of 1996.

**CAUTION:** Many states have laws which prohibit or limit an employer's use of consumer credit reports (or criminal records checks) and/or prohibit discrimination based on credit or criminal history information. Be sure to check the applicable laws in your state and consult with an employment law attorney who knows your state laws to ensure full compliance.

## DISABILITY

The Americans with Disabilities Act (ADA) prohibits employment discrimination against qualified individuals with disabilities, as well as persons who have a record of disability or are perceived as disabled. The protection extends to all aspects of the hiring process and all other employment-related activities.

You should not ask whether or not the applicant has a disability. You may only ask whether or not the applicant can perform the essential functions of the job in question with or without a reasonable accommodation. If such a question is asked of one applicant, it should be asked of all.

## MARITAL AND FAMILY STATUS

Questions that could elicit personal information about applicants' marital status or childcare arrangements should be avoided. Employers can ask if applicants are able to work the hours required by the job, or undertake job-related travel, as well as about the duration of any anticipated absences. All applicants should be treated equally.

## MILITARY RECORD

Avoid questions such as what type of discharge the applicant received from military service. Applicants should be asked questions about their military experience, qualifications, or training only if

these things relate to the actual requirements of the position, and if such questions are asked, should be asked of all applicants.

## **RELIGION**

Applicants are protected from discrimination based on religious denomination, beliefs, customs, or religious holidays observed. Questions related to religious information should be avoided.

## **SICK LEAVE / MEDICAL CONDITIONS**

Avoid questions related to how many days a candidate was sick or other questions involving medical conditions.

## **WORKERS' COMPENSATION**

Questions that request information about an applicant's workers' compensation history should be avoided.

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# AUTHORIZATION FOR PRIOR EMPLOYER TO RELEASE INFORMATION

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(Please read the following statements, sign below, and return to the Human Resources office.)

I, \_\_\_\_\_, hereby authorize my prior employer, \_\_\_\_\_, to release any and all information relating to my employment with them to \_\_\_\_\_ (your company's name). I further release and hold harmless both \_\_\_\_\_ and \_\_\_\_\_ (your company's name) from any and all liability that may potentially result from the release and/or use of such information. I understand that any information released by my prior employer will be held in strictest confidence, that it will be viewed only by those involved in the hiring decision, and that neither I nor anyone else not so involved will have the right to see the information.

\_\_\_\_\_  
Signature of Employee

\_\_\_\_\_  
Date

\_\_\_\_\_  
Employee's Name—Printed

[Note to employer—omit this before printing the form: Have the applicant fill out one of these forms for each prior employer from which you intend to seek job reference information. Using the form will make it much more likely that the prior employer will feel at liberty to release the information you request, or at least more than the usual work dates and salary confirmation that are of limited value in the hiring decision. Also keep in mind that if anyone refuses to sign such an authorization, your company would have the legal right to refuse to consider that person any further for hiring.]

[http://www.twc.state.tx.us/news/efte/authorization\\_to\\_release\\_information.html](http://www.twc.state.tx.us/news/efte/authorization_to_release_information.html)

# HIRING ISSUES IN UNEMPLOYMENT CLAIMS

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Job applications and interviews on the one hand, unemployment claims on the other—what could be further apart? One related to hiring, the other to firing—how could they be related? They *are* related, more closely than most employers realize! What an employer does during the hiring process very often affects what can happen in a subsequent unemployment claim.

Following is a list of the most common problems related to the hiring process that manifest themselves in unemployment claims. How such claims turn out definitely depends upon the individual circumstances. Consider the following situations explained in detail below:

- **Falsification:** the claimant falsified the job application or lied during the interview
- **Concealment:** the claimant concealed important information during the hiring process
- **Misrepresentation:** the claimant misrepresented his or her qualifications during the hiring process
- **Drug test:** the employer hired the claimant before the results of a pre-employment drug screen came in, then fired the claimant for a positive result
- **Background check:** the employer hired the claimant before the results of a background check came in, then fired the claimant based upon an unfavorable credit or criminal history report
- **Reference check:** the employer hired the claimant prior to checking references, then fired the claimant after receiving an unfavorable reference from a prior employer

# SIGNIFICANT DIFFERENCES BETWEEN EMPLOYEES AND INDEPENDENT CONTRACTORS IN FIELDS RELATING TO CONSULTATION SERVICES

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## EMPLOYER/EMPLOYEE

1. Worker asserts he or she is an employee or seems unsure about such status
2. Worker has no DBA, does not own his or her own company, has no client base, and/or has no business cards or independent advertising
3. Worker performs services on an ongoing basis for the alleged employer
4. Worker's services are directly integrated into the primary service supplied by the employer
5. Pay is by hourly wage or salary, rather than by the job
6. Pay is unilaterally set by the alleged employer
7. Alleged employer supervises the worker in the details of the projects or assignments
8. Alleged employer provides the facilities, tools, equipment, and/or supplies for the work
9. Alleged employer provides office space and clerical help to the worker at no cost
10. Worker uses a company e-mail address
11. Worker requires training and periodic supervision
12. Worker is subject to routine quality control checks
13. Worker is required to furnish regular reports to the alleged employer
14. Worker has no right to engage assistants to help him or her perform the contract services, or if the worker hires assistants, the alleged employer pays their wages
15. Alleged employer reimburses the worker for expenses associated with the job
16. Worker is covered by all or part of the alleged employer's benefits plan and liability insurance
17. Worker does not determine the hours or the details of the work

## INDEPENDENT CONTRACTOR

1. Contractor asserts he or she is self-employed, has at least a DBA or some kind of corporate entity, and generally maintains his or her own client list or customer base
2. Contractor is usually hired locally where the alleged employer performs the overall project
3. Contractor performs a service the alleged employer is not qualified or able to supply
4. Work is generally performed at client's site and/or contractor's office/home
5. Tools and equipment are furnished by contractor or client
6. Supplies are furnished by contractor without reimbursement from alleged employer

7. Contractor is highly skilled and requires no training or supervision
8. Alleged employer and client are interested only in the outcome of the work, not in the details of how the work is done
9. Contractor has some voice in determining the hours of performing the work
10. Work is not on a continuous basis, but rather on a job-to-job basis
11. Pay is generally by the job and is negotiated with the contractor
12. Contractor invoices the alleged employer, which in turn pays the contractor's company or DBA
13. Contractor does not have an e-mail address under employer's e-mail domain name
14. Contractor has the right to hire assistants and to pay them out of his or her own pocket
15. Contractor is not reimbursed by the alleged employer for expenses
16. Contractor is not covered by the alleged employer's benefit plan
17. Contractor maintains his or her own errors and omissions liability insurance
18. Contractor is not required by the alleged employer to submit performance, cost, or progress reports other than invoices or perhaps work or progress reports verified and signed by the employer's clients

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# INDEPENDENT CONTRACTORS

Nonprofits that have employees are required to report all wages and pay all taxes properly for their employees. Failure to do so results in severe consequences including back taxes, interest, penalties, overtime. If the employer thinks individuals are independent contractors, but the taxing authorities determine they are in fact employees, the result can be significant employer liability for employment taxes, overtime, and other liabilities. Therefore, it is important to correctly identify which workers are employees and which are independent contractors.

There is no simple rule to determine whether a worker is an employee or independent contractor. Different laws such as FLSA, IRS, and state unemployment & worker compensation laws use different factors. All of the circumstances of the relationship should be examined. The chart below identifies many of the factors that should be considered.

The burden is on the employer to prove that a worker is an independent contractor. An employer may utilize IRS Form SS-8 and IRS Publication 15-A for more information. If an employer still has a question as to whether a worker is an employee, seek the advice of a qualified attorney.

Factor	Employee	Independent Contractor
Control of Work	Employer controls details of the work	Worker controls details of the work
Type of Business	Worker is not engaged in business distinct from employer’s business	Worker operates in business that is distinct from employer’s business
Supervision	Employer supervises worker	Work is done without supervision
Skills to Perform	Skills need not be high or unique	Skills are specialized, unique, or require substantial training
Tools	Employer provides equipment or tools	Worker provides equipment or tools
Location	Employer provides location of workplace	Worker works at a site other than the employer’s workplace
Length of Relationship	Worker is employed for extended, continuous period	Worker is employed for specific project or for limited time

Factor	Employee	Independent Contractor
Method of Payment	Worker is paid an hourly wage or yearly salary	Worker is paid by the project
Function	Work is part of employer's regular business	Work is not part of employer's regular business
Intent	Employer and worker intend to create an employer- employee relationship	Employer and worker do not intend to create an employer-employee relationship
Employment By Others	Worker provides services to only one employer	Worker provides services to more than one employer
Investment in Facilities	Worker has no investment in the facilities and equipment used by the worker	Worker has a substantial investment in the facilities and equipment used by the worker
Risk	Worker does not have the opportunity to make a profit or incur a loss	Worker has the opportunity to make a profit or incur a loss

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*Employment Law Issues: A Guide for Nonprofits in Texas*

# FLSA COVERAGE

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The Fair Labor Standards Act--provides two different ways for coverage to apply:

1. **Individual coverage**--an individual whose work affects interstate commerce is covered as an individual--"interstate commerce" is defined so broadly that practically anything fits, such as ordering, loading, or using supplies from out of state, accepting payments from customers based on credit cards issued by out-of-state banks, and so on
2. **Enterprise coverage**--for most businesses, enterprise coverage applies if the business is involved in interstate commerce and the gross annual business volume is at least \$500,000--in that case, all employees working for the business are covered.
  - a. Coverage is automatic for schools, hospitals, nursing homes, or other residential care facilities.
  - b. Coverage is also automatic for all governmental entities at whatever level of government, no matter how big or small.
  - c. Coverage does not apply to certain entities that are not organized for a business purpose, such as churches and eleemosynary institutions

# EASY MISTAKES THAT ARE EASY TO AVOID

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It is obvious to any employer who has dealt with unemployment claims that such claims are hard to defend against, mainly due to the fact that the law itself is meant to help ex-employees, not employers. Strange, then, that some employers make mistakes before or after claims are filed that make the claims even harder to win. Presented here are the most frequent avoidable mistakes.

## *Prior to Claim*

- Terminating an employee in the heat of the moment
- Failing to discuss the problem with the employee prior to termination
- Terminating an employee without reasonable warning
- Ignoring company procedures or prior warnings
- Taking no action when employees complain

## *Post-claim*

- Missing a claim response or appeal deadline
- Assuming that if TWC does not re-contact the company, the claim has been dismissed or denied
- Changing the explanation for the work separation
- Failing to prove the case against the claimant
- Failing to present firsthand testimony from eyewitnesses

## **PRIOR TO THE CLAIM—MISTAKES MADE BEFORE A CLAIM IS FILED**

### *Terminating an employee in the heat of the moment*

Despite the employment at will doctrine in Texas, an otherwise legal discharge will not necessarily be without a price. A discharged employee can always file an unemployment claim. In that case, it will be up to the employer to prove that the discharge resulted from a specific act of misconduct connected with the work and that the claimant either knew or should have known he could lose his job for such a reason. The mistake usually happens when the employer, acting in the heat of the moment, fires the employee without considering whether the employee has received the number of warnings that the policy manual says that employees can expect or whether the employer will be able to prove the misconduct in question.

### *Failing to discuss the problem with the employee prior to termination*

Although no law requires employers to let employees know why they are being terminated (in the vast, vast majority of situations), it can be a mistake to fire someone without discussing the problem leading to termination and without giving the employee a chance to explain his or her side of the



story. That having been said, there are some trouble situations where it is best just to say whatever it takes to get the employee out of the workplace without causing a scene or without giving a lawsuit-prone employee additional fuel for a lawsuit; if in doubt, consult your attorney. Still, TWC claim examiners and hearing officers generally look with favor upon employers who confront the soon-to-be-former employee with the problem and let the employee try to explain. For one thing, that avoids the related problem of giving a false reason for termination (almost always fatal to a case). For another, there is always the possibility that the employee will point out something that will make the employer realize that discharge might not be appropriate. Finally, it gives the appearance of fairness, which is important from a perception standpoint. (Remember, the TWC people processing the UI claims are themselves employees, not employers, and they generally have a well-developed idea of what they consider fair and right. Good, bad, or indifferent, that is the reality, so it should be taken into account.)

### ***Terminating an employee without reasonable warning***

There is no set number of prior warnings that must be given before an employee can be fired. However, there are two very important considerations here. First, since the test is whether a “reasonable employee” could have expected to be fired for the reason in question, the employer has to show that either the employee did something that was so bad, he had to have known he would be fired without prior warning, or that the employee had somehow been placed on prior notice that he could lose his job for such a reason. “Prior notice” would come from a policy expressly warning of discharge or from a (preferably written) warning to the effect that a certain action or lack of action would result in dismissal.

### ***Ignoring company procedures or prior warnings***

Here is another reason employers should ignore the temptation to take advantage of the right under the employment at will rule to change policies and procedures at will. Doing so can lead directly to losses in UI claims. Remember, an employer must show that the claimant either know or should have known that her job was on the line for the reason in question. That will be impossible to show, for example, if the employer fires the employee without giving the employee the benefit of progressing through whatever progressive disciplinary process the company usually follows. The problem also shows up if an employee gets a written warning stating that it is the “first written warning”, and the list of further steps on the form shows a “second written warning” or “final warning”, but the employee is fired for a subsequent offense without getting the (apparently promised) intermediate or final warning. The point is that the employer should try its best to do what it says it will do. If employees have been led to believe that certain steps will occur prior to termination, follow those steps, or else be prepared to lose the UI claim.

### ***Taking no action when employees complain***

Of course, not all complaints are valid, and some employees are chronic complainers. That having been said, nothing stirs the sympathy of TWC claim examiners and hearing officers like the story of a claimant with a halfway legitimate grievance, whose employer either took no effective action to address the grievance or retaliated somehow against the claimant. Complaints usually do not come out of thin air. Listen, investigate, act, and document your actions. Employers that seem responsive to employee concerns not only face UI claims with more confidence, but also generally have fewer worries about employee turnover and unions coming in.

## POST-CLAIM: MISTAKES MADE AFTER A CLAIM IS FILED

### *Missing a claim response or appeal deadline*

A late claim response means that the employer waives any rights it has in the claim, including the right to protest chargebacks to its tax account. Filing a late appeal means that the TWC must dismiss the appeal without considering the underlying merits of the case.

In both cases, missing deadlines means that no matter how good the employer's case is, the employer will be out of luck if the claimant ends up drawing benefits. There is no alternative to filing claim responses and appeals on time.

Do whatever it takes to meet the deadlines. In an emergency, put the words "We protest." [or] "We appeal.", followed by "More information will follow later.", on a piece of paper, and then fax or hand-deliver it to any TWC office; such a response or appeal will be sufficient if filed by the end of the fourteenth day after the date the claim notice or ruling was mailed. The fourteen-day deadline is for calendar days, not working days. You can also mail the response or appeal, but it must be U.S.-postmarked by the fourteenth calendar day. If you mail it too late to get the timely postmark, bring a reliable witness with you who can later help you testify that you placed it in the U.S. mails at the time you did. If you get from this discussion that meeting these deadlines is important, you are correct.

### *Assuming that if no response from TWC comes, the claim has been dismissed or denied*

UI claims do not simply go away by themselves. Even if a claim is disallowed by reason of insufficient wage credits, the last employing unit will get a ruling to that effect warning that a future valid claim might be filed. If you have responded to a claim or filed an appeal, yet receive nothing from TWC in a couple of weeks, something is probably wrong. Follow up! Call your local TWC office or the employer commissioner's office (1-800-832-9394) and ask about the claim or appeal status. If you lack confidence in whatever you hear from the first person you contact, do not hesitate to ask to speak with another person. Be sure to record the facts of the call: the name of the person you contact, the office where they work, the number you called, the date and time of the call, and what you were told. If you are told that no response was received from your company or that "nothing is in the system", offer to send another copy, and in the accompanying note, mention that you had sent the same thing earlier.

### *Changing the explanation for the work separation*

Sometimes an employer will give one explanation for the claimant's work separation at the time of responding to the claim notice, but give another explanation when the claim examiner calls, when writing an appeal letter, or when testifying at an appeal hearing. It is almost a 100% certainty that the inconsistency in explanations will be noticed by TWC personnel, and the probability is almost as high that the TWC people will be suspicious of the change in the story. Many TWC people, quite frankly, take a changed work separation explanation as a sign that the employer is not credible and is just looking for the right words to get the claimant disqualified. This is why it is critically important to study the facts behind the work separation carefully and get it right the first time. Remember, if the deadline is near and the employer needs more time, it can file a quick timely response notifying the claim examiner that the employer wishes to be an interested party and will file more information as soon as possible.

## *Failing to prove the case against the claimant*

Remember, in a discharge case, the burden of proving misconduct is on the employer. The employer must show that the separation resulted from a specific act of misconduct connected with the work that happened close in time to the discharge and that the claimant either knew or should have known she could lose her job for such a reason. Whatever the allegation against the claimant is, it must be proven with documentation and testimony from people with direct, personal knowledge of the circumstances. Generally, the evidence needed will be a copy of whatever rule or policy the claimant violated, proof that the claimant knew about the policy, copies of prior warnings (if applicable), and firsthand testimony from witnesses who saw the misconduct occur. The exact form of documentation will vary from case to case. For example, if the claimant was terminated for attendance violations, a copy of the attendance records will be needed.

## *Failing to present firsthand testimony from eyewitnesses*

Most people have heard the adage “an accused has the right to face his accusers”. That happens to be a fundamental principle of the American system of justice, which is in turn derived from the English legal system. This principle applies to UI claims as well. A claimant who is accused of something by the employer has the right to face the ones making the accusations. That is why firsthand testimony from witnesses with direct, personal knowledge of the situation leading to discharge is given the greatest evidentiary weight in a case. Such testimony outweighs anything else, including notarized affidavits. The only exception is in the area of drug testing, where the results of a GC/MS confirmation test indicating the presence of prohibited substances in the system of the claimant can help overcome the sworn firsthand denial of drug use by the claimant. While it is true that employers sometimes win with secondhand testimony that is only based on reports from others, that is the case only when the claimant fails to participate in the hearing at all. If the claimant denies the misconduct alleged, and the employer is unable to present firsthand testimony to prove its allegations, the employer will lose. For this reason, employers should make every effort to determine who the best witnesses are and ensure that they are available to testify at a hearing.

Unemployment claims can be difficult to win. Some are unwinnable. Many cases, however, can be won, and it would be a shame to lose a winnable case unnecessarily. Keeping the above pitfalls in mind can reduce the chance of losing a case that can be won. Common sense and following TWC instructions will go a long way. In problem cases, do not hesitate to consult an attorney experienced in employment law matters, and always remember that your UI taxes already pay for several attorneys in the employer commissioner's office at TWC—a major part of their job is helping employers deal with UI claims and appeals from an employer's standpoint. The number for that office is 1-800-832-9394.

# SAMPLE INTERVIEW GUIDE

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## STEP 1: BREAK THE ICE

Start the interview with some small talk to put the applicant at ease. (Be careful not to engage in conversation that may inadvertently lead to questions that could be considered discriminatory, such as questions relating to the applicant's marital status or place of birth.)

Thank the applicant for coming, and let him or her know how much time has been allotted for the interview. Ask the applicant a few basic questions, such as:

“How did you hear about this job opening?”

“What made you decide to apply for this position?” “What do you know about our company?”

Then, give the applicant an overview of what the interview will cover, and let him or her know there will be a chance to ask any questions at the end of the interview. For example:

“Before we start, let me give you an idea of what I’d like to cover today. I’d like to talk to you about your experience and educational background. It’s the best way to determine whether or not we have an opportunity here that is suited to your interests and talents.

Please feel free to talk about your schooling, interests, hobbies, or anything else that you think would help demonstrate your qualifications for the position.”

*Look for the applicant’s manner, self-expression, responsiveness, confidence, etc.*

## STEP 2: WORK EXPERIENCE

The extent to which you’ll discuss the applicant’s past employment will depend on how long he or she has been in the workforce and the nature of the relevant job, among other things. If the applicant is a recent college graduate or otherwise has a brief work history, cover the basics and move on to Step 3 (Educational Experience). Some employers may wish to focus on whether the candidate has specific experience in the functions of the relevant job, while others may wish to focus on the candidate’s skills and what the candidate can do in the future.

Ask the applicant to briefly describe his or her current position, including duties and responsibilities, likes and dislikes, and of course, why he or she is looking for a new job. Do the same for his or her prior jobs as well. Remember to ask open-ended follow-up questions in order to get as much information as possible. For example, instead of asking the applicant if he or she is a team player, try something like: “Tell me about a time you went out of your way to help a co-worker with a problem.”

Look for such traits as adaptability, productivity, motivation and relevance of work experience.

## STEP 3: EDUCATIONAL EXPERIENCE

This step of the interview will also depend on the applicant’s level of education and how recently he or she graduated high school or college. For a professional with 10 years of work experience, you may only want to discuss his or her education briefly. For a recent grad, you’ll want to dig a little deeper, especially since he or she may have little relevant work experience.

Some examples of questions you may want to ask such an applicant include:

“Tell me about your educational experience and training. What subjects did you particularly enjoy? How did you decide on your course of study?”

“Did you participate in any extracurricular activities?” “Did you work or undertake an internship during school?”

Look for relevance and sufficiency of schooling for the position under consideration, intellectual abilities, level of accomplishments, motivation, leadership qualities, etc.

## STEP 4: ACTIVITIES AND INTERESTS

This is your chance to get to know the applicant on a more personal level. Ask about professional organizations to which he or she may belong, or outside activities which he or she may pursue and the like. An applicant who has many outside interests may be more well-rounded and able to balance his or her work and personal life. On the other hand, a series of interests that are constantly dropped for new ones may show a “flightiness” that could extend into the applicant’s on-the-job performance.

Look for enthusiasm, maturity and judgment, diversity of interests, etc. A candidate’s outside activities, particularly a demonstration of real “passion” for one endeavor or another, may show you some areas of strength or skill that are not immediately evident from work experience.

## STEP 5: STRENGTHS AND WEAKNESSES

At this stage in the interview, you are looking for the applicant to give you a self-assessment—hopefully one that is honest and accurate. Try questions like:

“Considering your experience, education, and interests, what do you see as your major strengths? How would you use your strengths to contribute to our organization?”

Look for talents, skills, self-confidence, motivation, etc.

“Everyone has some room for improvement. In what areas do you feel you would benefit from improvement, and what have you done to facilitate improvement?”

*Look for honesty, problem-solving and willingness to improve.*

## STEP 6: DISCUSS BASIC INFORMATION

First, determine if you are still interested in the applicant. If not, you can move on to Step 7 (Conclusion). However, if he or she is still in the running, now’s the time to give a brief overview of the company and the position.

Cover such areas as:

- Company history
- The position’s duties and relationships within the company
- Benefits, etc.

## STEP 7: CONCLUSION

It's time to wrap up the interview. Express your appreciation for the applicant's time, and ask if he or she has any questions for you. The kinds of questions an applicant asks can actually tell you quite a bit about him or her. For example, applicants who ask questions strictly about money and benefits may not be as interested in the job itself. Look for applicants who ask specific questions about the job and the company, the corporate culture, etc. Ideally, the candidate will ask questions demonstrating a desire to learn how he or she can contribute to the organization.

After you've answered the applicant's questions, thank him or her and explain when you expect to be making a decision. Walk the applicant to the door and be sure to give him or her, your business card so he or she can contact you with any further questions.

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# INTERVIEW QUESTIONS BY TOPIC

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## INTRODUCTION

This is a comprehensive list. You should choose those questions most applicable to your company and the job for which you are interviewing.

### *Adapting to Change*

Please provide us with examples of the following from your work or personal experience:

- Major change that occurred in a job such as changing your approach to work. How did you deal with this change.
- How you addressed a difficult situation at work.
- How you accommodated a colleague or team member's working style in order to finish a project.
- Specific steps you took when work objectives or priorities changed quickly.

### *Achieving Goals*

Please provide us with examples from your work or personal experience which demonstrate:

- Effectiveness in prioritizing tasks and completing a project on schedule.
- Suggestions that you made which resulted in enhancing a project.
- Your role in implementation of a project and the results of your efforts.
- Your inability to meet a specific deadline and why that happened.
- Completion of a task on your own—without supervision or team support.
- A project in which you had to “go the extra mile” to accomplish an objective.
- A situation in which you handled a number of things at the same time, i.e., “multi-tasking.”

### *Analytical Thinking*

Please provide us with examples from your work or personal experience which show:

- Experience that required special attention to detail to complete the task.
- Your use of a detailed, step-by process to complete a task
- Your role in a specific project which demonstrates your analytical abilities.

### *Building Relationships*

Please provide us with examples from your work or personal experience demonstrating:

- How you resolved challenges in forming a relationship with a new client or customer.

- How you addressed complaints from a customer or client.
- How you developed a solution as a result of customer suggestions.
- How you were able to complete a task because of teamwork and your good relationship with the team members.

### ***Communication Skills***

Please provide us with examples from your work or personal experience demonstrating:

- Your use of active listening skills to successfully complete a task.
- A situation where you had to present complex information to a diverse audience and make sure your team members and/or others in the audience understood the information.
- A successful speech or presentation you made.
- A specific occasion where you had to modify your communication style to successfully convey information or guidance because of the complexity of the issues to be communicated or difficulty on the part of your audience in understanding the issues.
- Your successful written communication or development of documentation as part of completing a project.
- One of the most significant written documents/reports/presentations which you have had to complete.

### ***Decision Making***

Please provide examples of the following from your work or personal experience:

- A situation where you researched relevant information, defined key issues and determined the steps necessary to achieve desired results.
- A situation where decisions had to be made quickly due to deadlines or a sudden challenging situation—were you satisfied with the result?
- A situation where you had to defend a decision that was not consistent with your supervisor’s point of view.
- A situation when a decision had to be made and procedures were not in place. Were you satisfied with the outcome?

### ***Employee Development***

Please provide examples from your work or personal experience showing:

- Specific motivational ideas or programs you developed in order to increase productivity
- Your development or improvement of special training programs

### ***Innovation***

Please provide examples from your work or personal experience demonstrating:



- Your “thinking out of the box” and developing a creative solution to a problem.
- The most creative work-related project you were involved in.
- A unique or innovative solution to a problem which you developed. Were you satisfied with the outcome to the problem?
- An example of a solution or new process you created that was considered unique or untested. Were you satisfied with the outcome?

## ***Performance Management***

Please provide examples from your work or personal experience showing:

- Specific steps you took to develop the skills of your staff.
- How you administered disciplinary action with someone you supervised.
- An example of how you have been successful at empowering either a person or a group of people to accomplishing a task.
- A situation where you provided special help or support to a fellow employee or subordinate.

## ***Personal Effectiveness***

Please provide examples from your work or personal experience illustrating:

- How you maintained a positive attitude at work.
- Your methods for keeping your supervisor advised of your status on projects.
- How you resolved a problem with your work performance.
- Your professional development in the past 3 years.
- A situation which you would describe as a significant “learning experience”.
- Projects you have completed that demonstrate your willingness to work hard.
- A situation where you experienced extreme pressure on the job and how handled that pressure.

## ***Communication Skills***

Please provide examples from your work or personal experience showing:

- Your “salesmanship” in convincing a resistant customer to purchase a product or utilize your services.
- Your efforts to sell a new idea to your supervisor.
- Your ability to communicate and persuade people, and showing how you encouraged others to buy into a new idea or project.
- A situation in which you were able to positively influence the actions of others in a desired direction.
- The use of your leadership ability to gain support for what initially had strong opposition.

## ***Conflict Resolution***

Please provide examples from your work or personal experience illustrating:

- Your ability to negotiate and compromise to achieve desired results.
- How you identified a potential problem and resolved the situation before it became serious.

## ***Project Management***

Please provide examples from your work or personal experience demonstrating:

- How you influenced the outcome of a project by taking a leadership role.
- How you kept team members informed of the progress of a project.

## ***Strategic Planning***

Please provide examples from your work or personal experience illustrating:

- How you made changes to current responsibilities or operations to meet future needs.
- How you developed plans to achieve long and short-term goals.
- Steps or methods you have used to define or identify a vision for your position.

## ***Teamwork***

Please provide examples from your work or personal experience showing:

- How you worked effectively with fellow employees to accomplish specific goals.
- How you empowered fellow colleagues or team members to achieve a task successfully.
- One of the most difficult challenges you have faced in trying to work cooperatively with someone who did not share your ideas.
- Your contributions toward building a teamwork environment.
- Specific situations which demonstrated your leadership style.

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# INTERVIEW QUESTIONS

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Lots of employers get in trouble by asking the wrong types of questions on an application or in an interview. The basic rule to follow is to only ask questions related to job skills and requirements. While not all of the following questions are illegal, an employer who asks these questions increases the risk that an applicant could claim discrimination in the hiring process.

## WHAT NOT TO ASK IN AN INTERVIEW

- **Marital status.** Don't ask if a person is married. Don't use an application form that requires applicants to circle "Mr. Mrs. Ms. Miss" or in any way divulge their marital status.
- **Gender.** Don't ask or include gender on an application unless sex is a legally recognized necessary job qualification for the position.
- **Age.** Don't ask when an applicant was born. Ask only whether the applicant is 18 years of age or older.
- **Race, ethnicity, or birthplace.** Don't ask where a person was born, what their heritage is, or any questions about their accent.
- **Arrests without convictions.** Don't ask questions about arrest records. You may ask about conviction records.
- **Type of discharge from military service.** Don't ask the type of discharge that an applicant received from the military. [It is OK to ask if an individual was dishonorably discharged.]
- **Disability and health conditions.** Don't ask questions about the applicant's health, disability or medical history. Don't ask worker's compensation history. Don't require medical or physical examinations prior to a bona fide conditional offer of employment. If an applicant has an obvious physical disability or discloses a disability, you may ask how an applicant would perform job functions and whether the applicant will need any reasonable accommodation to perform essential job functions.
- **Religion.** Don't ask questions about religious denomination or lack thereof or willingness to work on any religious holiday except where religion is a necessary job qualification for the position.
- **Citizenship.** Don't ask whether an applicant is a U.S. citizen. You can ask whether an applicant is legally authorized to work in the U.S. on a full-time basis and require proof of authorization after a conditional offer of employment is made.
- **Photographs.** Don't require a photograph before an employee is hired.
- **Height and weight.** Don't ask height or weight unless they are necessary job qualifications for the position.
- **Foreign language skills.** Don't ask whether a person has foreign language skills unless the skills are job-related.
- **Pregnancy, child-bearing intent or child care.** Don't ask if the applicant is pregnant or planning on having children or whether the applicant can get a baby-sitter.
- **Bankruptcy.** Don't ask if a person has ever filed bankruptcy.

*Used by permission. Employment Law Issues: A Guide for Nonprofits in Texas*

# APPLICANT APPRAISAL FORM

Candidate Name: \_\_\_\_\_

Position: \_\_\_\_\_

Department: \_\_\_\_\_

Interview Date: \_\_\_\_\_

Please complete this form following the candidate's interview. Do not fill out in front of the candidate. Rate the candidate in all the categories below, and comment on each section.

	Exceeds Requirements	Meets Requirements	Does Not Meet Requirements	Not Applicable
<b>Essential job functions:</b> Evaluate the candidate's ability to perform the essential functions of this job.				
<b>Knowledge and experience:</b> How do the candidate's previous knowledge and experience relate to this position?				
<b>Communications and analytical capabilities:</b> Evaluate the candidate's verbal ability, judgment, analytical skills, decisiveness, etc., as they relate to the position.				
<b>Physical capabilities, as they relate to position:</b> Can candidate perform the physical requirements of the job? <sup>a</sup>				
<b>Education and skills:</b> Evaluate degrees, professional licenses, certifications, computer knowledge, equipment used, etc.				
<b>Interpersonal skills:</b> Evaluate the candidate's communication skills, credibility, confidence, etc.				
<b>Goals and ambition:</b> Does candidate show defined goals, initiative, enthusiasm, self-confidence, adaptability, etc.?				

**Additional Comments:**

**Overall Appraisal:**  Outstanding  Above Average  Average  Below Average

Recommend candidate for position?  Yes  No

Reason(s): \_\_\_\_\_  
\_\_\_\_\_

If no, should candidate be considered for future openings?  Yes  No

For what position(s)? \_\_\_\_\_  
\_\_\_\_\_

a. *EMPLOYER SPECIAL NOTE: Employers may not ask questions which might require an applicant to reveal the applicant's disability, nor may an employer require a medical examination prior to making an offer of employment. However, an employer may ask an applicant whether he or she will be able to perform the actual functions of the job, provided that the same question is posed to all applicants. Your questions to the applicant should elicit information that will allow you to determine whether he or she can perform the essential functions of the job. In some instances a follow-up question of how the job will be performed may be appropriate. The inquiry to a disabled applicant should parallel that of questions to a non-disabled applicant. You may, however, ask more pointed questions regarding how the applicant will do the job when the disability is obvious, e.g., a missing limb, or when the employee volunteers information regarding the disability. For more information, please see the ADA Enforcement Guidance on Pre-Employment Disability-Related Questions and Medical Examinations, available online at <http://eeoc.gov/policy/docs/medfin5.pdf>.*

\_\_\_\_\_  
Interviewer's Signature

\_\_\_\_\_  
Date

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# HIRING CHECKLIST

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The following are recommended steps for an employer to follow when hiring a new employee. Not all of these steps are required, but by following each of these steps, an employer reduces risk and exposure to liability.

## JOB OPENING

Create job description with essential functions.

Job advertisement, including prominent statement “We are an Equal Opportunity Employer” prepared and distributed [Note: required for government contractors; good for everybody].

### *If Government Contractor, post with State Employment Service.*

- Applications completed and submitted to employer
- Review applications
- Identify candidates who meet minimum qualifications
- Schedule interview for best qualified candidates
- Prepare interview questions
- Conduct interviews, preferably with more than one interviewer
- Obtain a signed information release from applicant
- Obtain a signed driving record release from applicant (if applicable)

**Optional:** Criminal Background Check (Employers who perform a criminal background check need to have an established policy and procedure on how they will handle the criminal information. The necessity of this check depends on the type of work your employees and volunteers will be performing. Background checks require use of several federally-required forms. Consult the background checking provider or an attorney before commencing the process.)

### *If Applicant is a good candidate for hire, continue....*

- Check employment references
- Call applicant if additional information or clarification needed
- Hold hiring committee meeting to discuss applicants
- Make hiring decision based on job-related factors
- Complete National Fingerprint Background checks, Child abuse record check -ABCS checks through ABCS(DFPS), motor vehicle records check.

### *If Applicant is offered and accepts position, continue....*

- Employment manual distributed to new employee
- Receipt of employment manual form signed and placed in personnel file

- Insurance and benefits information provided to employee
- Employment eligibility documentation obtained from new employee and INS Form 1-9 placed in a file separate from personnel file [Note: required per USCIS]
- Employee withholding IRS Form W-4 signed and placed in personnel file
- Notice of Workers' Compensation Coverage signed and placed in personnel file
- Social Security number verified (if employee has a Social Security number)
- Emergency exit and safety procedures explained
- Job orientation and training provided
- Key provided
- New Hire report made to State of Texas

***If Applicant is not offered a position, continue....***

- Send "Thank you, but we had many highly qualified candidates and we cannot offer you a position at this time" letter
- Keep records of applicants and hiring program for two years from the date of the hire or the date the programs ends, whichever is longer.

*Used by permission. Adapted from Texas CBAR Nonprofit Guide to Employment Law*

# JOB REFERENCES AND BACKGROUND CHECKS

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By now, most employers have heard that the Texas Legislature enacted H.B. 341 in 1999, a bill that essentially codified existing case law dealing with job references and defamation lawsuits; the statute is found in sections 103.001-103.005 of the Texas Labor Code. The law protects from defamation liability an employer who releases information about a current or former employee to a prospective new employer, unless “the information disclosed was known by that employer to be false at the time the disclosure was made or that the disclosure was made with malice or in reckless disregard for the truth or falsity of the information disclosed.” The question that most employers have is how to put the law into practice. Following are some practical tips for how to avoid liability and for how not to tempt employees to try to file lawsuits.

## POINT 1: BE CAREFUL OVER THE PHONE

As a general rule, it is not a good idea to give job reference information over the phone if someone “cold-calls” you, unless you are absolutely certain who is calling and why. The reason is that you do not know who is calling and, more importantly, why they are calling. The person could be a representative of a prospective new employer, but they could just as easily be a private investigator hired by the ex-employee to see if you say something bad about their client, a debt collector trying to track your former employee down, a stalker or identity thief, a disgruntled ex-spouse or significant other, or even a nosy neighbor. A good general practice is to respond to calls about employees with something like “I’m sorry, but we do not release information about current or former employees over the phone. However, we will be glad to furnish any information that your applicant authorizes us in writing to release to you.” Then, suggest that the caller get the applicant to sign a release/authorization form like the one below, or else the sample form in the section of the book titled “The A to Z of Personnel Policies”, and send it to your company.

## POINT 2: JUST THE FACTS, PLEASE

When giving a job reference, release only factual information. Factual information is something you can prove, either with witnesses or documentation. Facts do not include opinions, value judgments, or moral criticism.

## POINT 3: SUPPLY ONLY WHAT IS REQUESTED

In addition, it is generally a good idea to provide only what is requested. Unless there is a compelling need to do so, try not to volunteer additional things that are not connected to the information requested by a prospective new employer.

## POINT 4: TELL THE TRUTH

You may have heard that “truth is an absolute defense to a defamation lawsuit.” The fact is, that’s true. Tell a prospective new employer only what you know to be true. Telling true facts has been protected in the past by court decisions and is now protected by the new statute.



## POINT 5: AVOID INFLAMMATORY TERMS

Although embellishing a story with vivid terms and frank opinions is human nature, it should be avoided when giving job references. Inflammatory terms can make a person feel they are being unfairly attacked and can tempt a person to seek an attorney. Use points 2 and 4 above to combine facts with truth, as illustrated in the examples below:

- **Inflammatory:** "We fired Joe for stealing."
- **Non-inflammatory:** "We discharged Joe for failing to properly account for items entrusted to him. Items A and B were checked out to him, they turned up missing, and he failed to give a satisfactory explanation for what happened to them. Under our policy, that was a dischargeable offense."
- **Inflammatory:** "Jane was fired for using drugs. We don't tolerate druggies here."
- **Non-inflammatory:** "Jane failed a drug test on (date). The initial positive result was confirmed. Medical review of the result revealed no satisfactory explanation for the presence of the substance that was found. Employees who fail a drug test under such circumstances are subject to termination."
- **Inflammatory:** "Frank was terminated for sexually harassing an employee."
- **Non-inflammatory:** "Frank was terminated for violating our policy prohibiting harassment in the workplace."

There are many other situations in which inflammatory terms might be used and in which it might be better to tone the language down. The main thing is to express the facts in a way that gets the idea across without sounding like name-calling or moral judgment. As in most other areas of employment relations, the more an employee feels that he or she is being fairly treated, the less likely they will be to think they have to hire an attorney or complain to a government agency in order to vindicate themselves.

## USE A WRITTEN RELEASE FORM

It is well-known that it can be difficult to get a usable job reference on an applicant from prior employers. Past employers are often reticent out of fear of defamation lawsuits, or they may suspect that a person requesting information is not really a prospective new employer. It is especially difficult to get usable information out of a "cold call" to another company over the phone. Using a pre-printed, fill-in-the-blank form such as the one below can help overcome the reluctance or fear often felt by people asked to give a job reference and can give you a better chance of getting a useful, candid response. See the explanatory note following the sample form.

### *Authorization for Prior Employer to Release Information*

(Please read the following statements, sign below, and return to the Human Resources office.)

I, \_\_\_\_\_, hereby authorize any investigator or duly accredited representative of [employer] bearing this release to obtain any information from schools, residential management agents, employers, criminal justice agencies, or individuals, relating to my activities. This information may include, but is not limited to, academic, residential, achievement, performance, attendance, personal history, disciplinary, arrest, and conviction records. I hereby direct you to release such information upon request of the bearer. I understand that the information released is for official use by

[employer] and may be disclosed to such third parties as necessary in the fulfillment of official responsibilities.

I hereby release any individual, including record custodians, from any and all liability for damages of whatever kind or nature which may at any time result to me on account of compliance, or any attempts to comply, with this authorization.

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(Applicant's signature)

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(Date)

Note: Have the applicant fill out one of these forms for each prior employer from which you intend to seek job reference information. Using the form will make it much more likely that the prior employer will feel at liberty to release the information you request, or at least more than the usual work dates and salary confirmation that does not offer much of use in the hiring decision. Also keep in mind that if anyone refuses to sign such an authorization, your company would have the legal right to refuse to consider that person any further for hiring.

**Important disclaimer:** The above form is only a sample and is furnished only as an illustration of its category. It is not meant to be taken and used without consultation with a licensed employment law attorney. If you are in need of a form for a particular situation, you should keep in mind that any sample form such as the one available here would need to be reviewed, and possibly modified, by an employment law attorney in order to fit your situation and to comply with state and federal laws. Printing, downloading, using, or reproducing this form in any manner constitutes your agreement that you understand this disclaimer and that you will not use the form for your company or individual situation without first having it approved and, if necessary, modified by an employment law attorney of your choice.

## OTHER WAYS TO OBTAIN USABLE REFERENCE OR BACKGROUND INFORMATION

If you are an employer that is considering hiring an applicant, sometimes you have to be like an investigator and try other techniques. In addition to using the form shown above, you can ask the applicant to give you the contact information for his or her immediate supervisor and try to talk with that person. If that supervisor has been properly trained, they will refer your call to the human resources staff, but sometimes you will find someone who is not trained that well and will give you more insight into the applicant's "real" employment history than you might otherwise get from the HR staff at that company. Second, ask the applicant to give you the name and contact information for at least one third party (customer, vendor, government regulator) who can give a statement as to the applicant's work or expertise. Such parties will sometimes give valuable information concerning an applicant (and sometimes not—the main point is that there is nothing to lose by asking). You can also hire an outside professional investigator to do a thorough reference check, as long as you satisfy the formalities under the Fair Credit Reporting Act. In order to do a background or reference check under the FCRA, an employer must first notify the applicant that such a check will be done, and then must obtain the applicant's written permission to perform the check. If the applicant refuses to sign such a form, you have the option of telling the applicant that the application process is at an end, or, if you are already satisfied with what you have been able to find out, you can opt to hire the individual without a more detailed check being done.

## EEOC ISSUES WITH BACKGROUND CHECKS

Sometimes employers will turn down an applicant as the result of a credit check or an unfavorable report on an applicant's criminal history. Aside from the FCRA concerns noted above, an employer needs to worry about the potential EEOC issues involved. Basically, EEOC takes the position that because statistical evidence shows that a higher percentage of minorities than non-minorities has had financial or criminal history problems in the past, taking an adverse job action based upon such factors has an disproportionate and unfair impact (in EEOC terms, "disparate impact") upon minorities, and the burden will be on the employer to show a legitimate, job-related reason for taking the adverse job action. EEOC expects employers, prior to turning someone down for a job or promotion who has had an unfavorable credit or criminal history report, to do an individualized job-relatedness determination. That means that before turning down someone for a job on the basis of a credit report or criminal history problem, the employer must be able to show that it considered the specific problem and determined that it would not be a good idea or prudent course of action to hire that specific person for a particular position.

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# NEW HIRE PAPERWORK

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The best time to obtain employees' agreement to something, or to get them to sign required government documents, is before they are hired, or at the very start of employment. A good way to handle this is to have an appropriate staff member, such as the office manager or a human resources department employee, meet with the new employee before any work begins and have the new hire fill out the various forms. The following is a list of the required and optional documents that companies most commonly include in the new hire packet.

## REQUIRED

- **I-9 form**—this is needed for all new hires in order to document that they are authorized to work in the United States (download the form [here](#))
- **W-4 form**—this form is for obtaining basic payroll tax information from an employee and enables the company to know how many exemptions to use when computing withholding tax for IRS purposes (download the form [here](#))
- **DOL notice re Health Insurance Marketplace** (<http://www.dol.gov/ebsa/faqs/faq-noticeofcoverageoptions.html>)
- **Notice of workers' compensation coverage**—whether the company carries workers' compensation insurance or not, it must notify new hires one way or the other (download either the notice of coverage (English or Spanish) or the notice of non-coverage (English or Spanish))
- **Consent for background checks, if not already obtained**—the best time to obtain this is prior to hiring someone, so that the check can be done before making the hiring decision, but better late than never, since prior notice of background checks and consent are required under the Fair Credit Reporting Act, if the check is done by an outside, for-profit service (an alternative form is [here](#))
- **Acknowledgment of receipt of policy handbook** (an alternative form, combined with consents to searches and video surveillance, is [here](#))

## OPTIONAL, BUT RECOMMENDED

- Consent for drug testing / consent to search policy, if the company does such things
- Consent for video surveillance, if the company conducts such surveillance
- Agreements regarding pay, wage deductions, benefits, schedule, work location, and so on (with employment-at-will disclaimers (see the topic on pay agreements for an example))
- Documents needed to claim potential benefits associated with hiring applicants from certain targeted groups (see <http://www.twc.state.tx.us/customers/bemp/train-your-workforce.html>)

*In addition to the paperwork, other steps that the employer needs to take at the time or right after an employee starts work are:*

- Enter the employee into the payroll system. For employee ID purposes, try to use an alphanumeric identifier other than a Social Security number—both government agencies and private-

sector experts advise employers to minimize the use and publication of SSNs for anything other than wage reporting and payroll tax purposes.

- Make the new hire report within 20 days of hire—it can be done online at <https://portal.cs.oag.state.tx.us/wps/portal/employer>.
- Sign the employee up for any insurance or other benefits the company may offer.
- Issue the employee any ID or access cards needed to access company facilities.
- Issue company equipment, uniforms, and other items—consider using a property return security deposit agreement to minimize the risk of damage or non-return of such property.

Remember that new hire orientation periods will involve compensable time worked.

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# NEW HIRE REPORTING LAWS

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One of the easiest laws to comply with, from the standpoint of laws that make sense and can help an employer's bottom line, is the new hire reporting law, known formally as the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (42 U.S.C. § 653a) on the federal level, and the State Directory of New Hires Act under Texas law (Texas Family Code, Sections 234.101—234.104). Under that law, Texas employers must report all new hires and rehired employees within 20 calendar days of the hire, or, if the employer makes new hire reports electronically (online or with magnetic media), at least twice each month, all reports being within 12 to 16 calendar days of each other. Effective September 1, 2007, employers that knowingly fail to report new hires will be liable for a penalty of \$25 per unreported employee, and a penalty of \$500 for conspiring with a newly-hired employee to fail to make such a report (see Section 234.105 of the Texas Family Code). The report is made to the Texas Employer New Hire Reporting Operations Center, accessible online at <https://portal.cs.oag.state.tx.us/wps/portal/tx/>. That agency's toll-free number is 1-800-850-6442. TWC has a good information site on new hire reporting at the following Web address: [www.twc.state.tx.us/ui/tax/newhire.html](http://www.twc.state.tx.us/ui/tax/newhire.html).

## WHAT INFORMATION IS REQUIRED IN A NEW HIRE REPORT?

The following information must be included in the report of new hires:

- Company name
- Company address
- Company federal tax ID number
- Employee's name
- Employee's social security number
- Employee's address
- First day of paid work

## HOW DOES NEW HIRE REPORTING BENEFIT THE COMPANY?

How does it make sense and help a company's bottom line to comply with such a reporting requirement? Simple: the reports are used primarily for tracking parents who owe back child support and for reducing fraud under various social programs, including unemployment benefits. Employers are a vital link in the effort to ensure payment of child support, not only through garnishment of wages, but also through the new hire reports. If your employees who are owed child support start receiving it because of someone else's new hire report, you will have a better, more focused employee. What you do can help other employers, and what they do in that regard will help you. New hire reporting also helps your company through reduction of benefit fraud. Part of the unemployment tax that every taxed employer has to pay comes from claim fraud that must be recouped somehow, and of course the "somehow" is by resorting to employers! Since a new employee's wages will not be reported to TWC for up to three or four months following their hire, the new hire report can help TWC detect UI benefit claim fraud three or four months earlier than it might normally be found. For more details, see the article titled "How Employers Can Help Reduce Claim Fraud" in the Post-Employment Problems section of this book. In addition, since the new hire reporting law absolutely requires employees to give you their social security numbers, it is one more tool to use in verifying

SSNs (see the article in the next section of this book titled “Verification of Social Security Numbers”). If a cross-match turns up a problem with the SSN, you can then contact the Social Security Administration for assistance in verifying whether the number is valid. Finally, new hire reporting can help avoid the problem of employees engaging in “double-dipping” with other state or federal benefit programs, such as workers' compensation.

## WHAT IF THE NEW HIRE FAILS TO GIVE A SOCIAL SECURITY NUMBER?

If a new hire tells you he or she does not have a SSN, due to immigration issues or to waiting for one to come through, your company is entitled to require the employee to document that they have an application in process for the number. If they state that they have not applied for one, give them the basic information on how to apply to the Social Security Administration for a number (see <http://www.ssa.gov/ssnumber/>) and tell them how important it is to get that task done promptly.

If a new hire refuses to give you his or her SSN or address, despite having such information, that may or may not be a sign of other problems to come, but the bottom line is that your company does not have to continue such an employee's employment. If the employee claims not to have an SSN for religious reasons, the company is entitled to require the employee to document that fact. Such documentation may consist of a statement, affidavit, or other form of attestation to the effect that the employee has opted out of Social Security due to religious objections to such a number or to participating in a welfare program, or something similar. For more details, see “Employees Without Social Security Numbers” in Part II of this book.

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# SAMPLE WELCOME LETTERS FOR NEW EMPLOYEES

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Here are two simple, sample welcome letters for new employees. These sample letters serve just one purpose. You are welcoming your new employee to your organization. Welcome letters can range from extremely simple like these samples to complex.

Complex welcome letters often contain the new employee orientation schedule and the names and job titles of employees that the new employee will meet in the first few days.

They can contain a detailed schedule for the new employee for the first week at work on the new job.

The welcome letter may introduce the new employee to his or her new team by providing background information on the new employing and copying the letter to each member of the team. Organizations tend to adopt patterns in welcoming new employees, so any of these welcome letters are an option.

Use either of these letters as part of your process for welcoming new employees.

## SAMPLE NEW EMPLOYEE WELCOME LETTER

Date

Dear (New Employee Name):

I'd like to welcome you to (Name of Company). We are excited that you have accepted our job offer and agreed upon your start date. I trust that this letter finds you mutually excited about your new employment with (Name of Company).

As mentioned during the interviews, while your new position reports to me, I'd like to welcome you to the (Name of Department) on behalf of all of the staff.

Each of us will play a role to ensure your successful integration into the department.

We're expecting you for new employee orientation on (Date), Tuesday at 9 a.m. You will meet with me to discuss your successful integration into our company and with Human Resources staff to learn about employment related issues.

You'll also meet with several coworkers so you can get a feel for the overall work of the department. Our dress code is casual.

Your new team anticipates taking you out to lunch to get to know you and to make sure you meet everyone with whom you will be working. Your meeting agenda, for the rest of your first day, will involve planning your orientation with me and setting some initial work goals so that you feel immediately productive in your new role.

I anticipate that your second day will involve more coworker meetings to understand the department. You'll also have the opportunity to continue with your new employee orientation plan and your initial work for the department.

Again, welcome to the team. If you have questions prior to your start date, please call me at any time, or send me an email, if that is more convenient. We look forward to having you come on board.



Regards,

Name of Your Department Manager / Boss

## **SAMPLE EMAILED NEW EMPLOYEE WELCOME LETTER**

Hi Mary,

This is just a quick note to tell you that our whole department is excited about your decision to accept our offer of employment. We couldn't be happier to welcome you to the team. As we agreed, your first day on the new job is Tuesday, May 8.

We'll expect you at 9 a.m. FYI, the dress code is business casual.

We offer flexible schedules for our employees and we can talk about your normal hours when you come in on Tuesday. You will also meet your new employee mentor, Paul Smith. He'll help you get to know the company and your new department.

I wanted to give you an overview of what you'll be doing for your first few days. You will attend an HR orientation about benefits and to complete the new employee paperwork. We have put together a schedule for your first week.

Our goal was to orient you to both your new job and the company. With this in mind, we have, in addition to your mentor, we have asked Mary Briony to work with you to provide on-the-job training. She is experienced in all aspects of the job you need to learn. You'll also share an office with her.

Additionally, we have set up a meeting schedule that will put you in contact with all of the departments you will need to learn. We've set up meetings with the employees you need to meet. We'll have this schedule finalized when you arrive on Tuesday.

If you have questions, please feel free to email or call me. My number is 910-244-3256.

We really look forward to working with you.

Regards,

Wendy Edison

Department Manager

### ***Sample New Employee Announcements***

- New Employee Welcome With Job Description for Coworkers
- Employee Announcement: Simple
- Emailed Employee Announcement With Background and Experience
- Sample Basic Employee Introduction

### ***More Sample New Employee Welcome Letters***

- New Employee Welcome Letter
- Sample New Employee Welcome Letter With Schedule
- Simple Welcome Letter: Start Date and General Schedule

- New Employee Welcome Letter: Schedule a Meeting Before Start Date
- New Employee Welcome With Introduction to Coworkers
- <https://www.thebalance.com/sample-welcome-letters-1918923>

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*Author: Susan M. Heathfield*

*Updated July 20, 2016*

# REJECTION LETTER: INTERVIEWED APPLICANT

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[Date]

[Name of Applicant]

[Applicant Address]

Dear [Name of Applicant],

It was a pleasure meeting you on [Date] during your interview for the position of [Job Title]. Thank you for your interest in our company.

We had many excellent candidates for the position and have completed our search. Unfortunately, we are unable to offer you a position at this time. [However, we will keep your resume on file in case something else arises which matches your skills and interests.]

Thank you again for your interest in [Company]. We extend our best wishes in your continuing job search.

Sincerely,

[Name]

[Title]

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# SAMPLE CASA NEW EMPLOYEE ORIENTATION

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Employee: \_\_\_\_\_

Start Date: \_\_\_\_\_

Position/Title: \_\_\_\_\_

Supervisor: \_\_\_\_\_

## FIRST DAY

### *Arrival*

- Greet and introduce to staff throughout the office
- Short tour of the office, location of facilities, official notices, etc.
- Discussion of parking options
- Quick overview of the day

### *Who We Are*

- Mission Statement
- CASA—Child Advocacy
  - Programs
    - CASA
    - Friends of CASA
    - Board
  - Support
  - Fundraising
  - System
    - Court
    - CPS
    - AAL
    - Attorneys
    - Demographics of children and community served
- History of CASA
- Other staff positions
- Volunteer Training

- Parent organizations affiliated with organization:
  - Texas CASA
  - National CASA
- Overview of Organization
  - Organizational Chart
  - Values of the Organization
  - Confidentiality
  - Diplomacy
  - Support and guide volunteers in their work

### *Meeting with Supervisor*

- Provide and briefly review a copy of the following items as applicable to the position:
  - Informational Sheet about the organization
  - Personnel Policies (employee signs after receiving/reading their copy)
  - Training Manual
  - Volunteer Management Policies and Procedures
  - Business Cards
- Provide New Employee Packet which include the following:
  - W-4
  - I-9
  - Insurance Enrollment/ Benefits
    - Health Insurance
    - Dental Insurance
    - Vision Insurance
  - Confidentiality Agreement
  - Code of Ethics
  - Job Description
  - Employee Annual Training Log
- Overview of Office Policies
  - Greeting in office
  - Phone greeting
  - Cleanliness: everyone's job
  - Providing Information

- Take messages and let caller know a message can be delivered to person, never give out personal or work contact information for volunteers
- If caller is asking for a volunteer, check to see if Coordinator is in and if so, ask caller if he or she would like to talk with Coordinator.
- Procedures for Volunteer Access to Case Files
  - Phone etiquette, call and e-mail return times
  - Security
    - Locked Filing cabinets
    - Locked records room or other security measures
- Provide a copy of keys needed and security code
  - Key- Employee initials: \_\_\_\_\_ Date: \_\_\_\_\_

### ***Technology Orientation***

- Computer/ Database
- E-mail
  - On-site
  - Off-site access
- Phones
  - Intercom/ Hands Free
  - Cell Phones
  - Long Distance
- Fax machine
- Copier
- Mailboxes
  - Staff
  - Volunteer

### ***Administrative Logistics***

- Staff meetings
- Hours and lunch policy
- Holiday Schedule
- Training of volunteers
- Time Sheets
- Mileage Sheets and Reimbursement

- Marketing overview and website
- Incident Reports

### ***Accounting Logistics***

- Credit cards
- Receipts
- Purchase Reimbursement
- Pay schedule

### ***Getting Started***

- Collect Forms needed to be completed by employee
- Schedule first week review
- Schedule weekly supervision

Completed by: \_\_\_\_\_ Date: \_\_\_\_\_

Supervisor

# NEW EMPLOYEE ONBOARDING CHECKLIST

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Hiring the successful applicant will involve a number of important tasks, steps and paperwork. See the summary below for key information.

1. Send the prospective employee an offer letter or contract and other documents, including confidentiality or non-compete agreements, if appropriate.
2. Be sure all documents are signed.
3. Prepare for the arrival of the new employee.
4. Conduct employee onboarding/new employee orientation.

## NEW HIRE FORMS: GOVERNMENT REQUIREMENTS

The following are key steps and requirements involved in the new hire process:

- **Form I-9 Eligibility for Employment.** All U.S. employers must complete and retain a Form I-9 for each individual they hire for employment in the United States. This includes citizens and noncitizens. To view additional information and download Form I-9, please [click here](#).
- **New Hire Reporting.** You are required to report any new employee to a designated state new hire registry. Many states accept a copy of Form W-4 with employer information added. For more on new hire reporting, please [click here](#).
- **Using Form W-4 to Calculate Withholding.** To know how much income tax to withhold from employees' wages, you should have a Form W-4 on file for each employee. Ask all new employees to give you a signed Form W-4 when they start work, and make the form effective with the first wage payment. If a new employee does not give you a completed Form W-4, withhold tax as if he or she is single, with no withholding allowances. A Form W-4 remains in effect until the employee gives you a new one. Also have your new employee complete any tax forms required under state law.
- **Recording Employee's Name and Social Security Number.** Record each new employee's name and number from his or her social security card. Any employee without a social security card should apply for one. Do not accept an individual taxpayer identification number (ITIN) in place of an SSN for employee identification or for work. An ITIN is only available to resident and non-resident aliens who are not eligible for U.S. employment and need identification for other tax purposes. You can identify an ITIN because it is a 9-digit number, beginning with the number "9" with either a "7" or "8" as the fourth digit and is formatted like an SSN (for example, 9NN-7N-NNNN).



## NEW HIRE ONBOARDING CHECKLIST

Employee Name \_\_\_\_\_ Date: \_\_\_\_\_

Job Title: \_\_\_\_\_

Department: \_\_\_\_\_ Supervisor: \_\_\_\_\_

### *New Employee's Workspace & Other Essentials*

- Show the new employee his/her office or work area.
- Be sure the employee's new workspace has all necessary equipment, including phone, PC or laptop, password access to the company's intranet or online data, pens, paper and any other materials necessary to efficiently function in the new job.
- Discuss how the company's staff is organized and who handles various important areas like employee benefits—this is especially important in a small company where one employee may handle a number of different responsibilities.
- Inform the new hire of his/her training schedule, if appropriate.

## COMPENSATION AND BENEFITS

Provide information on compensation and benefits in the following key areas:

- Information on the company's employee benefits package, which may include health insurance, vision, dental and retirement plans.
- Any additional compensation information, which may include the company's overtime policy, bonuses and any other financial incentives.

## COMPANY POLICIES/HANDBOOK

Make sure the employee has received a copy of your company's employee handbook. There should be a written and signed 'Acknowledgement of Receipt' stating that the employee has read and understands the handbook.

Be sure to explain the following policies:

- Hours of work and overtime procedures (if appropriate to the position)
- Lunch/break periods
- Smoking regulations
- Personal/business use of the phone, email, internet access, etc.
- Confidentiality requirements, if appropriate (or provide a confidentiality agreement in advance for review and signature)
- Safety guidelines and procedures for reporting injuries

- Schedule of performance reviews (i.e., once a year)
- Reimbursement of business-related expenses

## TIME OFF/LEAVE POLICIES

- Describe your company's paid time off, vacation, and/or sick leave policies.
- Provide a list of holidays when the company is closed.
- Explain the company's attendance/tardiness policy.
- Describe any applicable leaves of absence required by law, such as FMLA (review federal and state requirements).

## EMPLOYEE RESPONSIBILITIES

- Discuss job responsibilities with the new employee.
- Introduce the new employee to his/her team or department members.
- Discuss how the employee's position relates to the growth and success of the company and any interaction with other departments or employees.

## OFFICE/COMPANY TOUR

Be sure to show the new employee important areas of the office, including:

- Fire exits
- Restrooms
- Parking facilities

Be sure to check in with your new hire at least twice during the first 2 weeks on the job regarding any questions or needs.

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Supervisor's Signature

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Date

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# GETTING READY FOR INTERNS: A CHECKLIST FOR SUCCESS

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- Manage expectations by clarifying whether the internship is paid/unpaid from the beginning of the relationship. Include whether the position is paid or unpaid in the job posting and written job description.
- Before the first day, share specific information so the intern knows what to expect. Let the intern know what time to arrive at the office, who his/her supervisor/mentor will be, what the general plan for the first day will be if known, and whether or not there are special plans for lunch the first day, just as you would for any new hire.
- On the first day or soon thereafter during an orientation, provide a short description of the significance of being a volunteer, versus an employee. (Certain personnel policies at the workplace don't apply to volunteers—others may. Clarify which ones do or do not apply.)
- Make sure to go over safety policies with all interns, including building evacuation routes. Show interns where fire extinguishers are and where the first-aid kit is kept. Remind them to report any unsafe conditions they observe, and to report any injuries, right away.
- Remind interns about simple practices such as how you'd like them to answer the phone (as applicable), dress code, and greeting people they meet in the office or at work-related events. For some, this may be their first experience working in an office and representing an organization as an ambassador.
- Remind them about the fact that there is a designated social media spokesperson for the nonprofit—usually not them! Talk candidly about the nonprofit's goals for social media and what the expectations are for their own involvement during the internship. Assume they will mention the nonprofit, or their internship, on social media at some point, so give them the tools they need to promote the nonprofit's best image, such as branding guidelines and a high definition logo.
- If there are limitations on long-distance calls with land lines, let the interns know.
- Have a discussion about the culture in your office surrounding emails. Make sure they are aware of preferences for email use. Do teammates email a quick "Thanks!" to each other or "Done!" when tasks are completed? Or is the culture at your nonprofit that teammates reserve email for more substantive messages and say 'thank you' in person?
- Know whether interns are covered by the nonprofit's workers compensation and Director & Officers Liability insurance.
- Incorporate the intern into as many discussions about impact/outcomes and the difference your nonprofit is making in the community as possible. You could be cultivating the next generation of nonprofit leadership and encouraging someone to choose a career in the nonprofit sector for the long-term!

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*National Council of Nonprofits*

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## Section 3

# MANAGING EMPLOYEES: COMPENSATION







## TEXAS CASA FY22 NETWORK SALARY & BENEFIT SURVEY REPORT

We are pleased to present the Fiscal Year 2022 Network Salary and Benefit Survey Report, a collaborative effort between Texas CASA and the network of 72 local CASA programs.

The purpose of this report is to present a snapshot of compensation and benefits practices within the CASA programs in Texas. A primary and critical goal of nonprofit organizations is to attract, recruit and retain well-qualified professional and support staff—competitive compensation, attractive benefit packages and equitable policies support this goal. One of the challenges to developing such programs is locating accurate and comprehensive data on salaries and benefits in the nonprofit arena. This survey can assist in providing you with the information needed to evaluate your own benefit and compensation practices and determine what changes may be required in your own human resources programs.

When using the data in this report, we suggest you consider the following:

- The survey reports the compensation and benefit practices in effect between March 21 and June 15, 2022, as reported by 59 local CASA programs.
- The survey findings are representative of actual practices reported by the participants in the survey.
  - The survey, therefore, is not a scientifically selected sample from which conclusions can be drawn about all CASA programs in Texas.
  - Additionally, the results are not intended to represent an ideal of what compensation and benefits should be.
- When developing compensation or benefits programs, a nonprofit organization should consider the following in addition to the survey data provided:
  - Its compensation philosophy, in other words, the set of guiding principles that drive decision making about compensation. For example, where wages will fall in relation to the regional wage market.
  - Geographical norms, by obtaining salary and benefits information from other nonprofit organizations in your community of similar size and budget.
  - The internal value of each position.

# SURVEY SUMMARY

## Methods

- Network size: 72 programs
- Program responses received: 59
- Total response rate: 82%
- Data collection: Via third-party online survey collection site (Survey Monkey)
- Some sections are grouped in budget size categories to make it easier to do comparisons
- This survey presents results for full-time employees only
- To obtain a copy of the survey instrument, please contact Texas CASA's Network Services team at [networkservices@texascasa.org](mailto:networkservices@texascasa.org)

## Response Rate by Budget Size Categories

Budgets are submitted to the Grants department at Texas CASA as part of funder requirements each fiscal year. Based on this information, Texas CASA has determined the number of programs in the main budget categories used in this survey. The following table presents the number of programs in each budget category as reported to Texas CASA in grants applications:

Operating Budget Size Category	Total Programs	Total Program Responses	Response Rate
\$0 - \$300,000	14	9	64%
\$300,001 - \$500,000	24	20	83%
\$500,001 - \$1,000,000	21	20	95%
\$1,000,001 - \$2,000,000	7	6	86%
\$2,000,001 and above	6	4	67%



## SURVEY RESULTS

### Number of Full-Time Employees in CASA Programs – by Budget Size

	All Programs	\$0 - \$300,000	\$300,001 - \$500,000	\$500,001 - \$1,000,000	\$1,000,001 - \$2,000,000	\$2,000,001 and above
Average	8	3	5	8	14	24
Minimum	1	1	1	1	9	15
Median	6	4	5	9	13	22
Maximum	36	5	7	12	23	36

### Percentage of CASA Programs Reporting Having Various CASA Positions – by Budget Size

	All Programs	\$0 – \$300,000	\$300,001 – \$500,000	\$500,001 – \$1,000,000	\$1,000,001 – \$2,000,000	\$2,000,001 and above
Executive Director	100%	100%	100%	100%	100%	100%
Program Director	78%	44%	70%	95%	83%	100%
Team Lead	34%	0%	10%	45%	83%	100%
Recruiter/Trainer	76%	67%	60%	85%	100%	100%
Volunteer Supervisor	93%	78%	95%	95%	100%	100%
Development Director	32%	0%	15%	40%	83%	75%
Administrative Assistant	63%	33%	35%	90%	83%	100%

### Average Tenure in Years for CASA Positions – by Budget Size

	All Programs	\$0 – \$300,000	\$300,001 – \$500,000	\$500,001 – \$1,000,000	\$1,000,001 – \$2,000,000	\$2,000,001 and above
Executive Director	9	9	8	9	10	10
Program Director	6	3	5	6	9	14
Team Lead	2	0	1	4	5	7
Recruiter/Trainer	3	2	3	3	3	4
Volunteer Supervisor	4	4	5	3	3	4
Development Director	1	0	0	1	4	10
Administrative Assistant	2	1	2	3	3	3

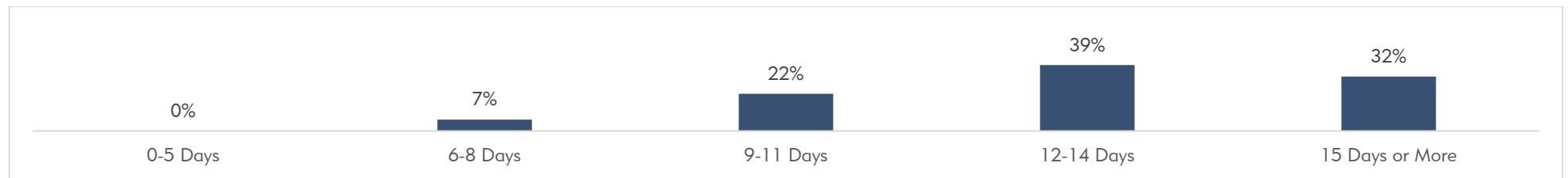
**Salaries for CASA Positions (Reported Average, Minimum, Median, Maximum) – by Budget Size**

		All Programs	\$0 – \$300,000	\$300,001 – \$500,000	\$500,001 – \$1,000,000	\$1,000,001 – \$2,000,000	\$2,000,001 and above
Executive Director	Average	\$73,297	\$54,958	\$68,391	\$69,681	\$91,518	\$129,836
	Minimum	\$36,000	\$49,121	\$43,500	\$36,000	\$75,000	\$100,000
	Median	\$68,000	\$55,000	\$67,166	\$69,000	\$83,805	\$111,913
	Maximum	\$195,520	\$60,000	\$90,000	\$87,000	\$135,000	\$195,520
Program Director	Average	\$53,520	\$38,807	\$48,819	\$50,810	\$63,645	\$84,905
	Minimum	\$32,000	\$32,000	\$41,000	\$42,000	\$55,000	\$75,000
	Median	\$50,250	\$40,614	\$47,910	\$50,000	\$65,000	\$84,104
	Maximum	\$96,411	\$42,000	\$59,740	\$72,500	\$71,395	\$96,411
Team Lead	Average	\$47,894	--	\$37,000	\$46,226	\$46,456	\$58,891
	Minimum	\$36,000	--	\$36,000	\$36,000	\$42,848	\$53,000
	Median	\$45,685	--	\$37,000	\$46,000	\$45,000	\$58,783
	Maximum	\$65,000	--	\$38,000	\$55,800	\$55,000	\$65,000
Recruiter/Trainer	Average	\$40,279	\$36,750	\$34,919	\$41,348	\$45,005	\$50,018
	Minimum	\$12,000	\$30,500	\$12,000	\$30,000	\$40,000	\$53,000
	Median	\$40,000	\$37,500	\$37,250	\$41,000	\$42,516	\$58,783
	Maximum	\$64,472	\$40,000	\$44,091	\$58,600	\$60,000	\$65,000
Volunteer Supervisor	Average	\$39,787	\$36,247	\$38,932	\$39,742	\$41,424	\$47,807
	Minimum	\$25,000	\$25,000	\$25,000	\$32,000	\$35,000	\$46,000
	Median	\$40,000	\$36,227	\$38,110	\$40,000	\$41,523	\$48,000
	Maximum	\$51,000	\$42,000	\$47,741	\$51,000	\$50,000	\$49,228
Development Director	Average	\$54,846	--	\$43,333	\$41,159	\$58,763	\$96,333
	Minimum	\$32,000	--	\$32,000	\$35,568	\$48,000	\$80,000
	Median	\$48,000	--	\$40,000	\$40,000	\$61,831	\$92,000
	Maximum	\$117,000	--	\$58,000	\$53,000	\$67,000	\$117,000
Administrative Assistant	Average	\$33,705	\$34,667	\$33,434	\$32,312	\$37,519	\$34,965
	Minimum	\$12,480	\$33,500	\$22,250	\$12,480	\$33,150	\$25,760
	Median	\$34,445	\$34,000	\$30,000	\$34,000	\$40,000	\$37,050
	Maximum	\$48,709	\$36,500	\$48,709	\$45,000	\$40,000	\$40,000

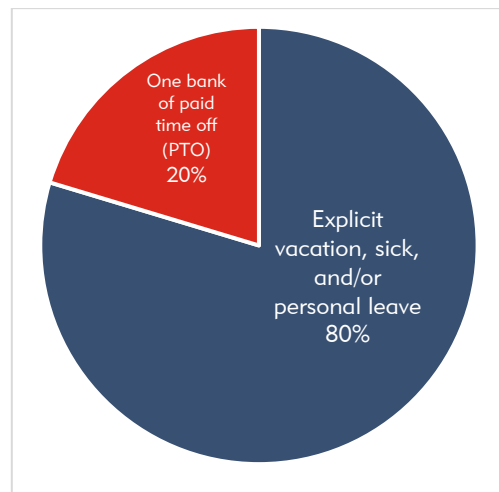
## Education Requirements – by CASA Position

	No Education Requirements	High School Diploma	Associate’s Degree	Bachelor’s Degree	Master’s Degree
Executive Director	5%	3%	2%	78%	12%
Program Director	9%	11%	0%	78%	2%
Team Lead	22%	9%	4%	65%	0%
Recruiter/Trainer	20%	18%	11%	52%	0%
Volunteer Supervisor	18%	23%	11%	45%	2%
Development Director	23%	5%	14%	59%	0%
Administrative Assistant	28%	51%	8%	13%	0%

## Organizational Holidays – across All Programs

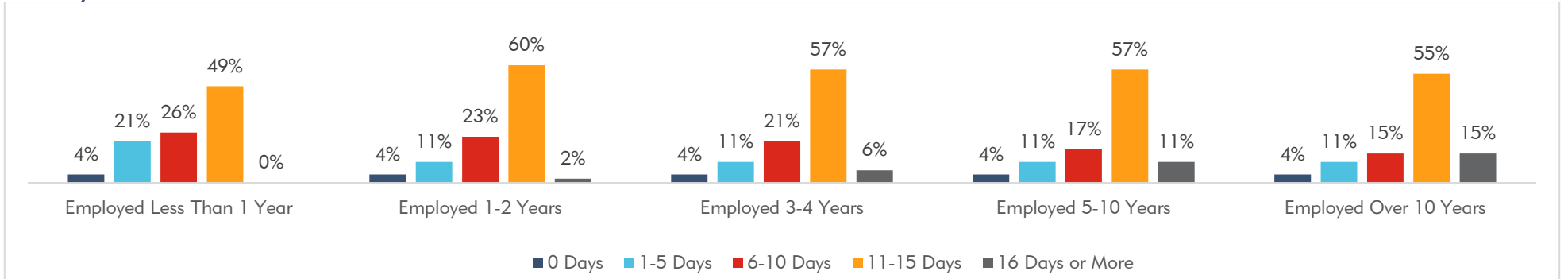


## Structure of Leave Time across All Programs

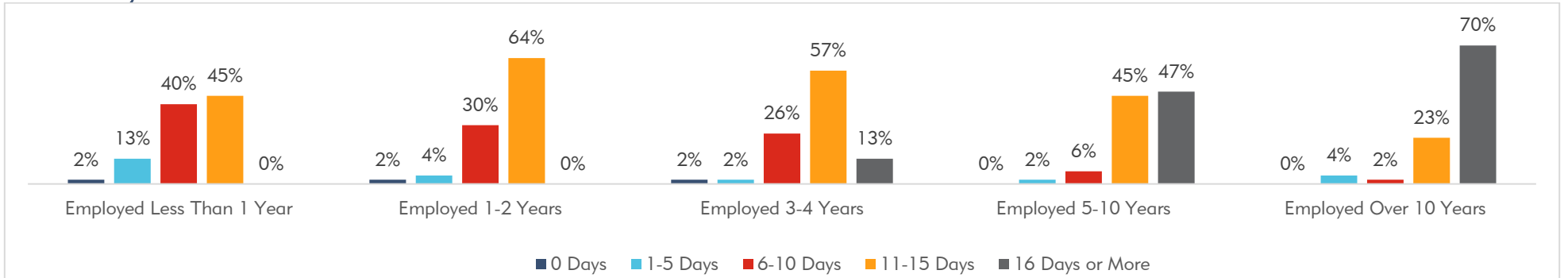


## Overview of Explicit Vacation, Sick and Personal Leave – by Tenure

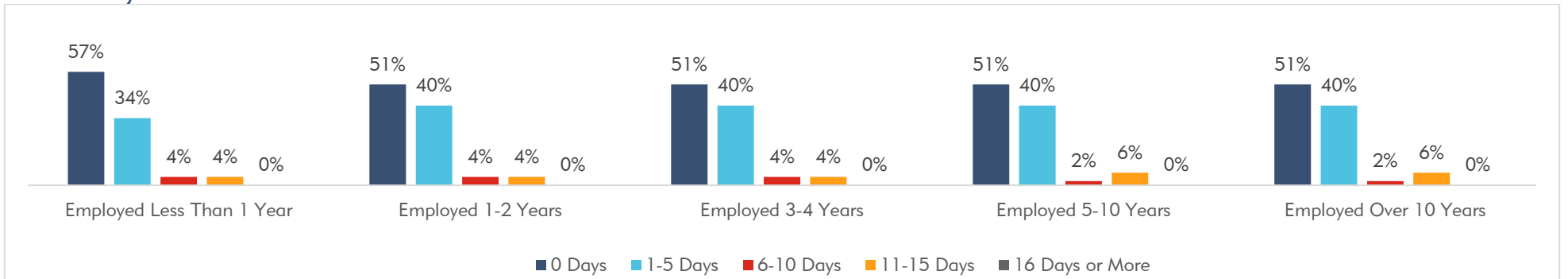
### Sick Days



### Vacation Days



### Personal Days



## Vacation Leave for Full-Time Staff -- by Budget Size

### \$0 – \$300,000

	0 Days	1-5 Days	6-10 Days	11-15 Days	16 Days or More
Employed Less Than 1 Year	67%	22%	11%	0%	0%
Employed 1-2 Years	67%	22%	11%	0%	0%
Employed 3-4 Years	67%	22%	11%	0%	0%
Employed 5-10 Years	67%	22%	0%	11%	0%
Employed Over 10 Years	67%	22%	0%	11%	0%

### \$1,000,001 – \$2,000,000

	0 Days	1-5 Days	6-10 Days	11-15 Days	16 Days or More
Employed Less Than 1 Year	75%	25%	0%	0%	0%
Employed 1-2 Years	50%	50%	0%	0%	0%
Employed 3-4 Years	50%	50%	0%	0%	0%
Employed 5-10 Years	50%	50%	0%	0%	0%
Employed Over 10 Years	50%	50%	0%	0%	0%

### \$300,001 – \$500,000

	0 Days	1-5 Days	6-10 Days	11-15 Days	16 Days or More
Employed Less Than 1 Year	50%	44%	0%	6%	0%
Employed 1-2 Years	44%	50%	0%	6%	0%
Employed 3-4 Years	44%	50%	0%	6%	0%
Employed 5-10 Years	44%	50%	0%	6%	0%
Employed Over 10 Years	44%	50%	0%	6%	0%

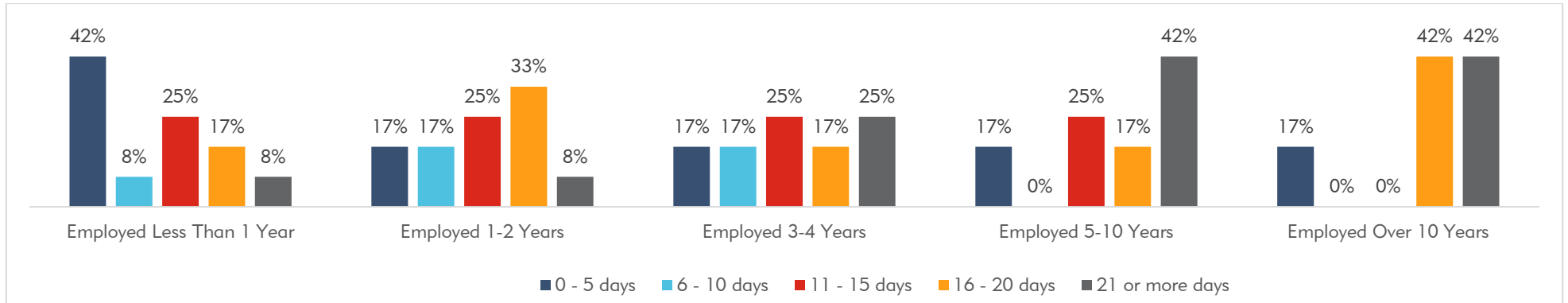
### \$2,000,001 and above

	0 Days	1-5 Days	6-10 Days	11-15 Days	16 Days or More
Employed Less Than 1 Year	50%	0%	50%	0%	0%
Employed 1-2 Years	50%	0%	50%	0%	0%
Employed 3-4 Years	50%	0%	50%	0%	0%
Employed 5-10 Years	50%	0%	50%	0%	0%
Employed Over 10 Years	50%	0%	50%	0%	0%

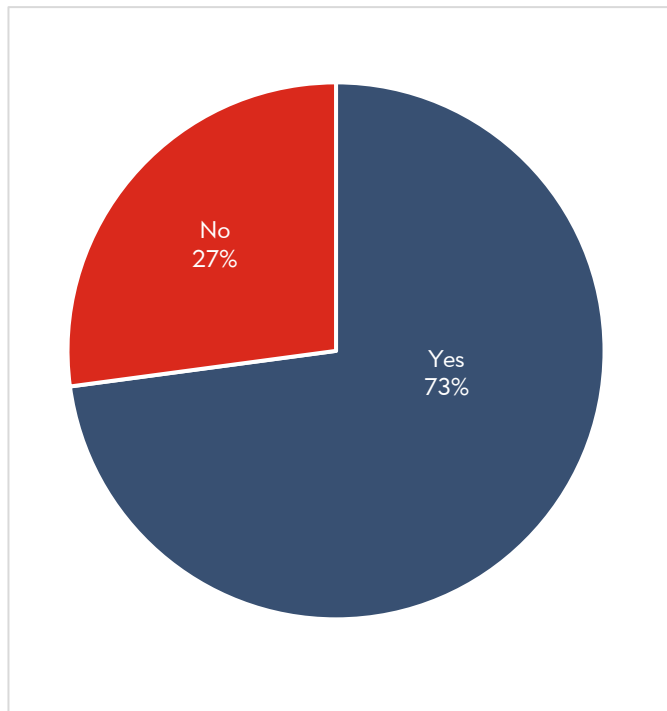
### \$500,001 – \$1,000,000

	0 Days	1-5 Days	6-10 Days	11-15 Days	16 Days or More
Employed Less Than 1 Year	56%	38%	0%	6%	0%
Employed 1-2 Years	50%	44%	0%	6%	0%
Employed 3-4 Years	50%	44%	0%	6%	0%
Employed 5-10 Years	50%	44%	0%	6%	0%
Employed Over 10 Years	50%	44%	0%	6%	0%

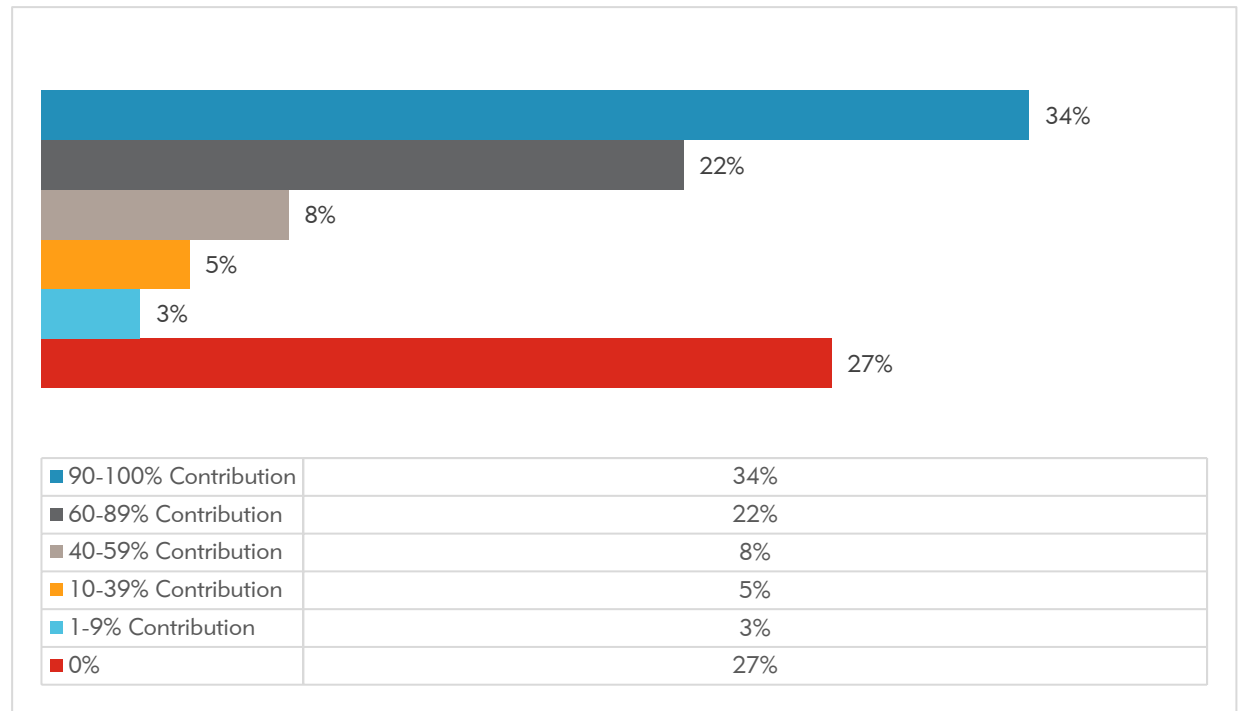
## Overview of One Bank of Paid Time Off (PTO) – by Tenure



## CASA Programs Offering Health Insurance



## Percentage Contribution to Health Insurance



## Contribution to Health Insurance – by Budget Size

	\$0 – \$300,000	\$300,001 – \$500,000	\$500,001 – \$1,000,000	\$1,000,001 – \$2,000,000	\$2,000,001 and above
No Contribution	67%	35%	15%	0%	0%
1-9%	0%	5%	5%	0%	0%
10-39%	0%	0%	15%	0%	0%
40-59%	0%	10%	10%	0%	25%
60-89%	0%	25%	15%	67%	25%
90-100%	33%	25%	40%	33%	50%

## CASA Programs Providing Retirement Benefits – by Budget Size

	\$0 – \$300,000	\$300,001 – \$500,000	\$500,001 – \$1,000,000	\$1,000,001 – \$2,000,000	\$2,000,001 and above
Yes	11%	35%	50%	50%	100%
No	89%	65%	50%	50%	0%

## Types of Retirement Plans – by Budget Size

### \$0 – \$300,000

Employer contributes a specific percent (regardless of employee contribution)	0%
Employer matches employee contribution (up to a certain percent)	100%
Employer does not contribute	0%

### \$1,000,001 – \$2,000,000

Employer contributes a specific percent (regardless of employee contribution)	0%
Employer matches employee contribution (up to a certain percent)	33%
Employer does not contribute	67%

### \$300,001 – \$500,000

Employer contributes a specific percent (regardless of employee contribution)	29%
Employer matches employee contribution (up to a certain percent)	71%
Employer does not contribute	0%

### \$2,000,001 and above

Employer contributes a specific percent (regardless of employee contribution)	25%
Employer matches employee contribution (up to a certain percent)	75%
Employer does not contribute	0%

### \$500,001 – \$1,000,000

Employer contributes a specific percent (regardless of employee contribution)	20%
Employer matches employee contribution (up to a certain percent)	80%
Employer does not contribute	0%



## Other Employer Benefits Offered by CASA Programs – By Budget Size

	\$0 – \$300,000	\$300,001 – \$500,000	\$500,001 – \$1,000,000	\$1,000,001 – \$2,000,000	\$2,000,001 and above
Dental Insurance	0%	40%	55%	83%	100%
Vision Insurance	0%	20%	45%	83%	100%
Short-term Disability	11%	10%	25%	50%	75%
Long-term Disability	11%	10%	10%	67%	50%
Life Insurance	11%	20%	50%	83%	100%
Flexible Spending Account	11%	0%	5%	17%	50%
Tuition Reimbursement	0%	0%	0%	17%	0%
Cell Phone Reimbursement	33%	40%	55%	83%	50%
Work-issued Cell Phone	33%	25%	30%	33%	50%
Mileage Reimbursement	78%	85%	100%	100%	100%
Paid Parental Leave	11%	15%	10%	33%	25%
Children Allowed at Work	44%	30%	40%	33%	0%
Paid Time Off Allowance for Health/Wellness Matters	11%	15%	20%	17%	25%
Health/wellness stipend	11%	5%	25%	33%	0%
Remote Work	56%	60%	80%	50%	100%
Flexible Hours	78%	65%	75%	50%	100%
COVID Special Accommodations	22%	50%	50%	67%	25%
<b>Other Noted Perks or Benefits</b>	Take Command Health	Additional holiday leave (reviewed/approved annually by Board); insurance stipend in leu of insurance	2 Fridays off/month; Employee Assistance Program; Flex hours earned for hours worked over 40hrs/week; Reduced office hours	Dental, Vision, STD offered at employee cost; AFLAC group policies offered at employee cost; PTO can be used for vacation or any personal matters	Health Savings Account



# TEXAS PAYDAY LAW

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## OVERVIEW

The Texas Workforce Commission (TWC) investigates wage claims under the Texas Payday Law, Chapter 61 of the Texas Labor Code.

Texas Payday Law covers all Texas business entities, regardless of size, except for public employers such as the federal government, the state or a political subdivision of the state. All persons who perform a service for compensation are considered employees, except for close relatives and independent contractors.

Both employees and employers should be aware of the law so they will know their rights and responsibilities.

## PAYMENTS SUBJECT TO PAYDAY LAW

The kinds of payments subject to the Texas Payday Law include:

- Compensation for services rendered regardless of how they are computed
- Commissions and bonuses according to the agreement between the parties
- Certain fringe benefits due under a written agreement with or policy of the employer

## PAYMENT DELIVERY

Unless an employee agrees in writing to accept part or all of their wages in another form, wages must be paid in United States currency, a written instrument negotiable on demand at full face value for United States currency, or by electronic transfer of funds.

Wages must be delivered to the employee at their regular place of work during working hours, mailed by registered mail or by direct deposit to be received by the employee not later than payday, by any reasonable means, or to any person authorized in writing by the employee.

Texas Payday Law does not address how long a paycheck must be kept active before an employee must cash it, but does state that an employee has the right to file a claim for unpaid wages up to 180 days from the date the wages were due to be paid

### *Final Wages*

Delivery of final wages can be made by the methods listed above. If an employee is laid off, discharged, fired, or otherwise involuntarily separated from employment, the final pay is due within six (6) calendar days of discharge. If the employee quits, retires, resigns, or otherwise leaves employment voluntarily, the final pay is due on the next regularly-scheduled payday following the effective date of resignation.

If an employee resigns or gives notice they will be resigning, there is no provision in the Payday Law requiring employers to continue to employ the person until the date they intended to resign or to pay them beyond time they actually work.

An employee may be entitled to unused wages for fringe benefits (vacation, holiday, sick leave, parental leave or severance pay) only if the employer provides for these benefits in a written policy or agreement.

### ***Compensable Time***

For more detailed information on compensable time, refer to the U.S. Department of Labor (DOL) fact sheet Hours Worked Under the Fair Labor Standards Act.

### ***Pay for Meetings or Training***

The Payday Law requires that employees be paid for all time worked. While state law does not specifically address pay for meetings or training, the DOL does address the issue of compensable time. Compensable time is normally defined as "all the time during which an employee is necessarily required to be on the employer's premises, on duty or at a prescribed work place."

### ***Paid Breaks or Lunch Period***

The Texas Payday Law does not address the issue of rest breaks or meal breaks. Work schedules, including breaks, regular hours and overtime hours, are left to the discretion of the employer and are usually based on the needs of the business. However, if breaks are given, the DOL does have guidelines on this issue:

- If coffee breaks or rest breaks of 20 minutes or less are given, they must be paid. They are paid because they are considered to be beneficial to the employer since they generally promote productivity and efficiency on the part of the employee.
- Lunch breaks, defined as a break of 30 minutes or longer for the purpose of eating a meal, where the employee is fully relieved of duties (performing no work), do not have to be paid.

### ***Premium Pay***

No state or federal laws affecting Texas require an employer to pay additional wages for working on any day of the year, such as premium pay for working holidays or weekends. Individual company policy generally sets premium pay.

### ***Vacation Pay***

Under the Texas Payday Law, an employer is not required to offer fringe benefits such as vacation pay, holiday pay or other pay for hours not worked. However, if the employer offers these benefits in writing, the employer would be obligated to comply with their own policy or employment agreement. The employer has the right to establish policy on how these benefits are earned, accrued, used and if they are paid out when not used, barring any policy which might be considered discriminatory as defined by law.

## PAY PERIODS

Each employee who is exempt from the overtime provisions of the federal Fair Labor Standards Act (FLSA) must be paid at least once a month; others must be paid at least twice a month. Semi-monthly pay periods must contain as nearly as possible an equal number of days. Within those limitations, an employer may designate any paydays he or she chooses.

Employers must post notices of paydays in conspicuous places in the workplace. If an employer does not designate paydays, the employer's paydays are the first and 15th of each month.

If an employee quits, they must be paid in full at the next regular payday. Terminated employees must be paid in full within six days.

If an employee is not paid on a payday for any reason, including the employee's absence, the employer must pay those wages on another business day as requested by the employee.

Bonuses or wages paid on a commission basis are due in a timely manner according to the terms of agreement between the employee and employer.

## DEDUCTIONS FROM WAGES

To understand what wages are due and unpaid requires knowing what deductions are allowable. Employers must get proper written authorization before making a payroll deduction.

The employer may not make deductions unless:

- Ordered to do so by a court of competent jurisdiction, such as in court-ordered child support payments
- Authorized to do so by state or federal law, such as IRS withholding
- Authorized in writing by the employee, and then only for a lawful purpose (authorizations may not be too general or too broad)

Deductions for out-of-pocket loans to an employee, even with an oral agreement to repay, are allowed only if the deduction is authorized in writing.

An employer who has received an income withholding order is required to withhold from wages, including any severance pay, commissions, bonuses or amounts paid in lieu of vacation time that the employee may be due under company policy or agreement.

If an employee has quit while in possession of company property and is due a final paycheck, wages may be withheld only when the employer is authorized to do so by law, required to do so by a court or has written authorization from the employee for the deduction. Otherwise, the employer would need to attempt to recoup the property by some other means, such as civil remedies (e.g., lawsuit, small claims court or police report) or make arrangements with the employee outside of a wage

## HOW TO CLAIM UNPAID WAGES

An employee who believes they have not been paid all wages earned may submit a wage claim with TWC no later than 180 days after the date the claimed wages originally became due for payment. If part of your unpaid wages were due within 180 days, submit a claim only for that part.

## HOW TO WITHDRAW A WAGE CLAIM

TWC does not process contractual settlements between parties regarding wage claims. If the parties reach an outside settlement, the claimant may withdraw their wage claim by submitting a Withdrawal of Wage Claim form.

## WAGE CLAIM DETERMINATION & APPEALS

TWC investigates all wage claims to determine whether wages are owed to employees under the Texas Payday Law. Based on our investigation, we issue a Preliminary Wage Determination Order. Both the person claiming unpaid wages and the employer have a right to appeal our determination. To learn how to appeal a Preliminary Wage Determination Order, see Texas Payday Law Appeals.

## COLLECTIONS

If TWC determines that the employer must pay wages, the employer pays those wages to TWC and we pay the person due the wages. If necessary to collect the wages due, we may impose administrative liens and bank levies. We may assign the administrative lien to the individual submitting the claim at the individual's request.

## PENALTIES

If TWC determines that an employer acted in bad faith by not paying wages as required by law, we may assess an administrative penalty against the employer equal to the wages claimed or \$1,000, whichever is less. We may assess penalties in the same amount against an employee who files a wage claim in bad faith.

It is illegal for an employer to:

- Fail to pay wages after we advise wages are due
- Hire or continue to employ an employee with the intent of avoiding paying wages

## BOND TO SECURE WAGE PAYMENTS

TWC may require an employer to have a bond issued by a surety company if the employer is convicted of two violations of the Fair Labor Standards Act or if a TWC final wage payment order remains unpaid for more than ten days after the order has become final and no appeal is pending.

TWC sets the bond amount. It must guarantee the payment of any sum recovered against the employer under Texas Payday Law and that the employer will pay the employees in accordance with the Texas Payday Law for a period of up to three years. If an employer fails to deposit the bond required, we may pursue a court order that the employer cease doing business until they furnish the bond.

Because of the high cost of such surety bonds, the requirement that an employer furnish such security could cause the failure of a business.

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# REQUEST TO APPROVE OVERTIME

Employee Name: \_\_\_\_\_

Department: \_\_\_\_\_

Proposed Date(s) of Overtime					
Hours Worked					
Check one below:					
Prior Approval					
Emergency Purposed					

Method of Compensation: \_\_\_\_\_ Paid Overtime

Reason for Overtime: \_\_\_\_\_


\_\_\_\_\_  
 Manager's Signature

\_\_\_\_\_  
 Date

**EMPLOYER NOTES:** In addition to the federal Fair Labor Standards Act, many states have laws governing when overtime is due and the rate of pay an employee is entitled to receive for overtime work. In situations in which an employee is covered by both federal and state wage laws, the employee is entitled to the greater benefit or more generous rights provided under the different parts of each law. Contact your state labor department for more information on applicable state law requirements.

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# VACATION AND SICK LEAVE

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## VACATION LEAVE

- Specify the categories of employees who are eligible to accrue and use paid vacation leave; i.e. full-time, temporary, or part-time employees. As with sick leave, explain how your company defines “full-time” and “part-time”.
- Describe how and at what rate vacation leave is earned and explain whether the company allows carryover of vacation leave from year to year, as well as whether the company pays employees for unused vacation leave when they leave the company.
- Specify whether the vacation time is earned on a monthly basis, by pay period, or after a certain period of service with the company, such as one year.
- State the company policy for payment of unused vacation in the event of layoffs or other work separations. Explain whether there is a distinction between those who voluntarily separate from the company and those who are discharged.

## SICK LEAVE

- Specify the categories of employees who are eligible to accrue and use paid sick leave; i.e. full-time, temporary, or part-time employees. Explain how your company defines “full-time” and “part-time”.
- Describe how and at what rate sick leave is earned and explain whether the company allows carryover of sick leave from year to year, as well as whether the company pays employees for unused sick leave when they leave the company.
- Specify whether the sick leave time is earned on a monthly basis, by pay period, or after a certain period of service with the company, such as one year.
- Describe how employees qualify to use sick leave for periods of absence and whether the company may require medical documentation in order to use available paid sick leave.

No Texas or federal law requires private-sector employers to provide paid or unpaid leave of any kind, although some amount of unpaid leave may be necessary as a reasonable accommodation in the event of a disability, pregnancy, or other condition protected under a specific statute. In the area of family or medical leave, the only employers that are required to provide up to 12 weeks of unpaid job-protected leave under the federal Family and Medical Leave Act are those with 50 or more employees stationed within 75 miles of the employee who is to take such leave, and even then the employee has to meet the various eligibility conditions in order to be entitled to the leave. However, most employers do provide some kind of paid leave, in varying amounts that are up to a company to determine for itself. If such leave is promised in a written policy or agreement, the leave is an enforceable part of the wage agreement under the Texas Payday Law. The written policy or agreement will be enforced according to what it provides.

## ACCRUED LEAVE PAYOUTS

No Texas or federal law requires employers to make payouts of accrued but unused paid leave, although in rare instances, usually involving express contracts, some courts have required such pay-



ments to former employees. That is a matter left to employers to specify in their company policies. Thus, it is very important for employers to develop a clear, preferably written, policy regarding paid leave and follow it exactly. If the policy is silent on what happens to accrued, untaken leave, it is not enforceable under the Texas Payday Law. An example of a policy that clearly states a company's position would be as follows:

Generally, ABC Company does not pay accrued [type of] leave to employees who leave employment. Any unused paid [type of] leave is forfeited upon an employee's work separation. However, unused [type of] leave may be paid out under the following circumstances:

1. If an employee is involuntarily separated from employment for economic reasons as part of a company reorganization or a reduction in the workforce, the employee will receive the full balance of accrued, but unused [type of] leave.
2. If an employee retires from employment pursuant to the Company's retirement policy, the employee will receive the full balance of accrued, but unused [type of] leave.
3. If an employee voluntarily resigns from employment with at least two weeks' advance written notice, the employee will receive the full balance of accrued, but unused [type of] leave.
4. If an employee voluntarily resigns from employment with less than two weeks' notice, but with at least one week's advance written notice, the employee will receive fifty percent (50%) of the balance of accrued, but unused [type of] leave.

Paid or unpaid leave time may not be counted toward a notice period under this policy. Any payment made under this provision will be subject to set-offs and deductions for any amounts due or owing pursuant to legal requirements and to the wage deduction authorization agreement signed by the employee.

For a simpler policy than the one above, see "Accrued Leave Payouts" in the article on the Texas Payday Law.

Remember the general rule that any written promises regarding compensation, including paid leave, should be followed exactly as written, because that is how the Texas Payday Law will enforce such guarantees. While not having a written paid leave policy can seem tempting from the standpoint that non-written leave policies cannot be enforced under the Texas Payday Law, that can lead to other problems such as lack of consistency, complaints from aggrieved and confused employees, and even discrimination complaints. Past practices sometimes become enforceable in court if a discrimination charge is based on unpaid compensation. Finally, if an employee entitled to a payout of accrued paid leave is also subject to a court order for child or spousal support, the amount of wage withholding specified in the court order may have to be made from the amount corresponding to the leave payout. For details, see the final paragraph of the topic on final pay for commissions and bonuses in the article on the Texas Payday Law in section II of the book.

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# PAY AND BENEFITS

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Basic issues in the area of compensation agreements:

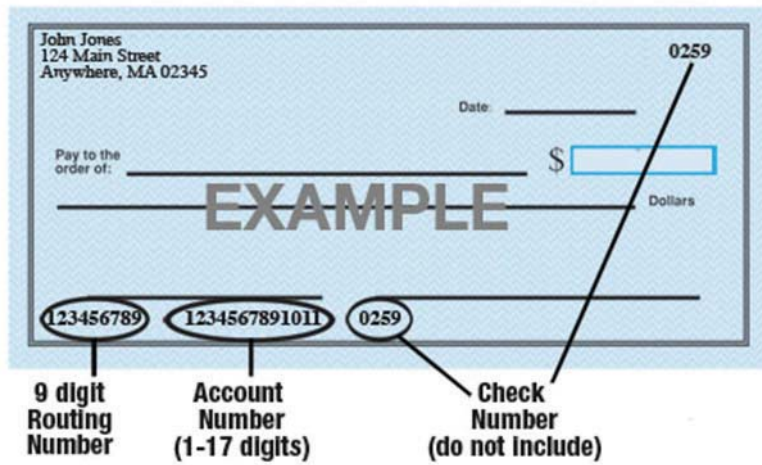
1. Compensation agreements can be oral or written, with hourly, weekly, biweekly, semi-monthly, monthly, commission, piece, book, flag, day, ticket, or job rates, as well as other components such as bonuses or dividends.
2. As noted in the section on Offers of Employment and Compensation Agreements, if unusual pay methods are contemplated, the employer should have the employee sign a written pay agreement that spells out the conditions for pay exactly in order to avoid misunderstandings and possible wage claims.
3. An employer may change both the method and the rate of pay, but only prospectively, never retroactively (risk of wage payment law or breach of contract claims); always give written notice of changes in pay.
4. Employee benefits such as health care, retirement plans, paid time off, and meal or rest breaks are not required under Texas or federal law; it is generally possible to have different sets of benefits available for different categories of employees (such as one set of benefits for hourly workers and another set for salaried exempt employees), but the specifics should be clear and in writing.
5. Some benefits have specific rules if the company offers them, however:
6. Pension or retirement benefits—if a company offers such benefits, the federal law known as ERISA provides that an employee who works at least 1,000 hours in a twelve-month period must be given the chance to elect participation in the pension or retirement plan (this is known informally as the “thousand-hour rule”—see 29 U.S.C. § 1052).
  - a. Health insurance benefits—if an employer has a health insurance plan, Rule 28 T.A.C. § 26.4(15) provides that an “eligible employee” is anyone who usually works at least 30 hours per week.
  - b. Fringe benefits such as paid leave and paid holidays are taxable only after being used, not when accrued.
7. Benefits that are forfeited are non-taxable (as would be the case with paid leave lost due to carryover limits or forfeiture of unused leave upon a work separation).
8. Any benefits that are components of the employee's regular rate of pay, such as in-kind wages (meals and lodging, for example), are taxable along with other wages.
9. Not taxable: pre-tax benefits such as certain types of flex accounts.
10. Taxability of fringe benefits is complicated; employers should consult IRS Publication 15-B for details, and doubtful cases should be referred to an employment tax professional such as a CPA or an attorney.

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# DIRECT DEPOSIT AUTHORIZATION

Please print and complete ALL the information below.

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City, State, Zip: \_\_\_\_\_



Name of Bank: \_\_\_\_\_  
Account #: \_\_\_\_\_  
9-Digit Routing #: \_\_\_\_\_

Amount: \$ \_\_\_\_\_ % or \_\_\_ Entire Paycheck

Type of Account:    Checking    Savings    (Circle One)

Please attach a voided check for each bank account to which funds should be deposited.

[Company Name] is hereby authorized to directly deposit my pay to the account listed above. This authorization will remain in effect until I modify or cancel it in writing.

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Date

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## FREQUENCY OF PAY

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Regarding timing of wage payments, the TPL requires employers to pay non-exempt employees at least twice per month on regularly scheduled paydays, and exempt employees at least once per month (section 61.011). “Exempt” has to do with whether the employee meets the requirements for an overtime exemption as a salaried executive, administrative, or professional employee under the FLSA. Pay periods do not have to, nor do they usually, coincide exactly with the FLSA workweek used for keeping track of hours worked for overtime calculation purposes. The paydays must be posted at the employer's office and at any outlying offices where employees normally gather.

If a regular payday falls on a day that the employer is not open for business (weekend or holiday), and employees ask to be paid before the payday, employers sometimes worry that they might have to do that, especially since Section 61.013 of the Act provides that “[a]n employer shall pay an employee who is not paid on a payday for any reason, including the employee's absence on a payday, on another regular business day on the employee's request.” The statutory provision is not a model of clarity, because it can be understood by some in such a way as if it requires an employer to pay an employee on a day of the employee's choosing. However, TWC does not interpret it that way, and thus adopted rule 40 T.A.C. sect; 821.22 that makes it clear that “another regular business day” means a day after the designated payday on which the employee is not paid. Here's the rationale behind that interpretation: logically, whether an employee “is not paid on a payday” cannot be ascertained until the payday has come and gone without the employee being paid. Thus, the regular business day that is acceptable as an alternative would have to be a day after the payday. Of course, the employer does not have to let itself be limited by that deadline—it can pay prior to the deadline, meaning that it could elect to pay the employees before the normal payday. The important thing, though, is that the employer does not have to pay before the payday.

Paydays may be changed, but it would be best to give employees advance written notice thereof setting out the next three paydays—1) the last old payday; 2) the first new payday; and 3) the next-following new payday. That way, employees will not be able to credibly claim confusion, and the requirement of paying at least twice each month will be met.

Concerning a change in paydays, especially if the company wants to increase the interval between the end of a pay period and the date on which wages are paid, it would be good to give adequate advance notice of the change (as much advance notice as possible). There is no law that prescribes exactly how a change like this must be implemented. Naturally, a company would want to do it in such a way that employees' financial planning is not compromised. Otherwise, the company will get many complaints, which will take a lot of staff time to deal with. The companies that have the most success and least trouble with a change in paydays seem to be the ones that arrange for a gap-bridging paycheck as a transition from the old paydays to the new paydays. Alternatively, some companies give employees a wage advance that serves as a gap-bridger as described above—the employees all sign a deduction authorization agreement that allows the employer to deduct the wage advance from subsequent paychecks in specified installments, or from the final paycheck in a lump sum. Short of that, it is permissible on a one-time basis to have employees wait a few days for the first paycheck under the new pay schedule. That may result in some complaints, but most such complaints go away once the check is issued. Minimize complaints by giving as much advance notice as possible and advising employees to carefully plan for the transition.

The pay periods normally change when a company transitions between a biweekly and a semi-monthly pay plan. Biweekly pay plans feature two-week pay periods, while semi-monthly pay plans involve pay periods that start on specific dates and end on specific dates within each month, resulting in variable pay periods (from 13 to 16 days, depending upon the month and whether it is a leap

year). With both types of pay plans, salaried exempt and salaried non-exempt employees receive the same amount on each paycheck (with overtime as needed for non-exempt salaried employees), while the totals for hourly employees will normally vary, especially for employees paid semi-monthly, due to the variance in the number of days worked in each pay period. It is important to remember that the “workweek” for Fair Labor Standards Act purposes does not change and will not be affected by a change in paydays. The workweek is important because that is how overtime is tracked and paid. With semi-monthly pay, overtime can get a bit tricky. Overtime that occurs in a workweek that falls fully within a semi-monthly pay period must be paid with the paycheck covering that pay period, but overtime that falls into a workweek that spans two pay periods will have to be paid with the paycheck for the second of the two pay periods spanned by the overtime workweek.

Although the law requires an employer to pay wages in a timely manner on regular paydays, the question sometimes arises of what penalties might apply if an employer misses a payday, or a paycheck is not honored due to insufficient funds in an employer's account. The following considerations would apply to such situations:

1. There is no provision in the law assessing a specific penalty for late wage payments.
2. There is no Texas or federal law specifically requiring an employer to reimburse employees for bank charges caused by deposited paychecks bouncing, or by their accounts being overdrawn due to non-payment of wages. However, if such charges effectively reduce their pay below minimum wage, that would arguably violate the FLSA, and the employer could be required to reimburse enough of the fees to restore the pay to the level of minimum wage.
3. Practical limit: despite the lack of a specific late wage payment penalty, if late payments, or missed payments, become too numerous and result in enough wage claims to get the attention of TWC, the agency could impose a bonding requirement on the employer, meaning that the employer would have to post a bond in order to continue employing workers in Texas or doing business at all. The Attorney General could also seek an injunction in court to enforce the bonding order.
4. Habitual late wage payments, or failing to pay wages at all, is likely to make some employees want to quit. Turnover is expensive for everyone concerned, and if such employees file unemployment claims, TWC is likely to consider the wage payment problems to be good cause connected with the work to quit.

Employers sometimes have problems dealing with employees whose failure to keep up with required documentation impairs the company's operations. Withholding paychecks pending submission of required paperwork is almost always a violation of the timely payment provisions of the Texas Payday Law. The employees' duty to submit the required paperwork is separate from the company's duty to give the employees their paychecks by the statutory deadlines. However, if the missing paperwork relates to time worked, a delay in pay might be unavoidable:

1. If the company has no way of knowing how many hours the employees worked, it is not obligated to issue paychecks, because there would be nothing upon which a pay calculation could be based.
2. If there is a way of knowing the hours, however, the company must calculate the pay based upon what it knows, even if the employees have not technically complied with paperwork requirements.
3. If they turned in incomplete time sheets, the company can use the hours indicated thereon to calculate their pay. The burden would be on the employees to show evidence that they worked

hours in addition to those shown on what they submitted. The extra hours could be paid with supplementary paychecks later.

If the missing paperwork is not timesheet-related, the company would have to use other means to obtain cooperation, depending upon the circumstances. It could offer an incentive, such as extra pay, or good recommendations for other jobs, or something else. To avoid future problems like this, a company might consider using a pay agreement similar to the one featured in the topic “Final Pay” in this book. A similar alternative would be to have everyone sign a wage agreement setting the pay rate at minimum wage, with a “compliance bonus” of “x” amount per hour for complete compliance with documentation and other guidelines. The “bonus” amount would be the difference between minimum wage and what the pay would normally be.

## FINAL PAY

Finally, the Texas Payday Law regulates the timing of the final paycheck in section 61.014. If an employee is laid off, discharged, fired, or otherwise involuntarily separated from employment, the final pay is due within six (6) calendar days of discharge. If the employee quits, retires, resigns, or otherwise leaves employment voluntarily, the final pay is due on the next regularly-scheduled payday following the effective date of resignation. “Mutual agreement” separations are generally regarded as involuntary, although that result is not inevitable and ultimately depends upon a close look at all the events and circumstances leading to the work separation. Whether a work separation is voluntary or involuntary is determined according to existing rules for deciding the nature of the work separation in unemployment compensation cases. Basically, if the employee initiates the work separation and leaves while continued work is still available, the work separation is voluntary. If the employer initiates the work separation, i.e., the employee has no choice but to leave at a certain time, the work separation will be considered involuntary.

Since the “final pay” includes regular wages, fringe benefits payable under a written policy, and any other component of the pay, it is important to know what part of the pay must be paid at what time. Regular wages are due no later than the regularly-scheduled payday for an employee who resigned, and by the sixth calendar day for an employee who was laid off or discharged. The deadline for payouts of fringe benefits and other components of the pay, such as commissions and bonuses, is the same, unless a different payout schedule is provided in the wage agreement or policy relating to that particular component of the pay. In that case, the payment schedule outlined in the agreement or policy will determine the deadline for payment.

It is not legal to hold a final paycheck past the deadline for reasons such as failure to return company property, failure to sign timesheets, or similar problems. If the company knows or should know what the pay should be, it must deliver the final pay no later than the deadline, as noted above. Failure to return company property can in many instances be handled via a wage deduction or a property return security deposit. Failure to sign timesheets, or other kinds of rule violations, can be handled via a wage agreement that provides for payment of a lower wage during the final pay period unless certain conditions are satisfied. Such an agreement could, for example, provide something like the following:

## WAGE AGREEMENT

[The bulk of the wage agreement goes here]

[Final paragraph:] I understand and agree that my pay rate for the final pay period of my employment will be [specify the amount—it must be at least minimum wage], unless I satisfy the following

three conditions: 1) give at least two weeks' advance written notice of resignation to the Company if I leave voluntarily; 2) return all Company property that has been issued to me within "x" days of my final day of work; and, 3) no later than "x" days after my final day of work, give my supervisor any keys, passwords, or other means of access control to enable the Company to access its property, including computer files, that I used while employed. If I satisfy all three of those conditions, the rate of pay for the final pay period will be my usual pay rate.

/s/ Employee

/s/ [Company Representative]

[Date]

The above sample agreement is not an official form or policy of TWC. Such agreements can be extremely tricky and should be reviewed by an experienced employment law attorney prior to having employees sign them.

If an employee gives notice of resignation, and the employer accepts the notice early (before its effective date), the company does not owe any pay for the part of the notice period that was not worked, unless a contract applies that otherwise obligates the employer to pay for time not worked.

## FINAL PAY FOR COMMISSIONS AND BONUSES

A common problem is that of what happens with an employer's duty to pay commissions and bonuses once an employee has left the company. The answer depends upon the terms of the commission or bonus agreement. Commission pay agreements are enforceable whether they are oral or in writing, and agreements can be established with a showing of a pattern or practice of paying commissions in a certain way. Thus, the advice to have a clear, signed written wage agreement applies with particular force to commissions. Changes to written agreements must be in writing. A good agreement will avoid the risks of ambiguity by clearly setting out how commissions are earned, when and under what circumstances they are paid, whether "chargebacks" are made and under what circumstances, and what happens to commissions from sales in progress at the time of work separation. Similarly, a bonus agreement should specify exactly how a bonus is earned, how it is calculated, when it is paid, whether it is discretionary in any way (as to the amount, timing, or ability of the company to cancel the bonus altogether under certain conditions), and what happens to a bonus that is not determined or paid out until after an employee has left the company. If the commission or bonus agreement provides for payment of commissions and bonuses in any way after an employee has separated from employment, the deadline for such a payment would be based upon the wording of the agreement. Prior draws against commissions may be offset against the final pay; under 40 T.A.C. § 821.26(d), "[d]raws against commissions or bonuses may be recovered from the current or any subsequent pay period until fully reconciled." The key to protecting the company's interests is to spell out in a clear, written agreement exactly how, when, and under what circumstances commissions and bonuses will be paid, and then follow the written agreement to the letter, because that is how TWC will enforce the agreement in the event of a wage claim concerning such payments.

The Texas Family Code provides that garnishment for support obligations apply to certain post-termination lump-sum payments such as a bonus, commission, or payout of accrued leave (see Texas Family Code § 158.215): if such a lump-sum payment is \$500 or more, the employer must notify the Attorney General's office (do it in writing or electronically—see <https://portal.cs.oag.state.tx.us/wps/portal/WageWithholdingResponsibilities#lumpsum>) before making the payment so that that agency can determine whether a support deduction should be made. The agency then has ten days after

that date to notify the employer about its duty to make the support deduction; if no such notification occurs, the employer may make the payment without the deduction. If, however, the agency informs the employer that the support order would apply to the lump-sum payment, the employer would need to make the deduction. Since such a garnishment would be pursuant to a court order, it would not have to be authorized in writing by the employee.

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# HOLIDAY POLICIES

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1. Most state laws, including those of Texas, do not require employers to observe any holidays or to pay employees if time off for holidays is granted.
2. Just as with paid leave, though, it is essential to set holiday pay policies down clearly in writing, since state payday laws will enforce whatever the written policy says.
3. The policy should cover what happens if an employee works during a paid holiday, i.e., does the employee simply get double pay for that day, or can the employee have some other day off to make up for the missed holiday? Some companies have policies providing “compensatory holidays” in the event a paid holiday is missed through no fault of the employee, like in this situation in which the employee works on the holiday—in such a case, the comp holiday would be used on a day that is mutually convenient for the employee and the company. Other companies provide that paid holidays are lost if the employee would not have been at work in any event (a holiday that falls in a vacation week or a period of a leave of absence), or if the employee worked on that day. Some companies make no provision at all. However, the only case in which holiday pay is required is the one in which the written policy itself expressly promises such a payment, i.e., if the policy indicates that holiday pay will be given for that day, regardless of whether the employee works or does not work that day. Otherwise, the presumption is that holiday pay is only for people who would have been working on that day, but for the holiday. In other words, the presumption coincides with the most commonly-accepted understanding of holiday pay, which is that it is a benefit given to employees who do not work on a holiday so that they might have a full paycheck for the week in which the holiday occurred.
4. Do not count paid holiday hours toward “hours worked” for overtime or FMLA eligibility purposes.
5. Companies with 15 or more employees and thus subject to religious discrimination laws may need to allow employees with religious convictions time off on certain holidays in order to observe religious customs, unless such time off would be an undue hardship for the business (the burden of proving that would be on the employer).
6. Sample policy:
7. “The Company will generally observe the following days as paid holidays:
  - a. (1, 2, 3, 4, 5, 6, 7, or however many list the holidays and specify the dates.)
  - b. Production and staffing needs may make it necessary for selected employees to work on such holidays. Failure of a selected employee to work on the designated day will be considered an absence, which will be either excused or unexcused according to the policy regarding absences from work. Employees who work on a paid holiday will not receive pay for the holiday in addition to pay for the work, but will be allowed to take another day off during the following twelve-month period on a day that is mutually convenient for the employee and the Company.”

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# PAY AGREEMENTS

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Federal and state laws leave it largely up to employers and employees to work out what the pay or compensation agreement will be. Employers must take care to stick to what the employees have been promised in the way of pay methods and pay rates. A wage agreement can be established by both verbal and written evidence, so all oral and written communications to employees regarding pay should be carefully expressed. Since state payday laws are enforced according to the terms of the wage agreement, employers need to ensure that they say what they mean and mean what they say. Wage agreements that are ambiguous, i.e., can be understood in two or more different ways by reasonable people, will usually be resolved against the employer, since the employer was presumably in charge of how the agreement was reached and is responsible for expressing its intent clearly.

Do not worry about a written wage agreement interfering with an at-will employment relationship. Courts seem to be unanimous that unless an agreement shows a clear intent to create a definite term or duration of employment, the presumption will remain that the employment is intended to be of indefinite duration, i.e., terminable at will by either party. For added security, though, it is a good idea to include a standard employment at will disclaimer in a compensation agreement (note: this is only an example. You should consult your own employment law attorney about this type of disclaimer before implementing it in any form of agreement):

## EMPLOYMENT AT WILL DISCLAIMER

I understand that this agreement concerning my compensation and benefits does not modify the at will employment relationship between myself and ABC Company; does not constitute a commitment by ABC Company to employ me for any particular length of time; does not commit me to remain with ABC Company for any particular length of time; and does not restrict either ABC Company or myself from ending the employment relationship at any time for any reason, with or without notice.

Under the general common law, an employer must pay an employee according to the wage agreement that was in effect when the work was performed. This general rule finds expression to one degree or another in the Fair Labor Standards Act and in almost every state wage payment statute. If there is no written agreement, agencies and courts will use some variation of the “best evidence” rule to determine what the employer and employee “agreed” to when the employment relationship was formed. Whoever has the best evidence of the rate of pay and the method of pay will usually prevail on those points. In Texas, the common-law rule is known as quantum meruit. If a worker performs services for an individual or company, but there is no clear agreement on the rate of pay, method of pay, and so on, the law presumes that the employer agreed to pay a reasonable rate of pay for the type of work performed, and “reasonable” would be up to a judge or jury to decide (see the Texas Supreme Court’s decision in *Colbert v. Dallas Joint Stock Land Bank*, 136 Tex. 268, 150 S.W.2d 771, 773 (Tex. 1941)).

Reductions in the pay rate are legal, but should never be retroactive (see below). Remember that pay cuts of 20% or more may give an employee good cause connected with the work to quit and qualify for unemployment benefits. Notice of any changes in the pay rate should always be in writing, for the company’s own protection, in order to minimize disputes over the rate of pay.

Some companies have employees sign policies providing for a complete forfeiture of pay for the final pay period if the employee violates an employment agreement or a particular policy. That would not be legal—an employee is not allowed to waive his or her right to minimum wage or overtime pay. It is generally permissible to have the employee agree that in the event of a violation of an agreement

or policy, his or her pay rate for the final pay period will be a lower rate (it can be no lower than minimum wage). However, agreements like this are largely untested before the agency and in the courts. While the author has not seen an employer lose with a suitably-worded agreement, some attorneys at TWC have commented that such agreements are suspect from the standpoint that an employee does not know when such a provision might affect his pay because he does not know when to expect a discharge. However, an employer can take a lot of the ambiguity out of such an agreement by making the lower pay rate apply only to work occurring after the violation by the employee. That way, the company can argue that the employee knows when to expect lower pay because the timing of the violation was arguably within his power to control. For suggestions on wage agreement language to address specific problems, see the topics “Frequency of Pay” and “Final Pay” in this book.

Company signatures on pay agreements are not absolutely required, but are generally a good idea. Such agreements are valid without signatures by a company representative, but without the signatures, it can be easier for a former employee to disavow their own signature and claim that their signature was forged. Also, courts often indicate that counter-signed documents show that the company intended for the document to be mutually binding, which is something that generally works in favor of enforceability of whatever agreements are at issue. Accordingly, try to have any such agreement counter-signed by a company representative who is likely to be available to serve as a witness in case the authenticity of the employee's signature ever becomes an issue.

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# DOL FACT SHEET #22

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U.S. Department of Labor  
Wage and Hour Division



## Fact Sheet #22: Hours Worked Under the Fair Labor Standards Act (FLSA)

This fact sheet provides general information concerning what constitutes compensable time under the [FLSA](#). The Act requires that employees must receive at least the [minimum wage](#) and may not be employed for more than 40 hours in a week without receiving at least one and one-half times their regular rates of pay for the [overtime](#) hours. The amount employees should receive cannot be determined without knowing the number of hours worked.

### Definition of "Employ"

By statutory definition the term "employ" includes "to suffer or permit to work." The workweek ordinarily includes all time during which an employee is necessarily required to be on the employer's premises, on duty or at a prescribed work place. "Workday", in general, means the period between the time on any particular day when such employee commences his/her "principal activity" and the time on that day at which he/she ceases such principal activity or activities. The workday may therefore be longer than the employee's scheduled shift, hours, tour of duty, or production line time.

### Application of Principles

Employees "Suffered or Permitted" to work: Work not requested but suffered or permitted to be performed is work time that must be paid for by the employer. For example, an employee may voluntarily continue to work at the end of the shift to finish an assigned task or to correct errors. The reason is immaterial. The hours are work time and are compensable.

**Waiting Time:** Whether waiting time is hours worked under the Act depends upon the particular circumstances. Generally, the facts may show that the employee was engaged to wait (which is work time) or the facts may show that the employee was waiting to be engaged (which is not work time). For example, a secretary who reads a book while waiting for dictation or a fireman who plays checkers while waiting for an alarm is working during such periods of inactivity. These employees have been "engaged to wait."

**On-Call Time:** An employee who is required to remain on call on the employer's premises is working while "on call." An employee who is required to remain on call at home, or who is allowed to leave a message where he/she can be reached, is not working (in most cases) while on call. Additional constraints on the employee's freedom could require this time to be compensated.

**Rest and Meal Periods:** Rest periods of short duration, usually 20 minutes or less, are common in industry (and promote the efficiency of the employee) and are customarily paid for as working time. These short periods must be counted as hours worked. Unauthorized extensions of authorized work breaks need not be counted as hours worked when the employer has expressly and unambiguously communicated to the employee that the authorized break may only last for a specific length of time, that any extension of the break is contrary to the employer's rules, and any extension of the break will be punished. Bona fide meal periods (typically 30 minutes or more) generally need not be compensated as work time. The employee must be completely relieved from duty for the purpose of eating regular meals. The employee is not relieved if he/she is required to perform any duties, whether active or inactive, while eating.

FS 22

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**Sleeping Time and Certain Other Activities:** An employee who is required to be on duty for less than 24 hours is working even though he/she is permitted to sleep or engage in other personal activities when not busy. An employee required to be on duty for 24 hours or more may agree with the employer to exclude from hours worked bona fide regularly scheduled sleeping periods of not more than 8 hours, provided adequate sleeping facilities are furnished by the employer and the employee can usually enjoy an uninterrupted night's sleep. No reduction is permitted unless at least 5 hours of sleep is taken.

**Lectures, Meetings and Training Programs:** Attendance at lectures, meetings, training programs and similar activities need not be counted as working time only if four criteria are met, namely: it is outside normal hours, it is voluntary, not job related, and no other work is concurrently performed.

**Travel Time:** The principles which apply in determining whether time spent in travel is compensable time depends upon the kind of travel involved.

**Home to Work Travel:** An employee who travels from home before the regular workday and returns to his/her home at the end of the workday is engaged in ordinary home to work travel, which is not work time.

**Home to Work on a Special One Day Assignment in Another City:** An employee who regularly works at a fixed location in one city is given a special one day assignment in another city and returns home the same day. The time spent in traveling to and returning from the other city is work time, except that the employer may deduct/not count that time the employee would normally spend commuting to the regular work site.

**Travel That is All in a Day's Work:** Time spent by an employee in travel as part of their principal activity, such as travel from job site to job site during the workday, is work time and must be counted as hours worked.

**Travel Away from Home Community:** Travel that keeps an employee away from home overnight is travel away from home. Travel away from home is clearly work time when it cuts across the employee's workday. The time is not only hours worked on regular working days during normal working hours but also during corresponding hours on nonworking days. As an enforcement policy the Division will not consider as work time that time spent in travel away from home outside of regular working hours as a passenger on an airplane, train, boat, bus, or automobile.

### **Typical Problems**

Problems arise when employers fail to recognize and count certain hours worked as compensable hours. For example, an employee who remains at his/her desk while eating lunch and regularly answers the telephone and refers callers is working. This time must be counted and paid as compensable hours worked because the employee has not been completely relieved from duty.

### **Where to Obtain Additional Information**

**For additional information, visit our Wage and Hour Division Website: <http://www.wagehour.dol.gov> and/or call our toll-free information and helpline, available 8 a.m. to 5 p.m. in your time zone, 1-866-4USWAGE (1-866-487-9243).** This publication is for general information and is not to be considered in the same light as official statements of position contained in the regulations.

**U.S. Department of Labor**  
Frances Perkins Building  
200 Constitution Avenue, NW  
Washington, DC 20210

**1-866-4-USWAGE**  
TTY: 1-866-487-9243  
[Contact Us](#)



## Section 4

# MANAGING EMPLOYEES: SUPERVISION







# 10 TIPS FOR EFFECTIVE PERFORMANCE EVALUATIONS

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*You Can Improve the Positive Impact of Your Performance Reviews with These Tips.*

Are you interested in tips about how to make performance reviews successful in your organization? While performance review methods and approaches differ from organization to organization, universal principles about how to talk with an employee about his or her performance exist.

Whether it's a performance review, a salary adjustment meeting, or the implementation of a performance improvement plan (PIP), these tips will help you more confidently lead the meeting.

These tips are applicable in your daily conversations with employees. They are also critical in your periodic, formal meetings with employees to discuss job goals and performance. These ten tips will help you make performance reviews positive and motivational. They will improve—not deflate—your ability to interact with your reporting employees.

## PERFORMANCE REVIEW TIPS

- **The employee should never hear about positive performance or performance in need of improvement for the first time at your formal performance discussion meeting unless it is new information or insight.** Effective managers discuss both positive performance and areas for improvement regularly, even daily or weekly. Aim to make the contents of the performance review discussion a re-emphasis of critical points.

In the interest of providing regular feedback, performance reviews are not an annual event. Quarterly meetings are recommended with employees. In one client company, job planning and evaluation occurs twice a year. Career development planning for employees is also scheduled twice a year, so the employee discusses his or her job and career, formally, four times a year.

- **No matter the components of your performance review process, the first step is goal setting. It is imperative that the employee knows exactly what is expected of his or her performance.** Your periodic discussions about performance need to focus on these significant portions of the employee's job.

You need to document this job plan: goals and expectations in a job plan or job expectations format, or in your employer's format. Without a written agreement and a shared picture of the employee's goals, success for the employee is unlikely.

- **During preparation and goal setting, you need to make how you will evaluate the employee's performance clear.** Describe exactly what you're looking for from the employee and exactly how you will assess the performance. Discuss with the employee her role in the evaluation process. If your organization's performance review process includes an employee self-evaluation, share the form and talk about what self-evaluation entails.

Make sure that you also share the performance review format with the employee, so she is not surprised at the end of the performance review time period. A significant component of this evaluation discussion is to share with the employee how your organization will assess performance.

The employee needs to understand that if he does what is expected, he will be considered a performing employee. In some organizations that rank employees, this is the equivalent of a three

on a five-point scale. An employee must do more than just perform to be considered an outstanding employee.

- **Avoid the horns and halo effect in which everything discussed in the meeting involves positive and negative recent events.** Recent events color your judgment of the employee's performance. Instead, you are responsible for documenting positive occurrences such as completed projects, and negative occurrences such as a missed deadline, during the entire period of time that the performance review covers.

(In some organizations, these are called critical incident reports.) Ask the employee to do the same so that together you develop a comprehensive look at the employee's performance during the time period that your discussion covers.

- **Solicit feedback from colleagues who have worked closely with the employee.** Sometimes called 360-degree feedback because you are obtaining feedback for the employee from his boss, coworkers, and any reporting staff, you use the feedback to broaden the performance information that you provide for the employee. Start with informal discussions to obtain feedback information. Consider developing a format so that the feedback is easy to digest and share with the manager.
- **If your company uses a form that you fill out in advance of the meeting, give the performance review to the employee in advance of the meeting.** This allows the employee to digest the contents before her discussion of the details with you. This simple gesture can remove a lot of the emotion and drama from the performance review meeting.
- **Prepare for the discussion with the employee.** Never go into a performance review without preparation. If you wing it, performance reviews fail. You will miss key opportunities for feedback and improvement, and the employee will not feel encouraged about his successes. The documentation that you maintained during the performance review period serves you well as you prepare for an employee's performance review.

If needed, practice approaches with your Human Resources staff, a colleague, or your manager. Jot notes with the main points of feedback. Include bullet points that clearly illustrate the point you plan to make to the employee. The more you can identify patterns and give examples, the better the employee will understand and be able to act upon the feedback.

- **When you meet with the employee, spend time on the positive aspects of his or her performance.** In most cases, the discussion of the positive components of the employee's performance should take up more time than that of the negative components.

For your above average performing employees and your performing employees, positive feedback and discussion about how the employee can continue to grow her performance should comprise the majority of the discussion. The employee will find this rewarding and motivating.

No employee's performance is completely negative—if so, why does the employee still work for your organization? But, don't neglect the areas that need improvement either. Especially for an underperforming employee, speak directly and don't mince words.

If you are not direct, the employee will not understand the seriousness of the performance situation. Use examples from the whole time period covered by the performance review.

- **The spirit in which you approach this conversation will make a difference in whether it is effective.** If your intention is genuine to help the employee improve, and you have a positive relationship with the employee, the conversation is easier and more effective.

The employee has to trust that you want to help him improve his performance. He needs to hear you say that you have confidence in his ability to improve. This helps him believe that he has the ability and the support necessary to improve.

- **Conversation is the key word that should define a performance review meeting.** If you are doing all of the talking or the meeting becomes a lecture, the performance review is less effective. The employee will feel as if he was yelled at and treated unjustly. This is not how you want employees feeling as they leave their performance reviews.

You want an employee who is motivated and excited about his ability to continue to grow, develop, and contribute. Aim for performance review meetings in which the employee talks more than half of the time. You can encourage this conversation by asking questions such as these.

- What do you expect to be the most challenging about your goals for this quarter?
- What support can the department and I provide for you that will help you reach these goals?
- What are your hopes for your achievements at our company this year?
- How can I be a better manager for you?
- How often would you like to receive feedback?
- What kind of schedule can we set up so that you don't feel micromanaged, but I receive the feedback that I need to your progress?
- What would be a helpful agenda for our weekly one-on-one meetings?

If you take these performance review tips to heart and practice these recommendations in your performance review meetings, you will develop a significant tool for your management tool bag.

The performance review can enhance your relationship with employees, improve performance for your organization, and enhance employee-manager communication significantly—a boon for customers and work relationships. <https://www.thebalance.com/effective-performance-review-tips-1918842>

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*Author: Susan M. Heathfield*

*Updated April 13, 2017*

# COMMON PERFORMANCE REVIEW BIASES

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**Halo Effect.** Generalizing from only positive aspects of performance.

**Devil Effect.** The opposite of the halo effect, generalizing from only negative aspects of performance.

**Similar-to-Me Effect.** The tendency to judge more favorably those people whose background is similar to yours.

**Contrast Error.** The tendency to evaluate a person relative to other individuals, rather than basing the evaluation on the job requirements.

**Recency Effect.** The tendency to give extra weight to what you have seen recently and diminish the importance of observations you may have made earlier in the review period.

**Central Tendency.** Occurs when an employee is consistently rated at or near the midpoint of the scale, regardless of the actual level of performance.

**Leniency Bias.** Tendency to rate higher than is warranted, usually accompanied by some rationalization as to why this is appropriate.

**Standards of Evaluation.** If you are using categories such as fair, good, excellent, etc., be aware that the meanings of these words will differ from person to person. In any event, the use of these categories is not recommended because they do not provide sufficient information to help employees develop.

## HOW TO REDUCE RATING ERRORS

- Ensure the criteria being used is job-related
- Staff to be evaluated on job responsibilities not personality
- Put other people's input into proper perspective and don't weigh it too heavily
- Consider all performance dimensions and realize that they are not always related
- Don't compare employees to each other

*Used by permission.*

*Author: Robert Bascal*

# WHY PERFORMANCE REVIEWS ARE ADVANTAGEOUS

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## EMPLOYEES WILL...

- Have a clear picture of what is expected of them
- Be able to discuss priorities
- Gain a platform to remove confusion when overload occurs
- Receive feedback on their performance
- Be heard and respected
- Be offered constructive guidance on attaining agreed upon goals
- Receive help in constructing personal development plans and targets
- Take ownership for their performance.

## MANAGERS WILL USE THE EMPLOYEE REVIEW DISCUSSION AS AN OPPORTUNITY TO...

- Learn at first-hand about the way the employee works and performs
- Get a better understanding of the employee's potential and needs
- Motivate the employee
- Develop a consistent approach to guidance and encouragement
- Tackle problems more effectively
- Improve the communication process

## REQUIREMENTS FOR A SUCCESSFUL REVIEW...

- Thorough preparation on the part of both the manager and the employee
- Skill and tact on the part of the manager to avoid offence, or a drift into personal attacks
- The removal, before the discussion, by the manager of potential employee doubts, fears or anxieties.
- Clarification that the appraisal is not linked to pay or is link to pay

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# EMPLOYEE EVALUATION FORM

I. Employee Information			
Employee Name		Job Title	
Supervisor/Reviewer		Review Period	

II. Core Values and Objectives		
Performance Category	Rating	Comments and Examples
<b>Quality of Work:</b> Work is completed accurately (few or no errors), efficiently and within deadlines with minimal supervision	<input type="checkbox"/> Exceeds expectations <input type="checkbox"/> Meets expectations <input type="checkbox"/> Needs improvement <input type="checkbox"/> Unacceptable	
<b>Attendance &amp; Punctuality:</b> Reports for work on time, provides advance notice of need for absence	<input type="checkbox"/> Exceeds expectations <input type="checkbox"/> Meets expectations <input type="checkbox"/> Needs improvement <input type="checkbox"/> Unacceptable	
<b>Reliability/Dependability:</b> Consistently performs at a high level; manages time and workload effectively to meet responsibilities	<input type="checkbox"/> Exceeds expectations <input type="checkbox"/> Meets expectations <input type="checkbox"/> Needs improvement <input type="checkbox"/> Unacceptable	
<b>Communication Skills:</b> Written and oral communications are clear, organized and effective; listens and comprehends well	<input type="checkbox"/> Exceeds expectations <input type="checkbox"/> Meets expectations <input type="checkbox"/> Needs improvement <input type="checkbox"/> Unacceptable	

<p><b>Judgment &amp; Decision-Making:</b> Makes thoughtful, well-reasoned decisions; exercises good judgment, resourcefulness and creativity in problem-solving</p>	<p><input type="checkbox"/> Exceeds expectations <input type="checkbox"/> Meets expectations <input type="checkbox"/> Needs improvement <input type="checkbox"/> Unacceptable</p>
<p><b>Initiative &amp; Flexibility:</b> Demonstrates initiative, often seeking out additional responsibility; identifies problems and solutions; thrives on new challenges and adjusts to</p>	<p><input type="checkbox"/> Exceeds expectations <input type="checkbox"/> Meets expectations <input type="checkbox"/> Needs improvement <input type="checkbox"/> Unacceptable</p>
<p><b>Cooperation &amp; Teamwork:</b> Respectful of colleagues when working with others and makes valuable contributions to help the group achieve its goals</p>	<p><input type="checkbox"/> Exceeds expectations <input type="checkbox"/> Meets expectations <input type="checkbox"/> Needs improvement <input type="checkbox"/> Unacceptable</p>

III. Job-Specific Performance Criteria		
Performance Category	Rating	Comments and Examples
<p>Knowledge of Position: Possesses required skills, knowledge, and abilities to competently perform the job</p>	<p><input type="checkbox"/> Exceeds expectations <input type="checkbox"/> Meets expectations <input type="checkbox"/> Needs improvement <input type="checkbox"/> Unacceptable</p>	
<p>Training &amp; Development: Continually seeks ways to strengthen performance and regularly monitors new developments in field of work</p>	<p><input type="checkbox"/> Exceeds expectations <input type="checkbox"/> Meets expectations <input type="checkbox"/> Needs improvement <input type="checkbox"/> Unacceptable</p>	

#### IV. Performance Goals

Set objectives and outline steps to improve in problem areas or further employee development.

#### V. Overall Rating

<input type="checkbox"/>	EXCEEDS EXPECTATIONS	Employee consistently performs at a high level that exceeds expectations
<input type="checkbox"/>	MEETS EXPECTATIONS	Employee satisfies all essential job requirements; may exceed expectations periodically; demonstrates likelihood of eventually exceeding expectations
<input type="checkbox"/>	NEEDS IMPROVEMENT	Employee consistently performs below required standards/expectations for the position; training or other action is necessary to correct performance
<input type="checkbox"/>	UNACCEPTABLE	Employee is unable or unwilling to perform required duties according to company standards; immediate improvement must be demonstrated

Comment on the employee's overall performance.

#### VI. Employee Comments (Optional)



## VII. Acknowledgement

I acknowledge that I have had the opportunity to discuss this performance evaluation with my manager/ supervisor and I have received a copy of this evaluation.

Employee Signature: \_\_\_\_\_ Date: \_\_\_\_\_

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# ORIENTATION PERIOD PERFORMANCE REVIEW

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Employee: \_\_\_\_\_

Department: \_\_\_\_\_

Job title: \_\_\_\_\_

Supervisor: \_\_\_\_\_

Reviewer: \_\_\_\_\_

Date of hire: \_\_\_\_\_

Date of review: \_\_\_\_\_

\_\_\_ 90 Day Review    \_\_\_ 180 Day Review

Other: \_\_\_\_\_

## PERFORMANCE RATINGS

- **Excellent**—far exceeds job requirements.
- **Very good**—usually exceeds job requirements.
- **Satisfactory**—meets all job requirements.
- **Fair**—meets minimum job requirements.
- **Unsatisfactory**—falls well below requirements of the job.

# PERFORMANCE AREAS

**Performance Results: Completes work on time and without sacrificing performance goals or standards.**

Excellent  Very Good  Satisfactory  Fair  Unsatisfactory

**Cooperation/Teamwork: Able to work on a team and willingly accepts assignments.**

Excellent  Very Good  Satisfactory  Fair  Unsatisfactory

**Initiative: Self-starter who puts forth the time and energy to perform tasks without being told.**

Excellent  Very Good  Satisfactory  Fair  Unsatisfactory

**Organizing and Planning: Effectively uses time and resources to accomplish work within appropriate deadlines.**

Excellent  Very Good  Satisfactory  Fair  Unsatisfactory

**Communication: Both verbal and written communications are clear, concise, and accurate.**

Excellent  Very Good  Satisfactory  Fair  Unsatisfactory

**Interpersonal Skills: Works well with others in both informal and formal situations.**

Excellent  Very Good  Satisfactory  Fair  Unsatisfactory

*For Supervisors, Managers, and/or Sales-related positions that include the following:*

**Supervision and Leadership: Effectively directs staff, provides ongoing feedback, and acts as a positive model for others.**

Excellent  Very Good  Satisfactory  Fair  Unsatisfactory

**Sales/Marketing: Obtains new work (e.g., listings, corporate accounts, etc.) from both existing clients and new clients.**

Excellent  Very Good  Satisfactory  Fair  Unsatisfactory

**Other: (Define and rate another significant performance factor if necessary.)**

Excellent  Very Good  Satisfactory  Fair  Unsatisfactory

Expected improvements/accomplishments:

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Performance areas that need further development:

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**Overall Evaluation (check one):**

Excellent     Very Good     Satisfactory     Fair     Unsatisfactory

Date of Next Review:

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Additional Supervisor or Employee Comments:

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_____ Employee's Signature	_____ Date
_____ Immediate Supervisor's Signature	_____ Date
_____ Reviewer's Signature	_____ Date

(Employee signature indicates that this evaluation has been discussed with you. It does not necessarily signify agreement).

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# PERFORMANCE IMPROVEMENT PLAN SAMPLE MEMORANDUM

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To:

From:

Date:

Subject: Performance Improvement Plan

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This memo is to notify you that your job performance has not been acceptable, and that immediate and sustained improvement is needed. The following constitutes a plan for improving your performance (referred to as your "performance improvement plan").

## Current Job Performance

Your job performance has not been acceptable for the following reasons:

- 1.
- 2.
- 3.
- 4.

## Performance Improvement Plan

You were given a verbal warning about your performance. This written warning shall serve as notice that the following actions, which comprise your performance improvement plan, must be taken:

- 1.
- 2.
- 2.
- 3.

3. This plan will be in effect for the next month. There must be immediate and sustained improvement, or further action up to and including termination may occur.

---

Supervisor's Signature

---

Date

I have received a copy of this memo on the date below. I have read the performance improvement plan and understand the performance expectations it includes.

---

Employee's Signature

---

Date

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# 10 STEPS TO RESOLVING CONFLICT AT WORK

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On a personal level, unresolved conflict at work hurts. On a professional level, it can crush your career. In the midst of conflict now? You're feeling pain. It's a matter of how much and which kind. That pain takes a toll. You get frustrated, anxious, and stressed. You suffer strained relationships. You lose sleep. You fail to finish projects. You're less engaged.

Conflict is part of life. Inevitable and real, it happens wherever you work. The question is not "Will I experience conflict?" The question is "What type of conflict will I experience next, and what will I choose to do about it?"

You can ignore conflict, but you'll pay a big price. Key people may shun you. Staff and colleagues may disrespect you. Opportunities are missed. Choices aren't made. Un-comfortable as you may be with clashes, you're far better off learning to cope. Know this: Your current job and overall career depend on it.

Not sure how to handle differences and disagreements? Practice these ten steps to ensure reasonable results—or dodge disaster.

- 1. Acknowledge and clarify the conflict.** When you see or sense a problem, face facts. Don't deny them. A conflict either already exists or is brewing, and you are wise to define it. Conflicts usually focus on expectations, wants, or needs. For example, what is it that you think you must have in six months and somebody else disagrees? Why does she feel that way?
- 2. Assess the conflict's importance.** You can ignore conflict, but you all pay a big price. Key people may shun you. Staff and colleagues may disrespect you. Opportunities are missed.  
  
Determine if the issue warrants confrontation. As objectively as possible, rank its seriousness and the need for resolution. In all honesty, some conflicts aren't worth the time, energy, and effort required to rock or massage the boat. Only you can decide.
- 3. Consider the other person.** Recognize his position within the organization, his relationship to you, and his influence. Evaluate his own approach to conflict, his personality, his stress triggers, and his style. Identify the consequences of speaking up or laying low. Know what is at stake for everyone involved.
- 4. Establish a foundation before you confront.** Be fair: Most individuals and most relationships have one or more positives going for them before conflicts emerge. Figure out what they are. Enter a meeting with an opponent when you are clear. These attributes can serve as a solid, amicable foundation for a potentially challenging, highly charged conversation. Talk about them up front, and then dig into the differences.
- 5. Discuss the conflict privately.** Occasionally conflict must be dealt with in a group setting, but try to do it behind closed doors. Privacy spares both parties embarrassment and fosters authenticity. It frees them from the distraction of other people's judgmental facial expressions, body language, and verbal comments. It sets the stage for viable resolution.
- 6. Stick to the issue.** There is a human tendency to drag historical issues into present day conflicts. Don't do it. It's counterproductive behavior. Keep the conversation relevant to the disagreement at hand. You are more likely to walk away from the table with a mutually satisfactory answer — faster.



- 7. Avoid inappropriate language.** Using profane, abusive, or demeaning language while trying to resolve a conflict with anyone is both inexcusable and unprofessional. Breaching this boundary jeopardizes your image and reputation. Further, it provides the other person with ammunition against you. Calling him derogatory names stymies your chances for reaching any sort of resolution. Take the high road, and select your words carefully.
- 8. Listen with your head and your heart.** Explain your views calmly, and then invite your boss to explain hers. Demonstrate genuine openness to understanding why she needs whatever she requests. Refrain from monopolizing the conversation. Avoid interrupting. Let her feel heard. Just concentrate on what she's telling you, and pull the truth from it.
- 9. Go for fresh.** Conflict resolution is not always about one party giving in and the other party winning. Perhaps the best way to resolve a conflict is to combine the best in your minds and let the creativity flow. Why not devise something brand new? Maybe your original idea was silver quality and your coworker's idea bronze, but what the two of you generate together can be gold. That's a win.
- 10. Value both sets of contributions.** Assuming you and your employee are intelligent, skilled, and invested in a positive outcome, each of you brings something worthwhile to the table — even when you differ. Both of you have something to give. Resolving conflict is not about cutting some-body out or minimizing his value. Resolving conflict is about taking each person's choicest offerings and using them for the greater good.

How you cope with conflict reveals a lot about YOU: Your concern or lack of it for others; your measure of maturity; your stage of growth. Never forget that the folks above you are watching. Daily they observe your response when things don't go your way. They assess your conversations, decisions, and actions.

Right now—as you read this—they may be engaged in dialogues about whether or not to keep you, promote you, or fire you. What message are you sending?

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*Author: Sylvia D. Hepler | Special to PennLive  
updated April 27, 2014*

*Sylvia Hepler, President of Launching Lives, LLC, is a career development specialist for executives and managers based in Mechanicsburg. She supports clients as they up-grade their current job performance, seek a promotion, or plan and navigate a transition. She may be reached at 717-761-5457 or [Sylvia@launchinglives.biz](mailto:Sylvia@launchinglives.biz).*

# FIRST WARNING NOTICE

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To: [Employee Name]

Date:

You are receiving this First Written Warning as a result of the issue(s) described below. Please be aware that this is the first step in [Name of Company]'s progressive discipline process. We trust that you will correct this matter by improving your performance of your job and/or refraining from the act or omission that has led to this First Warning Notice. Failure to make appropriate corrections will lead to further discipline, up to and including discharge.

Nature of Infraction

<input type="checkbox"/>	<b>Poor Work Performance</b>	<input type="checkbox"/>	<b>Absenteeism</b>
<input type="checkbox"/>	<b>Tardiness</b>	<input type="checkbox"/>	<b>Substance Use or Abuse</b>
<input type="checkbox"/>	<b>Insubordination</b>	<input type="checkbox"/>	<b>Abuse of Leave</b>
<input type="checkbox"/>	<b>Improper Conduct</b>	<input type="checkbox"/>	<b>Misuse of Email or Telephone</b>
<input type="checkbox"/>	<b>Safety Violation</b>	<input type="checkbox"/>	<b>Property Damage</b>
<input type="checkbox"/>	<b>Refusal to Work Overtime</b>	<input type="checkbox"/>	<b>Failure to Comply with Company Policy</b>
<input type="checkbox"/>	<b>Other:</b>	_____	

Date, Time and Location of Infraction: \_\_\_\_\_

Details:


You must comply with the attached Performance Improvement Plan (check if applicable)

\_\_\_\_\_  
Supervisor/Manager's Name

\_\_\_\_\_  
Title

---

Supervisor's Signature

---

Date

---

Employee's Name

I acknowledge that I have received a copy of the foregoing First Written Warning and that I have had an opportunity to discuss it with my supervisor or a designated manager.

---

Employee's Signature

---

Date

*EMPLOYER NOTES: This form is provided as a model to be adapted to your individual business needs. Employers are strongly advised to consult with experienced employment counsel prior to any action involving discipline or discharge.*

*It is important to provide as much detail as possible in the warning. If there is ever litigation or any other matter related to the employee's behavior or performance, it is imperative that this warning be well documented. The detail should be such that someone reading this a few years from now, other than the author, will know and understand the details clearly.*

*It is a good practice to allow employees to place a response in their personnel file. It may or may not make much difference in the end, but it does give the employee a sense of having "been heard." If you allow the employee to submit a statement, include a sentence to that effect in the notice, such as "You may, if you wish, provide a written comment to this Second Written Warning for placement in your personnel file. Any such written response must be submitted to your supervisor within ten (10) business days of your receipt of the warning."*

# SECOND WARNING LETTER

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To: [Employee Name]

Date:

Supervisor/Manager's Name: \_\_\_\_\_

You are receiving this Second Written Warning as a result of the issue(s) described below. Please be aware that this is the second step in [Name of Company]'s progressive discipline process. You must address this matter by improving your performance of your job and/or refraining from the conduct or omission that has led to this Second Written Warning. Failure to measurably improve your job performance or any repeat of the infractions described in this notice will likely lead to suspension or discharge.

## Category

<input type="checkbox"/>	<b>Poor Work Performance</b>	<input type="checkbox"/>	<b>Absenteeism</b>
<input type="checkbox"/>	<b>Tardiness</b>	<input type="checkbox"/>	<b>Substance Use or Abuse</b>
<input type="checkbox"/>	<b>Insubordination</b>	<input type="checkbox"/>	<b>Abuse of Leave</b>
<input type="checkbox"/>	<b>Improper Conduct</b>	<input type="checkbox"/>	<b>Misuse of Email or Telephone</b>
<input type="checkbox"/>	<b>Safety Violation</b>	<input type="checkbox"/>	<b>Property Damage</b>
<input type="checkbox"/>	<b>Refusal to Work Overtime</b>	<input type="checkbox"/>	<b>Failure to Comply with Company Policy</b>
<input type="checkbox"/>	<b>Other:</b>	_____	

Date, Time and Location of Infraction: \_\_\_\_\_

Details:


You must comply with the attached Performance Improvement Plan (check if applicable)

\_\_\_\_\_  
Supervisor/Manager's Name

---

Title

---

Supervisor's Signature

---

Date

---

Employee's Name

I acknowledge that I have received a copy of the foregoing Second Written Warning and that I have had an opportunity to discuss it with my supervisor or a designated manager.

---

Employee's Signature

---

Date

*EMPLOYER NOTES: This form is provided as a model to be adapted to your individual business needs. Employers are strongly advised to consult with experienced employment counsel prior to any action involving discipline or discharge.*

*It is important to provide as much detail as possible in the warning. If there is ever litigation or any other matter related to the employee's behavior or performance, it is imperative that this warning be well documented. The detail should be such that someone reading this a few years from now, other than the author, will know and understand the details clearly.*

*Be specific in the details. It is important that you both (1) apprise the employee of the basis of the discipline so that he or she can correct the behavior, and (2) create a paper trail in case of legal claims or other grievances by the employee later on.*

*It is a good practice to allow employees to place a response in their personnel file. It may or may not make much difference in the end, but it does give the employee a sense of having "been heard." If you allow the employee to submit a statement, include a sentence to that effect in the notice, such as "You may, if you wish, provide a written comment to this First Written Warning for placement in your personnel file. Any such written response must be submitted to your supervisor within ten (10) business days of your receipt of the warning."*

# SAMPLE LETTERS OF REPRIMAND FOR POOR EMPLOYEE PERFORMANCE

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A letter of reprimand is issued to an employee when the employee's manager, in conjunction with Human Resources staff, sees an employee making no improvement progress after encouragement over time. The letter usually follows counseling and coaching by the manager that is carefully documented to ensure that a paper trail exists.

The paper trail is important because it provides evidence that the employee was informed and counseled at each step of the improvement process.

This ensures, first of all, that the employee was aware and informed about what the organization saw as his or her shortcomings. Documentation is also useful in the instance of a legal proceeding.

Final meetings with an employee before a formal reprimand is issued are often attended by HR staff to ensure that the manager is effectively communicating the problems to the employee. The HR staff also provides a witness who can testify to the existence of the improvement meetings.

The goal in any progressive discipline actions is to ensure that the employee is not blind-sided by the reprimand. It should occur as a logical extension of progressive discipline to help the employee improve their performance.

## FOLLOWING ARE SAMPLE REPRIMAND LETTERS

These sample reprimand letters will serve as a guide as you prepare reprimand letters. Use these sample reprimands when the performance of your employee warrants a formal, official, documented reprimand.

### *1. Letter of Reprimand*

This employee reprimand is issued to a manager. It is a serious, ethical breach for a manager to overlook employee confidentiality. Managers are held to a higher standard than this manager exhibited.

A letter of reprimand to a manager is a rare event. Employers would usually remove a manager who violates performance standards from his or her management role before disciplinary action was necessary.

To:

From:

Date:

Re: Letter of Reprimand

This is an official written reprimand for your failure to perform the functions of your position appropriately to safeguard the confidential knowledge you have acquired about the employees who report to you. Revealing information, that was shared with you in confidence by an employee, to other employees, is a violation of the confidentiality rights of the employee.

It is also a breach of your expected and entrusted managerial role. In fact, even if the employee had not specified that the information shared with you was confidential, discussing employee

business with another employee, under any circumstances, is a failure on your part to perform your expected management role. The severity of your actions justifies the disciplinary action that could lead to employment termination.

You have received verbal counseling for an earlier offense in which you revealed confidential information entrusted to you by an employee. With this letter of reprimand, I am reminding you of the critical importance of safeguarding confidential information that your role requires.

I am also reminding you of the critical importance that your exercise of dependable good judgment as an employee entrusted with management responsibilities requires.

Because of your position, further diligence in carrying out your responsibilities is required for the future.

Another breach of our confidence in your ability to carry out any of your expected managerial roles will result in additional disciplinary action up to and including the possibility of employment termination.

A copy of this reprimand will be placed in your official personnel file.

Signature:

Supervisor Name:

Date:

### ***Acknowledgment of Receipt***

I acknowledge receipt of this written reprimand. My acknowledgment does not necessarily signify my agreement with its content. I understand that a copy of this reprimand will be placed in my official personnel file and that I have the right to prepare a written response that will be attached to the original letter of reprimand.

Signature:

Employee Name:

Date:

## ***2. Letter of Reprimand***

Employees who persist in behavior that makes them fail at their jobs eventually need to formally hear about the problems. By the time a supervisor reaches the point of needing to write a formal letter of reprimand, he or she has likely invested several hours of coaching and counseling in helping the employee improve her performance.

Creating the paper trail that may lead to dismissal is prudent for the employer. It also keeps the employee from being blindsided when his employment is ended. It's always best to clearly state the problems, the potential outcomes, and the needed performance improvement in writing.

To:

From:

Date:

Re: Letter of Reprimand

This letter is a formal reprimand for the performance you have exhibited on the job. Your work, despite encouragement and regular coaching and suggestions from your supervisor, is not improving.

We have also provided you with on-the-job training from three of our most experienced employees, but you have demonstrated that you don't learn the job. Your performance was rated unsatisfactory by each of the assigned employee trainer/mentors.

Your output remains 30% below the output of your average coworkers. So, your speed, consistency, and dependability are a problem when we are trying to fill customer orders. We can't count on you to do your part.

You have approximately two weeks, although if we don't see early progress, you will not get the full two weeks, to demonstrate that you can learn and perform this job. If you don't demonstrate immediate progress, we will terminate your employment.

We will place a copy of this formal, written reprimand in your personnel file in Human Resources.

Please take this advice seriously as our preference is always to see employees succeed.

Signature:

Supervisor Name:

Date:

### ***Acknowledgment of Receipt***

I acknowledge that I have received this written reprimand. My acknowledgment does not mean that I agree with its contents. I understand that you will place a copy of this reprimand in my official personnel file. I also acknowledge that I have the right to prepare a written response that you will attach to the original letter of reprimand.

Signature:

Employee Name:

Date:

*Used by permission.*

*Author: Susan M. Heathfield*

*Updated January 14, 2017*



# EXIT INTERVIEW QUESTIONNAIRE VOLUNTARY TERMINATION

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[Name of Company] would greatly appreciate your assistance in completing this questionnaire. This information is most helpful as we continually review our employment policies and procedures.

Your answers to this questionnaire will not be included in your permanent personnel record file, nor will they affect your re-employment possibilities with [Name of Company], should you desire to seek re-employment.

Name (optional): \_\_\_\_\_

Resignation Date: \_\_\_\_\_

Hire Date: \_\_\_\_\_

Job Title: \_\_\_\_\_

Location: \_\_\_\_\_

Please place an "X" beside your reason(s) for leaving. REASON(S) FOR LEAVING (mark as many as apply):

- Obtained a new job
- Dissatisfied with pay
- Moving from area
- Family circumstances
- Health reasons
- Dissatisfied with type of work
- Dissatisfied with supervisor
- Other (please explain):

*Please rate the following from 1 to 10 — with 10 being the best.*

	1	2	3	4	5	6	7	8	9	10
Training for employees	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments: \_\_\_\_\_

	1	2	3	4	5	6	7	8	9	10
Employee benefits										
Comments:	_____									

	1	2	3	4	5	6	7	8	9	10
Management and supervision										
Comments:	_____									

	1	2	3	4	5	6	7	8	9	10
General working conditions										
Comments:	_____									

	1	2	3	4	5	6	7	8	9	10
Compensation										
Comments:	_____									

	1	2	3	4	5	6	7	8	9	10
Nature and type of your work										
Comments:	_____									

	1	2	3	4	5	6	7	8	9	10
Job met your expectations										
Comments:	_____									

1 2 3 4 5 6 7 8 9 10

Quality of company's service to customers or clients

--	--	--	--	--	--	--	--	--	--

Comments:

---

1 2 3 4 5 6 7 8 9 10

Commitment to employees and their welfare

--	--	--	--	--	--	--	--	--	--

Comments:

---

Please provide any additional information you feel could make a difference in our policies and practices:

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# TERMINATION MEETING CHECKLIST

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- Tell the employee the purpose of the meeting. (Although there may or may not be a requirement to inform the employee of the reason for termination under state law, it is generally advisable to provide the reason. One of the flags that often signals a wrongful discharge is the absence of a reasonable explanation for the discharge. If you have solid grounds for discharge, there is little reason not to advise the employee of those grounds.)
- Emphasize that you have performed a complete investigation of any incident or done a thorough review of the employee's performance.
- Tell the employee the effective date of the termination.
- Review with the employee a written summary of benefits. This summary should include, where applicable, severance pay, compensation for vacation and sick time, continuation of health and life insurance benefits, other benefits, and re-employment assistance.
- Explain the company's policy on providing references to prospective employers.
- If the employee is to leave immediately, have any final checks, benefits, or vacation payments prepared and inform the employee how to collect his/her personal belongings and leave the premises. It is important to check your state's law to determine any requirements related to final paychecks, as some states require the final check to be delivered at termination. If you do not provide the paycheck immediately, be sure to deliver it within the time limit prescribed by law.
- If the employee will continue to be employed by your company for a period of time, provide the employee with a written summary of projects to be transferred to ensure a smooth transition.
- If applicable, outline the next steps in the termination process, such as the last day of work, return of company ID, keys, computers and credit cards.
- End the interview by saying that the employee will be notified of any other matters that must be dealt with, such as COBRA coverage or any state-required continuation of benefits (or "mini-COBRA") if applicable. Be sure to check with your state labor department for continuation of coverage requirements.
- Extend to the employee in a way natural to you good wishes in his or her future endeavors.
- After the meeting, update the employee's personnel file before placing it into inactive status. Then make sure the employee's name is removed from company directories, including e-mail, and have business mail routed to the individual who will handle the former employee's duties.
- You may wish to archive the employee's email for a time just in case anything arises in which you need it.

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## Section 5

# POLICIES AND PROCEDURES



Executive Director Resource Manual  
2023 Edition



# 8 TOPICS TO INCLUDE IN AN EMPLOYEE HANDBOOK

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An employee handbook is an important tool you can use to effectively communicate information regarding your company's policies, practices, and employee benefits. A well-written handbook sets forth your expectations for your employees, and describes what they can expect from your company.

Deciding which topics to include in your employee handbook can be a challenging task. As a starting point, the U.S. Small Business Administration (SBA) suggests including the following 8 topics:

## 1. GENERAL EMPLOYMENT INFORMATION

Provide a general overview of your business and lay out the company's basic policies relating to employment eligibility, job classifications, employee referrals, employee records, job postings, termination and resignation procedures, transfers and relocation, and union information, if applicable.

## 2. ANTI-DISCRIMINATION POLICIES

As an employer, you must comply with applicable state and federal laws prohibiting discrimination and harassment, such as the federal Americans with Disabilities Act and Title VII. Your employee handbook should include a section about these laws, and how your employees are expected to comply. This section is also a good place to set out your sexual harassment policy, any affirmative action policies, and a statement of your compliance with all employment discrimination and related legal requirements.

## 3. COMPENSATION

Clearly explain that your company will make required deductions from employees' pay for federal and state taxes, as well as voluntary deductions for the company's benefits programs. In addition, you should outline your legal obligations regarding overtime pay, pay schedules, time-keeping records, and meal and rest breaks. Be sure to comply with any applicable state wage and hour laws, in addition to federal requirements.

## 4. WORK SCHEDULES

Describe your company's policies regarding work hours and schedules, attendance, punctuality and reporting absences, along with guidelines for flexible schedules and telecommuting, if offered.

## 5. STANDARDS OF CONDUCT

Make sure you document your expectations of how you want employees to conduct themselves, from dress code to computer and telephone use. In addition, it is important to remind your employees of any legal obligations they may need to comply with on the job (for example, your company's legal obligations to protect customer data).

It is also appropriate in this section to describe your company's progressive disciplinary policy (if any) and other standards related to employee discipline.

## 6. LEAVE POLICIES

Your company's leave policies should be carefully documented, especially leave you are required to provide by law. Family and medical leave, jury duty, military leave, and time off for court cases and voting should all be documented to comply with state and local laws. In addition, you should explain your policies for vacation, holiday, bereavement and sick leave.

## 7. EMPLOYEE BENEFITS

In your handbook, you should include details on your company's benefit programs and eligibility requirements, including all benefits that may be required by law, such as disability insurance and workers' compensation. The employee benefits section should also outline your plans for health insurance, retirement, employee assistance, tuition reimbursement, and any other optional benefits your company offers.

Note that separate legal documents (such as a summary plan description) may also be required for employee benefit plans.

## 8. SAFETY AND SECURITY

Describe your company's policy for creating a safe and secure workplace, including compliance with applicable Occupational Safety and Health Administration (OSHA) laws that require employees to report all accidents, injuries, potential safety hazards, safety suggestions and health and safety related issues to management. Safety policies should also include your company's policy regarding bad weather and hazardous community conditions.

## ADDITIONAL CONSIDERATIONS

If your employees are to be employed 'at-will,' you should clearly state that fact and include a conspicuous disclaimer in the front of your handbook that the handbook is not an employment contract and should not be construed as a contract. It is advisable to speak with an attorney when drafting language related to at-will employment, as such clauses have recently come under scrutiny by the National Labor Relations Board.

You will also want to include in the handbook a written acknowledgement by the employee that he or she has received and read the handbook, to be signed and placed in the employee's personnel file.

While the policies outlined in your employee handbook will reflect your company's own unique culture, it is important to consider federal, state and local laws and regulations that may affect your business when drafting the handbook. You may want to create multiple handbooks if you have both exempt and non-exempt employees and/or unionized employees. The employee handbook is the single most important internal document that lays out the policies of your company to each and every one of your employees. As such, it is important to have employment counsel review the handbook before you publish and distribute it.

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# SAMPLE EMPLOYEE HANDBOOK

*Disclaimer: This is a base file, refer to Texas CASA Standards for Texas CASA requirements.*

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Every nonprofit employer should provide a handbook to each employee describing the organization's employment policies, benefits, office hours, and other working conditions. This is not required by the law, but is a very important employment practice. You may be asking, why not an employment contract instead of a handbook? In most employment relationships, an employee handbook is highly preferred over an employment contract, because handbooks do not eliminate the "at will" relationship between the employer and employee. What "at will" means is that the employer can fire an employee for any reason, and an employee can quit for any reason as well. An employee who is "at will" has no guarantee of continued employment. This is an extremely important benefit for an employer, because a fired employee who is "at will" has very limited grounds on which to challenge the termination. With an employment contract, in contrast, an employer who wants to terminate an employee has to prove the employee violated the terms of the contract, and the employee therefore could have many more issues to raise when challenging the termination.

The following is a sample basic handbook for nonprofit organizations. The handbook should be adapted for the particular circumstances of each nonprofit. It is recommended that legal counsel review handbooks prior to their adoption by the organization.

## SAMPLE EMPLOYEE HANDBOOK FOR NONPROFIT ORGANIZATIONS

This handbook is a source of information to give employees a description of working conditions at (insert name of organization here) ("Organization"). It is not a contract for employment. This handbook may be amended or withdrawn at any time in the sole discretion of the employer.

### *The Mission of the Organization*

(Insert your mission here)

### *Philosophy Regarding the Workplace*

The organization is committed to treating employees (and volunteers) fairly and consistently. Employees (and volunteers) should treat each other with mutual respect. The environment should be safe, productive, and peaceful. Direct communication that values opinions and feelings is encouraged. Dedication to a common mission drives our conduct.

### *Equal Employment*

The organization is committed to the principles of equal employment opportunity. All employment decisions are based on individual qualifications, without regard to race, color, religion, national origin, gender (including pregnancy), age, disability, or any other status protected by law.

**Qualified Individuals with Disabilities.** The organization will make reasonable accommodations for qualified individuals with disabilities, if it can do so without undue hardship.

**Discrimination and Harassment Prohibited.** Any form of discrimination or harassment on the basis of race, color, religion, national origin, gender (including pregnancy), age, disability, or any other status protected by law will not be tolerated in the workplace.

## *Employment Status*

All employees are employees at will. This means that the employer or the employee may terminate the relationship at any time, for any reason, with or without cause. No supervisor, board member or agent of the organization can enter into any agreement to alter this provision.

## *Classifications of Employment*

**Full Time Employees.** A full-time employee is an employee who works more than (30 hours or enter # of hours here) and up to 40 hours per week.

**Part Time Employees.** A part-time employee is an employee who works (30 hours or enter # of hours here) or less per week. Part-time employees (are/are not) entitled to paid holidays or benefits.

## *Office Hours*

Employees shall be on duty and perform work for the benefit of the employer between the hours of (8 a.m. and 5 p.m.) unless otherwise agreed to in writing by the Executive Director. (Indicate if night or weekend work is expected). Regular attendance is required. If circumstances arise that cause a delay in arrival, employees or a relative or friend must contact the Executive Director by (9 a.m.). (Employees may arrange a flexible work schedule for the applicable number of hours in a work week if approved in writing by the Executive Director.)

## *Overtime*

Only non-exempt employees are eligible to receive overtime pay. Non-exempt employees who work more than 40 hours in a week will be paid overtime at the rate of time-and-a-half their regular rate of pay for every hour worked over 40 hours in a workweek, in accordance with the Fair Labor Standards Act. Prior to working more than 40 hours in a workweek, non-exempt employees must first receive advance permission in writing from the Executive Director. The Executive Director is an exempt employee and, therefore, not eligible for overtime pay. (Other classes of employees who may be considered exempt employees include some executives, professionals, and administrators. Independent contractors and bona fide volunteers are not employees and are not entitled to overtime. Exemptions are narrowly construed. Before exempting other positions, employers should seek legal advice.)

## *Paydays*

Employees are paid on the (15th and last) day of the month. If the scheduled payday falls on a weekend or holiday, employees will be paid on the immediately (preceding or following) weekday. Employees who leave employment for reasons other than discharge will be paid not later than the

next scheduled payday. Employees who are discharged will be paid not later than the sixth day after they are discharged.

**Payroll Deductions.** Federal law requires that income tax be deducted from an employee's pay. Social Security and Medicare taxes are also deducted. Court-ordered child support and any other government-mandated wage withholding will also be deducted from any affected employee's pay.

**Paid Holidays.** All full-time employees are eligible for paid holidays. Part-time and temporary employees (are/are not) eligible for paid holidays. The organization observes the following paid holidays: (fill in applicable dates of holidays eligible for pay and consider optional holidays for some religious observances).

**Time Sheets.** Employees must accurately fill out weekly time sheets and submit them to the Executive Director by (10 a.m. every Monday following the work week). Failure to submit a time sheet may result in a delay in payment of wages.

## Leave

**Sick Leave.** Full-time employees accrue sick leave at the rate of (8/10/12) hours a month. Employees must call the Executive Director by (9 a.m.) if unable to work due to illness. A note from the doctor may be required for any absence. An employee will not be paid for absent time if the employee does not have accrued sick leave. (optional: meetings with school officials about your child will qualify as sick leave.) Accumulated sick leave (will/will not) be paid upon termination of employment.

**Annual Leave.** Full-time employees earn annual leave at the rate of (6.67/8/10 hours per month or 10,12,15 days annually) (depending on years of service). Request to take annual leave is subject to prior approval of the Executive Director. Accumulated annual leave (will/will not) be paid upon termination of employment.

**Court Duty.** Employees will be excused from work to appear in court for federal or state jury duty or to appear as a witness if the employee has received a subpoena. The employee should notify the Executive Director within three days after it is received by the employee. [Note: illegal in TX to condition release for jury duty or subpoena on notice to employer] (Optional: Employees will be paid for attendance at the jury pool and for the first three days of trial. Longer absences will be considered excused leave without pay.) The employee must return to work if he or she is released from court and two or more hours remain in the workday. An employee who wishes to take time off to appear voluntarily as a witness or party to any judicial proceeding must obtain prior approval of the Executive Director and will be required to use any available annual leave.

**Military Leave.** An employee's eligibility for leave for military service and re-employment are governed by state and federal law. Employees should inform the Executive Director as soon as possible if they are called to military service.

**Emergency Leave, Bereavement Leave, Parental Leave and Leave without Pay.** Requests for emergency leave or leave without pay will be considered by the Executive Director on a case-by-case basis, subject to the needs of the organization. Employees who experience a death in their immediate family may receive (two days) leave (with/without) pay, subject to approval by the

Executive Director. In addition to sick leave, employees who have worked for 12 consecutive months at the organization may receive (four weeks) paid leave upon the birth or adoption of a child, subject to approval by the Executive Director.

**Family and Medical Leave (over 50 employees).** After twelve months of employment, which need not be consecutive, and 1250 hours worked in the 12 months immediately preceding the request for leave, full-time employees are entitled to 12 weeks of leave within any 12-month period, when the employee cannot work in order to care for the employee's newborn or newly adopted child, or because of a serious health condition of the employee, or a sick child, spouse, or parent. Employees must use paid leave before using leave without pay. (Optional: The Executive Director may authorize, on a case by case basis, unpaid leave to care for other persons in a comparable relationship with the employee.)

**Maximum Duration of Leave.** Optional: The organization provides extended leave beyond the FMLA entitlement. If an employee is unable to return to work at the expiration of 12 weeks of FMLA leave, with a physician's excuse, the organization will provide additional unpaid leave of up to 12 weeks. In the event the employee is unable to work after the extended leave of 12 weeks, the employee shall be administratively terminated. No emergency leave or leave without pay shall extend beyond 24 weeks. [Note: this could run afoul of the ADA]

## **Benefits**

- Health Insurance (describe program, if any)
- Dental Insurance (describe program, if any)
- Retirement (describe program, if any)

## **Conflict of Interest**

Employees should avoid actual and potential conflicts of interests. Employees and their family must not accept gifts of substantial [Note: one person's "substantial" could be \$20, while another's could be \$250 or \$2500] value from customers, suppliers, or vendors. Employees must not accept personal fees or conduct transactions that result in personal benefit or gain to the employee. Employees and their families shall not be eligible to receive services from the organization (unless they are treated equally to any other client and there is full disclosure and approval of the transaction by the Board of Directors).

## **Safety**

Employees should make every effort to ensure a safe, healthy, and accident-free environment. Employees should immediately report any unsafe conditions and any injuries to the Executive Director.

## **Use of Equipment**

Unauthorized or improper use of telephones, email system, mail system, computer, or other equipment, including personal long distance phone calls or mailing personal items, is prohibited.

## *Performance Evaluations*

All full- and part-time employees will be evaluated annually by the Executive Director. The Executive Director will be evaluated annually by the Board of Directors.

## *Discipline*

All employees are expected to perform their duties diligently and to conduct themselves professionally, in accordance with these policies, at all times. Failure to observe the expected standards of performance and behavior will result in appropriate disciplinary action, including termination.

## *Compliance with State and Federal Laws*

**Discrimination.** No employee may be discriminated against on the basis of race, color, religion, gender, national origin, age, disability, or other status protected by law. Employees must immediately report discriminatory actions to the Executive Director or the President of the Board of Directors. Any allegation will be investigated as promptly and confidentially as possible.

**Sexual Harassment.** Sexual harassment, including but not limited to unwelcome sexual advances, verbal or physical conduct of a sexual nature, or any actions that create a hostile work environment are strictly prohibited. Employees must immediately report such actions to the Executive Director, or the President of the Board of Directors. Any allegation will be investigated as promptly and confidentially as possible.

**Non-Retaliation Policy.** Any employee who in good faith reports an illegal act, including discrimination and harassment, by any other employee or Board member may not be suspended, terminated, or subject to retribution as a result of the report.

**Confidential Information.** In the performance of job-related duties, employees may have access to confidential information concerning the financial condition, credit history, or business affairs of a person or entity. Employees shall not improperly use, disclose, or permit access to confidential information.

**Substance Abuse.** It is the policy of the organization to maintain a drug-free workplace. Employees must not possess or use any illegal drugs while at work. The organization also prohibits the presence of any person on the premises of the organization while under the influence of alcohol, inhalants, illegal drugs, or controlled substances.

**Possession of Firearms and Gambling.** Possession of firearms and gambling while at work is prohibited.

## *Termination of Employment*

Full-time employees should give the Executive Director (10 working days) written notice of termination. The Executive Director should give the President of the Board (60 working days) written notice of termination.

## **References**

The organization will not provide references for former employees unless a written authorization and release is received. Otherwise, the organization will only verify dates of employment, the position held, and the rate of pay.

## **Employee Acknowledgment**

I have received a copy of the Employee Handbook. I understand that it is not a contract but a source of information. I also understand that I am an at-will employee and may be terminated at any time with or without notice and with or without cause.

---

Employee's Signature

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Date

*Used by permission. Adapted from Employment Law Manual-Texas CBAR*

# PERSONNEL FILE POLICY

*Disclaimer: This is a base file, refer to Texas CASA Standards for Texas CASA requirements.*

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(General information about personnel files: Federal law does not specifically require employers to maintain “personnel files”, and it does not regulate the question of whether and to what extent employers must allow employees to view, copy, or add documents to their personnel files. However, many of the kinds of documentation needed to defend against discrimination claims and lawsuits, and other types of employment actions, are normally kept in personnel files. Some states have laws requiring employers to give certain degrees of access to their files. Other states (such as Texas) leave that up to an employer and employee to work out between themselves. If you are in doubt about the prevailing legal requirements, be sure to consult an attorney. For more details about personnel files, see the topics “Personnel Files—General” and “Personnel Files—Details” in the Pay and Policies section of Especially for Texas Employers. Although everything in the sample policy that follows is optional, except for the employer’s duty to safeguard the confidentiality of the information in the files, the sections that most companies do not allow are designated with “[Optional for employers:]”.

## PERSONNEL FILES

The Company keeps certain records relating to your employment in a personnel file. The documents contained within that file are the property of the Company and must be maintained for government and Company recordkeeping purposes. Some employment records are kept in separate files, such as records relating to medical conditions and leave, records relating to investigations, and records relating to I-9 requirements. All files connected with an employee are considered strictly confidential, and access will be limited only to those who have a job-related need to know the information and who have been authorized to see the file in question.

If an employee wishes to view the contents of his or her personnel file, the employee should report during off-duty time or, with permission from his or her immediate supervisor, during work time to the Human Resources office and file a written request with the records clerk [or other designated individual]. The clerk will verify your identity and show you to a table where you can view the contents of the file. [Optional for employers:] If you would like to get a copy of a company record relating to your employment, you should let the clerk know which document(s) need to be copied. Copies are ten cents apiece, payable in advance.

You may not take or alter any document found within your personnel file. If you disagree with one of the documents, you may ask the Human Resources Manager for permission to add a document containing your comments regarding the document with which you disagree.

[Optional for employers:] Both at and following the time you separate from employment, you may make copies of documents in your personnel file if you wish. Copying of such documents should be arranged with the Human Resources office and will cost ten cents per copy, payable in advance. Your personnel file will be maintained in company archives in accordance with all applicable legal requirements.

# REPORTING AND FILING REQUIREMENTS

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## FEDERAL WAGE INCOME TAX: IRS FORMS 941, W-2, W-3, AND 1099 MISC.

Each nonprofit that pays wages to employees is responsible for withholding, depositing, paying, and reporting federal income taxes and social security taxes. Organizations must file with the IRS the Employer's Quarterly Federal Tax Return (Form 941), Wage and Tax Statements (Form W-2), and Transmittal of Wage and Tax Statements (Form W-3). Nonprofit organizations are not subject to federal unemployment tax and are not required to file Form 940. If a nonprofit pays more than \$600 a year to an independent contractor, the nonprofit must also file Form 1099-MISC. For further information, call 1-866-455-7438.

**When Form 941 is due.** The form must be filed within 30 days after the last day of each calendar quarter.

**When Forms W-2 and W-3 are due.** Form W-2 must be sent to the employee by January 31st for the income earned the preceding year. In addition, Form W-2 must be filed along with Form W-3 with the Social Security Administration (Data Operations Center, Wilkes-Barre, Pa. 18769-0001) by January 28th and with the IRS by April 1st.

**When Form 1099 MISC is due.** Form 1099 MISC must be sent by January 31st to an independent contractor who received payment of more than \$600 for the income earned the preceding year. The form must also be filed with the IRS by February 28th.

**Penalty for failure to file.** Nonprofits who fail to file the above forms, file incorrect forms, or fail to deposit withheld taxes on a timely basis are liable for fines that range from \$15 per form to \$300,000. Individuals, including directors, who fail to collect, truthfully account for, or pay any payroll taxes can also be held personally liable.

## TEXAS NEW HIRE REPORT

Nonprofits must submit a Texas New Hire Report with the name, address, and social security number of each new employee to the Texas Employer New Hire Reporting Program. For more information, see [www.newhire.org/tx](http://www.newhire.org/tx).

**When the report is due.** The report is due within 20 days after a new employee is hired. For nonprofits that report electronically, new hires must be reported at least twice a month.

**Penalty for failure to file.** A nonprofit that fails to file a new hire report is subject to a civil penalty of \$25 for each unreported employee, or \$500 if the failure is the result of a conspiracy between the employer and the employee not to file the report or to supply false or incomplete information.



## EMPLOYER'S REGISTRATION FORM, STATUS REPORT: TWC FORM C-1

A 501 C(3) nonprofit is subject to TUCA (Texas Unemployment Compensation Act) if it has four or more employees during 20 different weeks in a calendar year. Nonprofits subject to TUCA must register with the Texas Workforce Commission by filing Form C-1 within 10 days of becoming subject to TUCA (i.e.: within 10 days of hiring a 4th employee). The C-1 form enables TWC to establish a new account for employers. New registrants needing assistance should call 512-463-2731.

**TWC Form C-1 Status Report.** Nonprofits should also notify the Commission if and when the nonprofit no longer has employees. Forms are available at [www.twc.state.tx.us](http://www.twc.state.tx.us).

**When the report is due.** A nonprofit must file Form C-1 within ten days after the 4th employee begins work.

**Penalty for failure to file.** The failure to file a report is a Class A misdemeanor if C-1 is filed after 10 days.

## EMPLOYER'S QUARTERLY REPORT: TWC FORM C-3

Nonprofits subject to TUCA (with 4 or more employees during 20 different weeks in a calendar year) are required to file Quarterly Reports with TWC, and pay the applicable state unemployment insurance tax. TWC forms are available at: <http://www.twc.state.tx.us/ui/tax/taxinstruct.html>.

**When the report is due.** The report must be filed before the last day of the month following the end of January, April, July, and October. Approximately six weeks prior to the due date, TWC mails reporting forms to the employer. Failure to receive the forms does not relieve the nonprofit from responsibility for filing the reports.

**Penalty for failure to file.** Nonprofits who fail to file their quarterly reports are subject to penalties which can result in a higher computed tax rate.

## WORKERS' COMPENSATION NOTICE

Employers are required by Texas law to provide notice to employees regarding workers' compensation coverage. A sample notice is located in Section Eight: Useful Resources. This form should be provided to all new employees as soon as they are hired and, if the employer switches insurance companies, an updated notice should be provided to all employees. House Bill 7 passed by the 79th Legislature

abolished the TWCC as of 9/1/2005. Worker's Compensation is now regulated by the Texas Department of Insurance, Division of Worker's Compensation. Nonprofits can choose whether or not to provide workers' compensation insurance coverage for their employees. For more information see:

- [www.tdi.state.tx.us/wc/indexwc.html](http://www.tdi.state.tx.us/wc/indexwc.html) (specifically: <http://www.tdi.state.tx.us/wc/information/employers.html#morecoverage> and <http://www.tdi.state.tx.us/wc/information/employers.html#factsheets>).

## ELECTION TO PAY REIMBURSEMENTS

Nonprofits with more than four employees have an option to pay reimbursements instead of contributions for unemployment insurance. A nonprofit must file an election with the Texas Workforce Commission (“TWC”) in order to take advantage of this option.

**When the election is due.** A nonprofit must make an election between paying contributions and paying reimbursements within 45 days after TWC mails a notice to the nonprofit stating that the nonprofit must participate in the unemployment compensation program.

A nonprofit that elects to be liable for reimbursements must furnish a surety bond a form furnished or approved by the TWC within 30 days after the request for the surety bond is mailed by the TWC. TWC Rules §815.129. More TWC tax information is available at:

- <http://www.twc.state.tx.us/customers/bemp/bempsub3.html>.

If you have questions or problems regarding state unemployment tax, please contact your local tax office. Local tax office contact information is available at:

- <http://www.twc.state.tx.us/tax/taxoff.html>.

**Penalty for failure to file.** Nonprofits who elect to not pay reimbursements must pay contributions into the unemployment compensation system.

## WORKPLACE INJURIES

Nonprofits with workers’ compensation insurance coverage must report work-related injuries and occupational diseases, by completing board form DCW-1, Employer’s First Report of Injury, and sending the original to the Industrial Accident board and a copy of the employer’s insurance carrier, if the injury: results in more than one day’s absence from work injury; an employer knows about an occupational disease or illness even if the employee has not missed any work; or an employee dies because of a work related injury or illness. If a nonprofit does not carry workers’ compensation insurance (“a non-subscriber”), it must report work-related injuries to the Texas Department of Insurance. If a nonprofit has more than ten employees, the nonprofit must also report work-related injuries to the Occupational Safety and Health Administration (“OSHA”). All fatalities or hospitalization of three or more employees must also be reported to OSHA. The report must be completed and filed regardless of the employer’s position on the occurrence of the injury or occupational disease. If the employer denies the injury or occupational disease, this position may be stated on the report.

**When the reports are due.** A nonprofit must report employee injuries within eight days to the carrier. A non-subscriber must report to TDI all injuries that have occurred during a calendar month not later than the seventh day of the following month. Fatalities must be reported to OSHA within eight hours of learning of the death. The toll-free number is 1-800-321-6742.

**Penalty for failure to file.** Nonprofits who fail to file reports are subject to fines imposed by the state of up to \$500 per occurrence. OSHA penalties are higher. (Tex. Admin Code §45.10). A sample notice for employers who do not have worker’s compensation insurance is available at:

- <http://www.tdi.state.tx.us/wc.forms/pddf/notice5.pdf> in English, or
- <http://www.tdi.state.tx.us/wc.forms/pddf/notice5s.pdf> in Spanish.

A sample notice for employers who have worker’s compensation insurance is available at:

- <http://www.tdi.state.tx.us/wc.forms/pddf/notice6.pdf> in English, or
- <http://www.tdi.state.tx.us/wc.forms/pddf/notice6s.pdf> in Spanish.

## DRUG ABUSE POLICY

Every employer who has 15 or more employees and who carries worker's compensation insurance must have a written drug abuse policy. Employers with federal contracts of \$25,000 or more must certify that they provide drug free work places.

**When a policy is due.** An employer shall provide the Commission with a copy of the drug abuse policy within 30 days after the receipt of a written request from the Commission.

**Penalty for failure to have a drug abuse policy.** Nonprofits that fail to adopt a drug abuse policy may be assessed a \$500 penalty. For more information see: <http://www.tdi.state.tx.us/wc/rules/169.pdf> or call 1-800-372-7713 ext. 4622.

*Used by permission. Employment Law Issues: A Guide for Nonprofits in Texas*

# PERSONNEL FILES

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1. Only one type of record absolutely must be kept in a separate file apart from the regular personnel files: medical information (including FMLA and workers' compensation records)—that is because the Americans with Disabilities Act requires that any medical records pertaining to employees be kept in separate confidential medical files.
2. Still, it is a good idea to maintain other types of records in separate files as well:
  - a. **I-9 records:** keep these in a separate I-9 file because it will make it easier to defend against a national origin or citizenship discrimination claim if you can show that such information is available only to those with a need to know (in other words, that those who might have made an adverse job decision were not aware of the person's national origin or citizenship status)—keep in mind that non-I-9 records found in an I-9 audit could result in reports to other governmental agencies from the auditor.
  - b. **Safety records:** this safety record file might also contain documentation relating to an employee's participation or involvement in an OSHA claim or investigation—limiting access to such documentation would make it easier to keep the information from influencing possible adverse decisions against the employee that in turn could result in retaliation claims under OSHA.
  - c. **Grievance and investigation records:** maintain a separate file for these records because they often contain embarrassing, confidential, or extremely private information about employees that could give rise to a defamation or invasion of privacy lawsuit if such facts were known and discussed by others within the company—also, making it known that investigation records will not be divulged may make it easier to persuade reluctant witnesses to give frank and honest answers in an investigation.
3. The human resources department can develop a security access procedure for these various files—the company can keep an overview by cross-referencing in one file documents in another file—if a person who has access to one file wants to see another document in a separate file, he or she would have to have clearance under the file access procedure in order to do that.
4. Texas law does not require an employer to allow an employee to access his or her personnel file (exception: public employees may request copies of their personnel file documents under the Public Information Act)—however, most companies allow supervised access and copying of contents at the employee's cost—a company should never place anything in a personnel file that it would be ashamed to show other people (such as 12 average jurors)—remember, anything in any file relating to an employee is discoverable in a claim or lawsuit filed by or on behalf of that employee!
5. A federal regulation under OSHA contains an exception to the general rule that an employer does not have to turn over copies of a personnel file to employees or former employees. The OSHA rule in question is 29 C.F.R. § 1904.35, which requires a company to give employees and former employees access to OSHA-required records of their work-related illnesses and injuries, i.e., those medical conditions that would be covered by OSHA recordkeeping requirements. Generally, those documents would be OSHA Log 300 and the OSHA 301 Incident Report. "Access" includes copies. The deadline for the access or copies is the end of the next business day following the request, so there is no particular requirement for a 24-hour response. As the rule notes, the first copy of a covered document is free to the former employee or their designated representative, but subsequent copies can be furnished at a "reasonable charge". OSHA's help line is at 1-800-321-OSHA (6742).

6. Ownership and custody of personnel records generally pass from a predecessor to the successor in a situation involving the sale of a business.

# POLICY REGARDING USE OF SOCIAL MEDIA BY EMPLOYEES

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The following is excerpted from NLRB memo OM 12-59 (May 30, 2012, online at <http://my-nlrb.nlrb.gov/link/document.aspx/09031d4580a375cd>) and is a social media policy that was found by the NLRB to be lawful. It is reproduced here in its entirety. It is important to keep in mind that the NLRB's position on social media policies is still evolving and can be very tricky. Thus, it would be advisable to have your company's policy reviewed by an experienced labor law attorney before putting it into place.

## SOCIAL MEDIA POLICY

At [Employer], we understand that social media can be a fun and rewarding way to share your life and opinions with family, friends and co-workers around the world. However, use of social media also presents certain risks and carries with it certain responsibilities. To assist you in making responsible decisions about your use of social media, we have established these guidelines for appropriate use of social media.

This policy applies to all associates who work for [Employer], or one of its subsidiary companies in the United States ([Employer]).

Managers and supervisors should use the supplemental Social Media Management Guidelines for additional guidance in administering the policy.

## GUIDELINES

In the rapidly-expanding world of electronic communication, social media can mean many things. The term "social media" includes all means of communicating or posting information or content of any sort on the Internet, including to your own or someone else's web log or blog, journal, or diary, personal web site, social networking or affinity web site, web bulletin board, or a chat room, whether or not associated or affiliated with [Employer], as well as any other form of electronic communication.

The same principles and guidelines found in [Employer] policies and three basic beliefs apply to your activities online. Ultimately, you are solely responsible for what you post online. Before creating online content, consider some of the risks and rewards that are involved. Keep in mind that any of your conduct that adversely affects your job performance, the performance of fellow associates or otherwise adversely affects members, customers, suppliers, people who work on behalf of [Employer] or [Employer's] legitimate business interests may result in disciplinary action up to and including termination.

### *Know and follow the rules*

Carefully read these guidelines, the [Employer] Statement of Ethics Policy, the [Employer] Information Policy, and the Discrimination & Harassment Prevention Policy, and ensure your postings are consistent with these policies. Inappropriate postings that may include discriminatory remarks, harassment, and threats of violence or similar inappropriate or unlawful conduct will not be tolerated and may subject you to disciplinary action up to and including termination.

## ***Be respectful***

Always be fair and courteous to fellow associates, customers, members, suppliers, or people who work on behalf of [Employer]. Also, keep in mind that you are more likely to resolve work-related complaints by speaking directly with your co-workers or by utilizing our Open Door Policy than by posting complaints to a social media outlet. Nevertheless, if you decide to post complaints or criticism, avoid using statements, photographs, video, or audio that reasonably could be viewed as malicious, obscene, threatening, or intimidating, that disparage customers, members, associates, or suppliers, or that might constitute harassment or bullying. Examples of such conduct might include offensive posts meant to intentionally harm someone's reputation or posts that could contribute to a hostile work environment on the basis of race, sex, disability, religion, or any other status protected by law or company policy.

## ***Be honest and accurate***

Make sure you are always honest and accurate when posting information or news, and if you make a mistake, correct it quickly. Be open about any previous posts you have altered. Remember that the Internet archives almost everything; therefore, even deleted postings can be searched. Never post any information or rumors that you know to be false about [Employer], fellow associates, members, customers, suppliers, people working on behalf of [Employer], or competitors.

## ***Post only appropriate and respectful content***

- Maintain the confidentiality of [Employer] trade secrets and private or confidential information. Trade secrets may include information regarding the development of systems, processes, products, know-how, and technology. Do not post internal reports, policies, procedures, or other internal business-related confidential communications.
- Respect financial disclosure laws. It is illegal to communicate or give a “tip” on inside information to others so that they may buy or sell stocks or securities. Such online conduct may also violate the Insider Trading Policy.
- Do not create a link from your blog, website, or other social networking site to a [Employer] website without identifying yourself as a [Employer] associate.
- Express only your personal opinions. Never represent yourself as a spokesperson for [Employer]. If [Employer] is a subject of the content you are creating, be clear and open about the fact that you are an associate and make it clear that your views do not represent those of [Employer], fellow associates, members, customers, suppliers, or people working on behalf of [Employer]. If you do publish a blog or post online related to the work you do or subjects associated with [Employer], make it clear that you are not speaking on behalf of [Employer]. It is best to include a disclaimer such as “The postings on this site are my own and do not necessarily reflect the views of [Employer].”

## ***Using social media at work***

Refrain from using social media while on work time or on equipment we provide, unless it is work-related as authorized by your manager or consistent with the Company Equipment Policy. Do not use [Employer] e-mail addresses to register on social networks, blogs, or other online tools utilized for personal use.

## *Retaliation is prohibited*

[Employer] prohibits taking negative action against any associate for reporting a possible deviation from this policy or for cooperating in an investigation. Any associate who retaliates against another associate for reporting a possible deviation from this policy or for cooperating in an investigation will be subject to disciplinary action, up to and including termination.

## *Media contacts*

Associates should not speak to the media on [Employer's] behalf without contacting the Corporate Affairs Department. All media inquiries should be directed to them.

## **FOR MORE INFORMATION**

If you have questions or need further guidance, please contact your HR representative.

[Note: For more information, see "Social Media Issues" in the outline of employment law issues in Part II of this book.]

## **SOCIAL MEDIA ISSUES**

1. A surprising number of employers report that employees have posted derogatory comments about their company or their job on the Internet, via Facebook, MySpace, or private blog sites, or else while using other media such as Twitter. Such conduct is becoming increasingly common with the advent of new technologies on the Internet. Unfortunately, while the technology has improved dramatically, there has been no corresponding upswing in common sense or decency in society. Thus, the loose and often intemperate comments that people used to share with each other over drinks are now freely posted online, with the employees sometimes completely unaware that their comments will become available worldwide and be archived on countless network servers across the globe.
2. Bringing to mind the old saying "fools' names and fools' faces often appear in public places," many examples have appeared in unemployment claims of how unwise use of social media by employees can get them in trouble. Here are a few of those cases:
  - a. An employee obtained permission for a two-week FMLA absence, but posted pictures on a social Web site that were taken during that time of herself and her boyfriend on a Caribbean cruise ship, as well as a running account of the good times she was having.
  - b. A golf resort employee used his company-issued "smart phone" to chat with friends and write about his low opinions of his boss. A printout of his chat records revealed that during one staff meeting, he posted comments on a social media site about how boring and useless the meeting was.
  - c. Another employee used a social media site to blog about how much she hated her supervisor and her job. Although she used a pseudonym, she could not resist the temptation to gradually come out with enough identifying information about herself, her boss, and her company to where it became clear who she was.
  - d. Another employee was found to have posted pictures on his social media page of himself and some non-employee buddies having a drunken good time in the employer's office, after hours, when the store was supposed to be completely closed.



3. The general principle here would be a restatement of the old wisdom that “your business ends where my nose begins”, i.e., while it is true that a person's off-duty activities are a person's own affair, that works only as long as the person does not interfere with the rights of others. In an employment context, employees are free to do what they will in their own free time, as long as what they do does not adversely affect coworkers, the employer, or the employer's clients or customers.
4. However, recent guidance and rulings from the NLRB indicate that employers need to be careful about blanket prohibitions of discussing company business or their jobs online. That agency takes the position that the NLRA gives employees the right to discuss the terms and conditions of their employment together, even if they do it online on their own time. Although no courts have yet ruled on this specific issue, it seems clear that what was protected activity before the advent of social media (i.e., pay discussions, complaints about working conditions, and the like) remains protected even if it takes place online. Of course, not all online activity is protected. For example, an employee's “freedom” to disparage co-workers while off-duty should be limited by the co-workers' right to be free of a hostile work environment. Similarly, unauthorized disclosure of confidential information is not protected (aside from discussions of pay and benefits between employees). It is hard to define where that line is, but employees can and should be held accountable when they cross it. It is really no different from other forms of off-duty conduct that damage workplace relationships—courts have long held employers responsible if they fail to take effective action with respect to employees who commit illegal harassment against co-workers, whether the harassment occurs on- or off-duty. In general, a company has the right under Texas law to take action against an employee for off-duty conduct if such conduct has the effect of damaging company business (remember, though, the exception for NLRA-protected activity) or work relationships.
5. It would be a good idea to adopt clear, written policies on computer and Internet usage and on the use of social media by employees. Sample policies on those subjects appear in “The A-Z of Personnel Policies” section of this book.
6. Should your company adopt such a policy, all employees should sign for copies of the policy and be trained in what it means. If any employees refuse to acknowledge the policy, see “Refusal to Sign Policies or Warnings” for ideas on how to proceed.
7. In Texas, HB 2003 (effective September 1, 2009) amended the Texas Penal Code to add a new section 33.07, “Online Harassment”, which created the following criminal offenses:
  - a. third-degree felony: using a fake name or identity to create a Web page or post one or more messages on a commercial social networking site without the other person's consent and “with the intent to harm, defraud, intimidate, or threaten any person”;
  - b. class A misdemeanor: sending “an electronic mail, instant message, text message, or similar communication” referencing any identifying information of another person without that person's consent, with the intent of causing recipients of such a communication to believe that the other person sent or authorized it, and with the intent to harm or defraud any person. This offense would become a third-degree felony if the one committing the offense intends to solicit a response by emergency personnel.

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# TEXAS CBAR SAMPLE EMPLOYMENT APPLICATION

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Sample Application Form for Employment

The following document is a recommended job application. The questions should be modified to reflect the essential job functions of the specific job opening.

## APPLICATION FOR EMPLOYMENT

We are an Equal Opportunity Employer and make employment decisions without regard to race, color, religion, sex, sexual orientation, national origin, citizenship, age, or disability. No question on this application is used for the purpose of limiting or excluding any applicant from consideration for employment on a basis prohibited by local, state, or federal law. If you need an accommodation in completing this application, please notify a representative of the organization.

Applicant name: \_\_\_\_\_ Date: \_\_\_\_\_

Position(s) applied for or type of work desired: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone #: \_\_\_\_\_ Social Security #: \_\_\_\_\_

Type of employment desired: full-time\_\_\_ part-time\_\_\_ temporary\_\_\_

Date you will be available to start work: \_\_\_\_\_

Are you able to meet the attendance requirements? Yes\_\_\_ No\_\_\_

Do you have any objection to working overtime if necessary? Yes\_\_\_ No\_\_\_

Can you travel if required by this position? Yes\_\_\_ No\_\_\_

If you are under 18, can you furnish a work permit if it is required? Yes\_\_\_ No\_\_\_

Driver's license number (if driving is an essential job duty): \_\_\_\_\_

How were you referred to us? \_\_\_\_\_

## EMPLOYMENT HISTORY

Please provide all employment information for your past three employers starting with the most recent.

**Employer:** \_\_\_\_\_

Position/s held: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone number: \_\_\_\_\_

Immediate supervisor and title: \_\_\_\_\_

Dates employed: From \_\_\_\_\_ to \_\_\_\_\_

Salary: \_\_\_\_\_

Summary of duties: \_\_\_\_\_

Reason for leaving: \_\_\_\_\_

**Employer:** \_\_\_\_\_

Position/s held: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone number: \_\_\_\_\_

Immediate supervisor and title: \_\_\_\_\_

Dates employed: From \_\_\_\_\_ to \_\_\_\_\_

Salary: \_\_\_\_\_

Summary of duties: \_\_\_\_\_

Reason for leaving: \_\_\_\_\_

**Employer:** \_\_\_\_\_

Position/s held: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone number: \_\_\_\_\_

Immediate supervisor and title: \_\_\_\_\_

Dates employed: From \_\_\_\_\_ to \_\_\_\_\_

Salary: \_\_\_\_\_

Summary of duties: \_\_\_\_\_

Reason for leaving: \_\_\_\_\_

**Employer:** \_\_\_\_\_

Position/s held: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone number: \_\_\_\_\_

Immediate supervisor and title: \_\_\_\_\_

Dates employed: From \_\_\_\_\_ to \_\_\_\_\_

Salary: \_\_\_\_\_

Summary of duties: \_\_\_\_\_

Reason for leaving: \_\_\_\_\_

## OTHER SKILLS AND QUALIFICATIONS

Summarize any job-related training, skills, computer knowledge, licenses, certificates, and any other information you believe is relevant to your qualifications for this job:

## EDUCATIONAL HISTORY

Type of School	Name of School	Major & Degree or Years Completed
High School		
College		
Business or Trade School		
Professional School		

## REFERENCES

List three work related references, including their names, telephone numbers, and years known (do not include relatives or employers):

- 1.
- 2.
- 3.

## RELEASE

- I hereby authorize the potential employer to contact, obtain, and verify the accuracy of information contained in this application from all previous employers, educational institutions, and references.
- I understand that any intentional misrepresentation or material omission made by me on this application may constitute grounds for rescission of a job offer or immediate termination of employment if I am employed, without notice, whenever it may be discovered.
- If I am employed, I acknowledge that there is no specified length of employment and that this application does not constitute an agreement or contract for employment. Accordingly, either I or the employer can terminate the relationship at will, with or without cause, at any time, so long as there is no violation of applicable federal or state law.
- I understand that this is a drug free workplace and consent to compliance with this policy as a condition of employment.
- I also understand that, if I am employed, I will be required to provide satisfactory proof of identity and legal work authorization within three days of being hired. Failure to submit such proof within the required time shall result in immediate termination of employment.
- I have read and fully understand the foregoing statements and I seek employment under these conditions.

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Applicant's Signature

---

Date

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# TEXAS CBAR SAMPLE CELL PHONE POLICY

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Cell Phones are for organization use and organization business only, except for minor incidental or emergency personal use.

**NOTE:** *Personal use of company cell phones may result in additional personal and/or organization income tax liability.*

“Incidental” means minimal use in circumstances in which a personal call is necessary, but land line isn’t practical or available; example, while in field, need to call spouse (or vice versa) regarding important personal matters.

Cell phone communications are not secure and can potentially be intercepted. Personnel are not to use cell phones to discuss any confidential or private company information, such as employee information, etc., or any subjects that could potentially damage or embarrass the organization.

International calls are prohibited.

Use of phone by non-employee of organization is prohibited.

Acceptance of a company cell phone constitutes your agreement that you will repay any unauthorized charges, and your signature below authorizes the company to deduct such charges from your applicable pay without further notice.

Cell phone usage will be monitored and violation of these rules may result in discipline, up to and including separation from employment.

The use of phone while driving is prohibited.

**I have read and understood this policy.**

---

Employee’s Signature

---

Date

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# REQUEST FOR TRAVEL-RELATED REIMBURSEMENT

Please submit this request to [Human Resources or Designated Recipient] for reimbursement of travel-related expenditures. The full company policy related to business travel-related expenditures is in our Employee Handbook.

**Employee: Please complete (please print clearly)**

Name \_\_\_\_\_ Telephone Number \_\_\_\_\_  
 Home Address \_\_\_\_\_ Supervisor \_\_\_\_\_

Travel Information

Date	Travel From (provide street address)	Travel To (provide name and street address)	Distance (Total Miles)	Reimbursement Requested
------	--------------------------------------	---	------------------------	-------------------------

MILEAGE TOTAL:

Meal/Lodging Information

Date	Location	Meals Amount	Lodging Amount	Total
------	----------	--------------	----------------	-------

MEALS/LODGING TOTAL:

TOTAL EXPENSES (mileage, meals, and lodging)

**Employee Certification**

I have read and understand the company policy regarding reimbursement of travel-related expenditures and hereby request reimbursement for the travel-related expenditures listed above. I certify that the above information is true and correct.

\_\_\_\_\_  
Employee's Signature

\_\_\_\_\_  
Date

----- Do not write below this line -----

**Recommendations**

Approval Recommended: Yes \_\_\_ No \_\_\_

**Signature of Immediate Supervisor**

Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**Approval**

[Human Resources or Designated Manager]

Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Reimbursement check #: \_\_\_\_\_ Amount \$ \_\_\_\_\_

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# TEXAS CBAR ELIGIBILITY REQUIREMENTS

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Texas C-BAR offers a Pro Bono Legal Referral Program designed to connect eligible nonprofits and microenterprises with volunteer attorneys who provide free legal assistance on business, corporate, and legal matters that do not involve litigation. To be eligible for assistance, all organizations are evaluated under the following criteria and preferences.

- The organization is a nonprofit organization, unincorporated association, a 501(c)(3) nonprofit, or seeks to be one.
- The organization is governed by a diverse board of directors not related by family members or persons serving as both board members and paid staff.
- The primary mission of the organization, or significant outreach initiative, is to help low-income persons or to serve low-income populations.
- The organization lacks the ability to afford legal assistance or paying for legal services would negatively impact their charitable work.

Other factors which staff will use to evaluate eligibility include:

- the type of assistance needed;
- area of legal expertise required by the referral;
- availability of attorneys willing to volunteer at any given time;
- organization's demonstrated impact;
- organization's sustainability (reliability and viability);
- organization's ability to work with volunteer attorneys;
- organization's access to other pro bono resources; and
- whether or not the matter is likely to result in a successful outcome for the client.

Exceptions to the above guidelines require approval from C-BAR's senior staff.

## ***Additional Requirements for those seeking to file for 501(c)3 Tax-Exempt Status with the IRS:***

The following specific factors are key to our ability to accept a request for assistance to file for 501(c)3 status with the IRS. In order to provide this assistance, we require that:

1. The organization will serve a low-income population or community. Because we work with volunteer attorneys, we adhere to the requirements of the Texas State Bar and we therefore limit our services to nonprofits that work with low-income individuals or communities.
2. The matter is "ready" for referral. Before we can refer a case to one of our volunteer attorneys, the nonprofit must be able to provide the following:
  - A list of people who have agreed to serve on the board of directors and their qualifications. (Please note: Texas C-BAR only refers matters for organizations governed by a diverse board, not for those governed by related family members or by persons serving as both board members and paid staff.)

- A narrative description of the organization’s past, present, and planned activities. (A plan that outlines what programs the nonprofit intends to provide and describes the activities in which the nonprofit will engage. This is necessary because prior to beginning work on an application to the IRS an attorney must first assess a nonprofit’s proposed programs and operations to determine whether they qualify for tax-exempt status under the Internal Revenue Code).
  - Information on your membership plan, benefits, and dues (if you have or plan to have members).
  - A list of sources of financial support (historic, current, or projected).
  - A description of your fundraising plan or programs (historic, current, or projected).
  - Financial Statements or a three-year budget for the first 3 years of operations (historic, current, or proposed).
  - A copy of your Certificate of Formation (do NOT file with the Secretary of State if you have not already).
  - A copy of your Bylaws (if you have adopted bylaws).
  - A copy of the minutes for your first meeting (if applicable).
  - A copy of your EIN/ Employer Identification Number
- 3.** The organization demonstrates a strong base of community support and a strong likelihood of financial sustainability. Both because our work is performed by volunteer attorneys and because in our experience, organizations that begin with strong community support have the best chance of sustainability we ask that, in order to qualify for free legal services, nonprofits demonstrate this by:
- Showing a diverse board that does not include related family members or that does not have persons serving both as board members and paid staff (we recommend at least five board members),
  - Showing collaboration with existing organizations and demonstrating that the services to be provided are not duplicating services already available, and
  - Showing the strong potential commitment of funders for the organization. While many donors are not willing to provide financial support until tax exempt status is achieved, they are able to indicate whether a nonprofit’s proposed programs are those that are likely to be funded. We recommend that you meet with potential funders early, not to ask for donations necessarily, but to gauge their level of interest in the mission and purpose of the organization, and whether it is the type of organization that they would be willing to support. This also provides a networking opportunity with potential donors. If donors lack interest in the organization’s mission, obtaining 501(c)3 status will not cure this lack of interest. If the nonprofit is going to survive financially, it should cultivate potential funding sources early on in the process.

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# TEXAS CBAR- APPLICATION FOR ASSISTANCE



## Application for Pro Bono Legal Services

Texas CBAR (“Texas Community Building with Attorney Resources”) was established to provide free legal services to organizations throughout Texas by matching them with qualified attorneys. We do not accept matters in litigation. All of our legal services are free of charge, although there may be external costs charged by governmental agencies, such as filing fees and closing costs, which are the responsibility of the organization. Texas CBAR staff serves as an ongoing resource throughout the representation.

This application was designed to provide Texas CBAR staff with enough information about your organization and legal needs so that an appropriate and effective referral can be made to one of our volunteer attorneys. Include any additional information that you think might be helpful, using additional sheets if necessary. It is important that you provide as much detail and be as candid as possible so that we can evaluate your application quickly and fairly and provide you with the best legal assistance available in a timely manner. We may request additional information.

We will notify you after we have reviewed your completed application about your eligibility for our services. If your group is eligible, we will then attempt to match your request for legal assistance with an attorney with the appropriate expertise. Please understand that not all applicants will receive legal services. The referral process can take from two to four weeks or longer. Please keep a copy of this application for your files. Please return application via email to [texasbar@trla.org](mailto:texasbar@trla.org); via mail at Texas CBAR, 4920 N.IH-35, Austin TX. 78751; or fax (512) 447-3940. For more information, please contact us at (512) 374-2712.

**ELIGIBILITY GUIDELINES:** To be eligible for assistance from Texas CBAR, a group must meet certain eligibility criteria. Please check all that apply to your organization.

- The organization (officers, directors, board members, etc.) is primarily **composed of low-income persons**; **OR** has as a principle activity the **delivering of services to low-income persons** in the State of Texas.
- The organization delivers services to community members primarily benefiting **U.S. citizens and/or lawful permanent resident aliens**.
- The organization lacks the funds or practical means to retain private counsel.

<b>PART 1: ORGANIZATION &amp; CONTACT INFORMATION</b>		
Organization Name:		
Organization’s Address :		Mailing Address (if different):
Main Phone:	Fax:	Website:

Main Contact Person:		Title:	
Main Contact 's Address :		Mailing Address (if different):	
Main Phone:	Cell:	Email:	

**PART 2: ORGANIZATIONAL BACKGROUND AND STRUCTURE**

Please describe the purpose and/or mission of the organization: (In the alternative, attach any mission statements or similar materials you have prepared describing your goals and activities):

What is your organization's objective and how do they relate into benefiting the community as a whole?

Please list all of the Directors that serve on your Board of Directors and/or your Officers below. (i.e. John Baker- President)

Are any board directors related to each other? If yes, explain.

Staff/employees: Does your organization have any paid officers, employees, or staff members?  
 Yes       No  
 • If yes, how many are PAID\_\_\_ UNPAID\_\_\_\_\_

Is your organization *incorporated in Texas as a nonprofit*?  
 Yes       No  
 (If YES, please attach copies of Certificate of Formation)

Has your organization been *designated by the IRS as tax-exempt nonprofit under Section 501 (c)(3)* of the Internal Revenue Code?  YES       NO       Application filed with IRS, awaiting decision.  
 (If YES, attach copy of IRS Determination Letter granting tax-exempt status)

What community or geographic region does the organization serve (ex. South Dallas, West Texas)?

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Gross number of individuals currently served by your organization or is impacted by your services?  
(gross number) \_\_\_\_\_

Within this gross number, how many of those served are:

- Elderly \_\_\_\_\_
- Children (under 18 years of age living in a household impacted) \_\_\_\_\_
- Veterans (homeowner of household impacted) \_\_\_\_\_
- Nonprofit Organizations \_\_\_\_\_
- Small Business Clients \_\_\_\_\_

---

Does your organization provide affordable housing services? \_\_\_\_YES \_\_\_\_NO

- If YES, how many affordable housing units will you expect to create or preserve in relation to legal services being requested on this application? \_\_\_\_\_

**PART 3: LEGAL NEEDS**

**Assistance needed:** Organization needs legal assistance with (check all that apply):

- Incorporation as a nonprofit
- Application for IRS tax- exempt status
- Review of bylaws
- Review of employee/personnel policies
- Review specific contract or agreement
- Review commercial lease agreement
- Other real estate matter
- Tax matter
- General Legal Audit – For established organizations only; review of organization’s overall legal compliance.
- Other – describe below as specifically as possible; use other sheets if necessary.

**\*\* Reminder: We cannot review your legal matter without copies of your legal documents. Send copies of related documents (ex. project proposals, contracts, title documents) to us by email attachment, fax or mail to CBAR (contact information below). Do not send original documents.**

How do the legal services requested above benefit the community as a whole?

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**Deadlines:** Are there any deadlines relating to your legal matter?       Yes    No

- If Yes, please list the date and nature of the deadline(s): \_\_\_\_\_

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**Conflicts of Interest** –CBAR is required to make sure that there are no conflicts of interest between your organization and the lawyer or law firm to which your legal matter might be referred. List the *names of other parties involved in the transactions for which you seek legal assistance* (ex. bank, government agency, seller's name, title company) even if you are unsure of the level or type of involvement. This is **VERY IMPORTANT** as we cannot refer your case otherwise.

**PART 4: FINANCIAL INFORMATION**

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Annual budget: What is the organization's annual budget? INCOME: \$\_\_\_\_\_ EXPENSES: \$\_\_\_\_\_

Does the budget contain a line for legal fees?  Yes  No If yes, list amount \$\_\_\_\_\_

**\*\* Reminder of Financial Report:** Please attach or include the organization's annual financial report or income/expense statement, with a breakdown of income sources and expenses for the most recent available fiscal year.

**FINAL REVIEW: APPLICATION CHECKLIST**

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**Include copies of all that apply:**

- Organizational documents (certificate of formation, bylaws, and amendments)
- IRS determination letter
- Most recent annual financial report or income/expense statements
- Documents related to current matter for which you seek legal assistance
- For start-up organizations seeking tax-exempt status: three years of itemized financial information (historical, projected, or a combination of the two) and a detailed description of planned organizational activities, programs and goals. This information will be required by the IRS as part of your application for tax-exempt status.

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**How did you hear of Texas CBAR?**

**AUTHORIZATION TO RELEASE INFORMATION AND VERIFICATION:**

**Application Information:** I hereby authorize Texas CBAR, its collaborating organizations and their agents and employees, to verify, disclose and make copies of any and all information provided in this Application in the course of determining eligibility and in securing a volunteer attorney.

**Release:** I hereby release any person or entity complying with this Authorization from any and all claims relating to the disclosure of any such information and documents.

**Validity:** A copy of this Authorization shall be as valid as the original.

I hereby certify that all of the information in this application is true, correct, and complete, and that I am authorized by the above organization to submit this application to Texas CBAR. As the Applicant, I agree to notify Texas CBAR of any changes to the information in this Application. I further understand and agree that Texas CBAR has the right to reject any application or to withdraw from representing a client who submits an application containing inaccurate information.

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title/ Position With Organization

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**Please return this application by email attachment, mail, or fax, to:**





**TEXASCASA**  
Court Appointed Special Advocates  
FOR CHILDREN

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STRENGTHENING THE VOICES OF CASA STATEWIDE

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# **Texas CASA**

# **Crisis Communication Plan**





## Table of Contents

Internal Communication and Initial Planning .....	3
Situational Assessment.....	5
Messaging Development .....	6
External Distribution .....	7
Documentation .....	8
Post-Incident Review .....	8
Annual Review .....	8
Flowchart (Exhibit 1) .....	9
Crisis Communications Team Contact List .....	10
Crisis Communications Media Contact List.....	11
Crisis Communication Policy.....	13



## Texas CASA Crisis Communication Plan

For purposes of implementation of this plan, a “crisis” is defined as any occurrence that threatens the public reputation or immediate financial integrity of Texas CASA or that may create a situation of legal liability to the organization or its directors or officers. If in doubt as to whether an occurrence constitutes a “crisis,” any employee should immediately consult with their supervisor, the CEO or the Communications Director (referred to as the) and any board member should consult with the Board President or CEO.

Texas CASA, as the membership organization, will provide assistance during any crisis situation at the local program level, to the Executive Director and/or Board President.

**Keeping in mind the speed with which news is broken via online media, it is highly recommended that once a crisis is identified, the team begin implementing pieces of the following plan within 2 hours.**

### Internal Communication and Initial Planning

1. All crises should be reported to your supervisor and to the CEO immediately.
  - a. In the absence of the CEO, crises should be reported to the Communications Director.
2. If the crisis is deemed critical, the CEO will notify the Board President, Communications Director and the Crisis Communications Team.
3. The Crisis Communications Team will typically consist of the CEO, the Board President, Communications Director, Chief Network Services Officer and other key staff as designated.
  - a. Depending on the nature of the crisis and the involvement of and potential damage to Texas CASA’s reputation or financial integrity, the CEO, Board President and Communications Director may decide to consult with an outside public relations professional.
  - b. In some cases, a larger Crisis Management Team may be needed when action surrounding the crisis involves more than just handling communications. In those cases, the Crisis Communication Team would be a part of the larger team, and this plan would only outline the steps to take in the communication needs surrounding a crisis.
4. Once assembled, the Crisis Communications Team will immediately go into action and meet to review the issue and start the situational assessment by gathering as much information from key people and sources as possible, setting up online monitoring of the topic (Twitter feeds, Google Alerts, etc.), and determining and delegating next steps for internal and possibly external communications. These team actions will be coordinated by the Communications Director.
  - a. Any front desk/reception staff shall direct all media calls to the Communications Director’s office. If not in office, media should be given the cell phone number for the Communications Director. It is not essential to explain the situation to front desk staff at this time, merely to reinforce the response plan for media calls early on.
5. Unless determined otherwise by the Board President, such as in the event that the CEO is involved in creating the crisis, the CEO will be the designated lead person for crisis management and will serve as the public spokesperson for the crisis, with all media and public appearances coordinated by the Communications Director.
  - a. In the event that the CEO is involved in creating the crisis, the Communications Director will work directly with the Board President, and the Board President or a board designee will serve as the public spokesperson.



- b. All other staff, volunteers and board members should be professional and helpful to the media only by connecting them with the Communications Director, but will neither speak to the media, nor provide any information.
6. The Crisis Communications Team (based on the initial situational assessment) will determine next steps for *internal* notification, including board members, staff members, local programs, and National CASA/GAL, in order to ensure that these stakeholders are made aware of the crisis via CASA and do not learn about it through the media. The majority of these internal notifications should take place over the phone or in-person to avoid sharing specific information in writing via email that could at some point be shared with media.
  - a. The Crisis Communications Team will determine the extent to which other members of the board should be notified. After initial alert via phone or email, updates will be sent via email when possible. If nothing else, after the crisis an email will be sent providing a summary of the situation and resolution details.
  - b. The Crisis Communications Team will determine the extent to which staff members are notified and how much information is shared. Depending upon the timeline of information potentially hitting the media, the ideal situation to announce a crisis will be in a pre-planned staff meeting or by calling an emergency meeting. If information must be sent via email, share as little specific information as possible. Imagine the email being quoted verbatim in a newspaper when writing. Remind staff not to candidly discuss issue with acquaintances in person, via text, online or via email.
    - i. If it is imperative that information not be sent via email and the crisis occurs when staff are not in the office and is time-sensitive or jeopardizes the safety of the office, the Crisis Communications Team will determine how to communicate information to staff.
  - c. The Crisis Communications Team will determine if National CASA/GAL and/or other local CASA programs need to be notified and what information should be shared with them based on the potential reach and impact of the crisis. This should also be based on whether or not they may receive calls from media, and in that case whether they should direct calls to our organization, or respond in an agreed upon manner based on confidentiality. Texas CASA will provide talking points at this time.
7. Depending on the nature of the crisis, the CEO and Board President are encouraged to consider consultation with legal counsel and/or provide information about the nature of the crisis to CASA's general liability insurance carrier.



## Situational Assessment

As soon as the Crisis Communications Team has been notified and assembled, a situational assessment should begin to determine facts and decide upon upcoming internal and external communications.

Questions to help devise appropriate crisis communications response, include, but are not limited to:

- What is the situation? What will happen next?
- Who is affected by this situation?
- What is known and who already knows it?
- What are people feeling or what will they be feeling? What emotions need to be considered?
- How deeply is Texas CASA involved? What role did Texas CASA play in this situation happening?
- Who from Texas CASA is involved: staff member, board member, local program, CPS, stakeholder, other? Are they easily connected to Texas CASA via information on CASA's website/online presence, or via their own online presence, or is their connection to Texas CASA not public at this time?
- How will this issue affect Texas CASA's or local CASA program's reputation, both short- and long-term?
- What can and cannot be said about this issue? How do Texas CASA's confidentiality policies affect our ability to react publicly to this situation?
- Will Texas CASA immediately be publicly connected to this issue or will the connection potentially remain unknown?
- How prominent will Texas CASA's role be in any media around this issue?
- How much public interest will there be in this issue? What other media has happened recently around similar issues? What other issues may this bring up?
- Will Texas CASA need to refrain from scheduled social media posts? If so, when will it be appropriate to return to the standard social media schedule?
- How long do we think this situation will last?
- What additional information is needed and who beyond organizational staff needs to get it? When will it be available?
- What would be in Texas CASA's best interest in regards to this issue and media?
  - Proactively discuss publicly
  - Respond when reached out to on camera with appropriate media outlets
  - Respond when reached out to with a written statement to appropriate media outlets
  - Respond with confidentiality policies/unable to confirm or deny due to confidentiality
  - Refer media to another organization
  - Try to avoid media recognition in issue entirely
- Who will need to be able to respond to questions regarding this situation?
  - Only the designated public spokesperson
  - Full staff and board members
  - Other stakeholders
- Where could this issue go in the future? What potential continued challenges does CASA need to contemplate in connection to this issue?



## Messaging Development

### *Key Messaging Concepts: Promote, Protect, Evolve*

Any comments to members of the public, to the media, to funders, staff or board members should be guided by professionalism and, within Texas CASA's confidentiality policy, and should serve to mitigate the crisis while reinforcing the leadership role and communicating the stability of Texas CASA. When possible, responses should be proactive, responsive, action-oriented, apologetic as needed, and clear enough to leave nothing to interpretation. The Crisis Communications Team will develop the key messages to be delivered to the public and to internal and external stakeholders as needed.

Based on the situational assessment, messaging development should start as quickly as possible to be ready for potential early media calls or inquiries, whether or not CASA wants to go public with the information—we may not have a choice. Messaging will depend upon the situation and CASA's confidentiality requirements. It may be necessary to update messaging as more information is released or uncovered. The Crisis Communications Team will need to remain alert and responsive to the situation at all times.

If confidentiality is not a factor, it will be important to develop factual, detailed messages that reflect the status of the crisis, Texas CASA's response, and, if needed/possible, proactive steps to resolve the situation. Every situation will be different and will require specific messaging development.

Messaging may need to be prepared for the following audiences/channels:

- Media (TV, radio, print, online, etc.)
  - On camera/in interview
  - Written statements
- Social media
- Texas CASA website/blog
- Board\*
- Staff\*
- CPS
- Funders
- Legislators
- National CASA/GAL and/or other local CASA programs\*
- Other community partners/stakeholders

*\*Some messaging may need to explain the situation to these audiences, and also offer talking points that they are allowed to share if asked about the situation by friends or family, while at the same time reminding them to direct all media inquiries to our organization and not discuss the situation online or via email.*

Messaging and brief talking points should be developed based on all potential media angles. Consider what questions could be asked. Prepare responses for all of them.

Determine the key "Post-it<sup>®</sup> note" messages that CASA should focus on (concise and focused enough to be carried around on a Post-it note). These key messages should be quick sound bites for the spokesperson to



focus any interview on, and should be messages that we want to reinforce with the public. They should be positive and proactive.

Depending upon the outcomes of the situational assessment and the severity of the issue, the spokesperson may wish to practice responding to media questions to ensure focus and comfort in such settings.

Beyond messaging for the initial audiences/channels, determine if any other messaging collateral is needed, such as a fact sheet, FAQs, etc. Throughout the situation, evaluate the effectiveness of messaging by monitoring publications, social media response, comments, forums, etc. How are people reacting to it? In the time period around the issue, be conscious of what other messaging/content is shared on CASA's website, email newsletters, blog and social media to ensure it will not add to or inflame the situation.

Recognize that unfavorable, inaccurate information, if not corrected, could have future negative consequences requiring additional responses.

## External Distribution

Once determined that Texas CASA will likely be publicly recognized in this issue, or if Texas CASA has decided to proactively communicate about the issue, the Crisis Communications Team will establish a distribution plan and timeline that will be coordinated by the Communications Director.

- If CASA is proactively communicating to the public, determine if a general press release or specific outreach to selected media contacts is best.
- Whether proactive or responsive to media inquiries, it is best for external audience outreach to begin before any stories air on media or are released on social media.
- The Crisis Communications Team will determine how to communicate and make contact with each of the following audiences – email (from whom), phone calls (from whom), email followed by phone call, or not at all:
  - Board\*
  - Staff\*
    - Ideally before situation is public, let staff members know who to direct questions to if they receive any from outside stakeholders.
  - National CASA/GAL and/ or other local CASA programs\*
  - Funders
    - Fund Development Executive Director should maintain this list for notification.
  - Legislators
  - Contractors, vendors, auditors, bankers, insurance carriers, etc.
    - Finance and Business Operations Director should maintain this list for notification.
  - Other community partners/stakeholders/nonprofit organizations
- \*For internal audiences, though these may be second rounds of communication, it will be important to send an update so to create awareness of impending media stories and especially if you want to provide them with any talking point responses.*
- Determine when to post information to CASA's website/blog/social media channels, ideally in advance of media breaking the story. Will the message be written, on video, etc.?
- In severe situations, build logistical plan for handling large number of media inquiries and interviews.



- Communications Director should handle all logistics with media and interview scheduling for spokesperson, trying to gather as much information in advance from media outlets while sharing none of Texas CASA's messaging. Only the spokesperson should deliver Texas CASA's messaging.
- If media coming to office, Communications Director should plan to greet media and escort to chosen interview or waiting space, giving spokesperson time to prep in between interviews.
- In severe situations, determine if a press conference is needed and what on-location resources will be necessary to implement that in a professional, organized manner.
- Build a response plan for emails from stakeholders, online comments and social media mentions. Determine what to respond to and threshold for deletion of comments if possible/needed.
- Depending on longevity of issue, determine ongoing updates as needed for various audiences.
- As a situation is wrapping-up, determine who needs to receive post-crisis communications with outcomes, changes Texas CASA may be implementing, and other follow-up.

## Documentation

Throughout any crisis situation, the Communications Director should keep records of critical conversations, decisions, details known, all iterations of messaging (distributed or not distributed), all media mentions, media questions regarding the crisis situation, and community response in order to effectively evaluate crisis communications management after the event, as well as to have resources for future potential events.

It is highly recommended that CASA monitor how other similar organizations handle crisis situations and document strong responses for use as future resources for our organization.

## Post-Incident Review

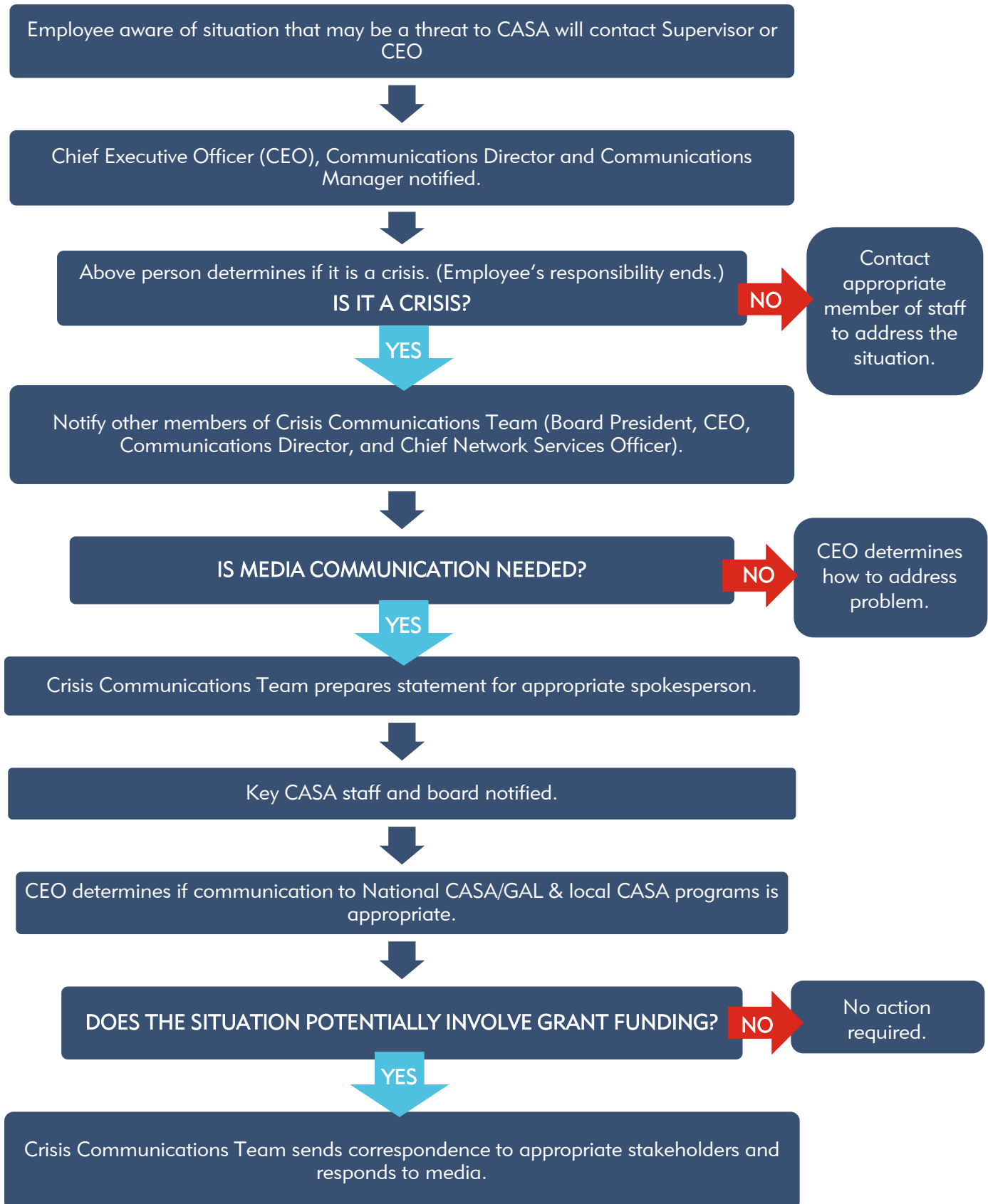
Reconvene the Crisis Communications Team after an event to review the documentation, discuss feedback received from the community and note any lessons learned or successful messaging.

## Annual Review

The Crisis Communication Plan will be reviewed annually by the Crisis Communications Team at the beginning of each Fiscal Year.



## EXHIBIT 1







## Crisis Communications Team Contact List

### **Texas CASA Staff:**

#### **CEO**

Vicki Spriggs  
Office 512-610-6112  
Cell 512-497-1582  
[vspriggs@texascasa.org](mailto:vspriggs@texascasa.org)

#### **Chief External Relations Officer**

Amanda Arriaga  
Office 512-610-6124  
Cell 512-496-4568  
[aarriaga@texascasa.org](mailto:aarriaga@texascasa.org)

#### **Chief Network Services Officer**

Deedra Baker  
Office 512-610-6131  
[dbaker@texascasa.org](mailto:dbaker@texascasa.org)



## Crisis Communications Media Contact List

Associated Press			Austin Bureau	(512) 472-4004
Associated Press			Dallas Bureau	(972) 991-2100
Associated Press			Houston Bureau	(281) 872-8900
Dallas Morning News	<a href="mailto:webnews@dallasnews.com">webnews@dallasnews.com</a> <a href="mailto:Metro@dallasnews.com">Metro@dallasnews.com</a> <a href="mailto:Newstips@dallasnews.com">Newstips@dallasnews.com</a>			Main: (214) 977-8222  Metro: (214) 977-8456  Tips: (214) 977-8456
Dallas Morning News	<a href="mailto:Amy.hollyfield@dallasnews.com">Amy.hollyfield@dallasnews.com</a>	Amy Hollyfield	Managing Editor	(214) 977-8227
Dallas Morning News	<a href="mailto:THuang@Dallasnews.com">THuang@Dallasnews.com</a>	Tom Huang	Assistant Managing Editor for Features & Community Engagement	
Dallas Morning News- Austin Bureau	<a href="mailto:rtgarrett@dallasnews.com">rtgarrett@dallasnews.com</a>	Robert Garrett	Bureau Chief	
KTBC (FOX Austin)	<a href="mailto:Ktbcnews@fox.com">Ktbcnews@fox.com</a>		Newsroom	(512) 476-7777
KUT (NPR Austin)	<a href="mailto:news@kut.org">news@kut.org</a> <a href="#">Staff emails linked here</a>		Newsroom	(512) 471-1631
KUT (NPR Austin)	<a href="mailto:bphilpott@kut.org">bphilpott@kut.org</a>	Ben Philpott	News Managing Editor	
KXAN (NBC Austin)	<a href="mailto:ReportIt@KXAN.com">ReportIt@KXAN.com</a> <a href="#">Staff emails linked here</a>		Newsroom	(512) 476-3636
KXAN (NBC Austin)	<a href="mailto:haley.cihock@kxan.com">haley.cihock@kxan.com</a>	Haley Cihock	News Director	
KXAN (NBC Austin)	<a href="mailto:eric.lassberg@kxan.com">eric.lassberg@kxan.com</a>	Eric Lassberg	VP, General Manager	



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## Crisis Communication Policy

When an employee becomes aware of a situation that:

1. may be considered a crisis or a serious threat to Texas CASA, a local CASA program or the CASA brand and reputation in general; and
2. that may necessitate a response to the media;

The employee must notify his/her supervisor and the CEO immediately. In the absence of the CEO, the Communications Director should be notified. The CEO will notify the Crisis Communication Team.

The Crisis Communication team consists of the CEO, Board President, Communications Director and Chief Network Services Officer.

The Crisis Communication Team is solely authorized to provide information to the media and the network about a crisis following the attached procedure (Exhibit 1).

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Employee's Signature

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Printed Name

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Date

## Section 6

# ASSESSMENTS



**Executive Director Resource Manual  
2023 Edition**



# HR ASSESSMENT

Indicator	Met	Needs Work	N/A
1. The organization has a written personnel handbook/policy that is regularly reviewed and updated: a) to describe the recruitment, hiring, termination and standard work rules for all staff; b) to maintain compliance with government regulations including Fair Labor Standards Act, Equal Employment Opportunity Act, Americans with Disabilities Act, Occupational Health and Safety Act, Family Leave Act, Affirmative Action Plan (if required), etc.			
2. The organization follows nondiscriminatory hiring practices.			
3. The organization provides a copy of or access to the written personnel policy to all members of the board, the Executive Director and all staff members. All staff members acknowledge in writing that they have read and have access to the personnel handbook/policies.			
4. The organization has job descriptions including qualifications, duties, reporting relationships and key indicators.			
5. The organization's Board of Directors conducts an annual review/evaluation of its Executive Director in relationship to a previously determined set of expectations.			
6. The Executive Director's salary is set by the Board of Directors in a reasonable process and is in compliance with the organization's compensation plan.			
7. The organization requires employee performance appraisals to be conducted and documented at least annually.			
8. The organization has a compensation plan, and a periodic review of salary ranges and benefits is conducted.			
9. The organization has a timely process for filling vacant positions to prevent an interruption of program services or disruption to organization operations.			
10. The organization has a process for reviewing and responding to ideas, suggestions, comments and perceptions from all staff members.			

Indicator	Met	Needs Work	N/A
11. The organization provides opportunities for employees' professional development and training with their job skill area and also in such areas as cultural sensitivity and personal development.			
12. The organization maintains contemporaneous records documenting staff time in program allocations.			

## Volunteer Management

1. The organization has a clearly defined purpose of the role that volunteers have within the organization.			
2. Job descriptions exist for all volunteer positions in the organization.			
3. The organization has a well-defined and communicated volunteer management plan that includes a recruitment policy, description of all volunteer jobs, an application and interview process, possible stipend and reimbursement policies, statement of which staff has supervisory responsibilities over what volunteers, and any other volunteer personnel policy information.			
4. The organization follows a recruitment policy that does not discriminate, but respects, encourages and represents the diversity of the community.			
5. The organization provides appropriate training and orientation to the agency to assist the volunteer in the performance of their volunteer activities. Volunteers are offered training with staff in such areas as cultural sensitivity.			
6. The organization is respectful of the volunteer's abilities and time commitment and has various job duties to meet these needs. Jobs should not be given to volunteers simply because the jobs are considered inferior for paid staff.			
7. The organization does volunteer performance appraisals periodically and communicates to the volunteers how well they are doing, or where additional attention is needed. At the same time, volunteers are requested to review and evaluate their involvement in the organization and the people they work with and suggest areas for improvement.			



Indicator	Met	Needs Work	N/A
8. The organization does some type of volunteer recognition or commendation periodically and staff continuously demonstrates their appreciation towards the volunteers and their efforts.			
9. The organization has a process for reviewing and responding to ideas, suggestions, comments and perceptions from volunteers.			
10. The organization provides opportunities for program participants to volunteer.			
11. The organization maintains contemporaneous records documenting volunteer time in program allocations. Financial records can be maintained for the volunteer time spent on programs and recorded as in-kind contributions.			
<b>PLANNING REGARDING THE TOTAL ORGANIZATION</b>			
1. The organization's purpose and activities meet community needs.			
12. The organization frequently evaluates, by soliciting community input, whether its mission and activities provide benefit to the community.			
13. The organization has a value statement that is reflected in the agency's activities and is communicated by its constituents.			
14. The value statement includes standards of ethical behavior and respect for other's interests.			
15. The organization has a clear, meaningful written mission statement which reflects its purpose, values and people served.			
16. The board and staff periodically review the mission statement and modify it to reflect changes in the environment.			
17. The board and staff developed and adopted a written strategic plan to achieve its mission.			

Indicator	Met	Needs Work	N/A
18. Board, staff, service recipients, volunteers, key constituents and general members of the community participate in the planning process.			
19. The plan was developed by researching the internal and external environment.			
20. The plan identifies the changing community needs including the agency's strengths, weaknesses, opportunities and threats.			
21. The planning process identifies the critical issues facing the organization.			
22. The plan sets goals and measurable objectives that address these critical issues.			
23. The plan integrates all the organization's activities around a focused mission.			
24. The plan prioritizes the agency goals and develops timelines for their accomplishments.			
25. The plan establishes an evaluation process and performance indicators to measure the progress toward the achievement of goals and objectives.			
26. Through work plans, human and financial resources are allocated to insure the accomplishment of the goals in a timely fashion.			
27. The plan is communicated to all stakeholders of the agency -- service recipients, board, staff, volunteers and the general community.			

## PLANNING REGARDING THE ORGANIZATION'S PROGRAMS

1. Programs are congruent with the agency's mission and strategic plan.			
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Indicator	Met	Needs Work	N/A
2. The organization actively informs the public about its programs and services.			
3. Clients and potential clients have the opportunity to participate in program development.			
4. Sufficient resources are allocated to ensure each program can achieve the established goals and objectives.			
5. Staff has sufficient training and skill level to produce the program.			
6. Programs within the organization are integrated to provide more complete services to clients.			
7. Each program has performance indicators to ensure that the program meets its goals and objectives.			
8. Performance indicators are reviewed annually.			
9. The agency networks and/or collaborates with other organizations to produce the most comprehensive and effective services to clients.			

## PLANNING REGARDING THE ORGANIZATION'S EVALUATIONS

1. Every year, the organization evaluates its activities to determine progress toward goal accomplishment.			
2. Stakeholders are involved in the evaluation process.			
3. The evaluation includes a review of organizational programs and systems to ensure that they comply with the organization's mission, values and goals.			

Indicator	Met	Needs Work	N/A
4. The results of the evaluation are reflected in the revised plan.			
5. Periodically, the organization conducts a comprehensive evaluation of its programs. This evaluation measures program outcomes.			

*Used by permission.*

*Author: Greater Twin Cities United Way.*

# EMPLOYMENT AUDIT

Organization Name/EIN: \_\_\_\_\_

Number of Employees: \_\_\_\_\_

Date: \_\_\_\_\_

Completed By: \_\_\_\_\_

## ORGANIZATIONAL INFORMATION

Independent Contractors	YES	NO
Does the organization utilize independent contractors?		
If so, are they covered by a written contract or agreement?		
Has their independent contractor status been verified to determine if they are appropriately categorized as non-employees?		
Does the organization comply with the IRS rules governing the status of independent contractors and report compensation to independent contractors on IRS Form 1099 MISC?		

Recruitment and Hiring	YES	NO
Are applicants required to complete and sign an employment application?		
Does the application form exclude any questions or specifications as to the applicant's race, ethnicity, religion, gender, age, national origin, ancestry, physical/mental disability, or any other categories protected by federal or other state and local law?		
Does the organization use language in job advertisements that is gender, race, and age neutral?		
Does the organization use recruiting methods that do not discriminate or exclude persons because of their race, gender, age, or national origin?		
Does the application inform the applicant that employment with the organization is at will?		
Does the organization require an applicant to consent to a reference check in writing?		
Does the organization conduct any required background checks? Does the organization check required licenses?		
Does the organization obtain written consent before obtaining credit information in compliance with the Fair Credit Reporting Act?		

Are applicants notified that they will be required to submit proof of eligibility to work in the United States within three days following the commencement of employment?		
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<i>If subject to the ADA, has the organization taken any of the following steps to ensure compliance?</i>	YES	NO
Identified an individual or group of individuals to be responsible for ensuring compliance?		
Reviewed existing job descriptions and prepared new ones to clearly specify the requisite skills, experience, background, and other qualifications for the job position?		
Reviewed existing job descriptions and prepared new ones to clearly specify the essential and the non-essential job functions?		
Trained supervisory personnel on the requirements of the ADA?		
Has the organization evaluated business necessity and adverse impacts of employee testing?		
Are the interviewers properly trained to avoid discriminatory pre-employment inquiries?		
Does the organization use an interviewer checklist to ensure a consistent interview process?		
Are references checked and a record kept?		

Job Offers	Yes	No
Does the organization have a standardized offer procedure?		
Does the procedure make clear that an offer of employment does not create an expectation or a right to employment for any specified length of time?		
Does the procedure make clear the organization's right to change the terms and conditions of employment?		

Job Descriptions	Yes	No
Does the organization have current job descriptions for all employees? Do the job descriptions clearly specify in detail:		
Responsibilities?		
Essential job functions?		
Reporting relationships?		

Personnel Policy Manual	YES	NO
Does the organization have an updated personnel policy manual?		
Has it been reviewed by an attorney?		
Does the manual contain a disclaimer that the manual is not intended to be a contract and that employment is at will?		
Does the manual contain a provision that indicate that any policies or practices may be modified at any time?		
Does the manual prohibit all forms of discriminatory harassment?		
Does the organization comply with its written personnel policies and procedures?		

Complaint Procedure	YES	NO
Is there a written procedure for airing and resolving employee complaints?		
Is there a procedure for raising sexual harassment and discrimination claims?		
If so, does the procedure provide a by-pass from the supervisory chain if a supervisor is the alleged harasser?		
Does the manual prohibit retaliation for reporting violations of law?		

Personnel Records	YES	NO
Does the organization maintain a standardized personnel file for each employee?		
Is the information that identifies employees' physical or mental disability or veteran status kept in a separate file?		
Does the organization keep a record of changes in employee status, such as promotions or leaves of absence?		
Are medical records or records containing medical, insurance, or benefits information maintained separately from other personnel records and privacy protected?		
Are I-9 forms kept in a location separate from other personnel records?		
Are there security procedures in effect to protect employee privacy?		
Are I-9 forms maintained for three years after the hire date or one year after the date of termination, whichever is later?		
Does the organization maintain all other personnel records for at least four years?		

State and Federal Requirements	YES	NO
Does the organization comply with the reporting requirements of the Texas Workforce Commission, including the filing of Form C-1 and, if required, Form C-3 quarterly wage reports along with the payment of unemployment insurance tax?		
Does the organization withhold federal income taxes and federal social security and Medicare taxes from taxable wages paid to employees, pay the employer share of taxes, and deposit all such funds in a timely manner and with the appropriate IRS forms?		
Does the organization obtain a completed IRS Form 1-9 and Form W-4 from all new employees?		
Does the organization furnish each employee with a completed IRS Form W-2 by January 31 for the previous calendar year?		
Does the organization file quarterly wage reports (IRS Form 941) with the IRS?		
Does the organization post or provide to its employee required employment notices, including the following: Texas Unemployment Compensation Act; Child Labor Law; Federal Minimum Wage; Texas Payday Law; Fair Labor Standards Act; Employee Polygraph Protection Act; Family Medical Leave Act; Americans with Disabilities Act; Equal Employment Opportunity Act; OSHA; Texas Worker's Compensation Act; The Uniformed Services Employment and Reemployment Rights Act.		
Does the organization comply with workplace safety laws?		
Is anyone under 18 years of age employed?		
If so, is the organization in compliance with legal requirements regarding the employment of minors?		
Does the organization comply with its employee benefit plan requirements?		
Does the organization provide notice about the Earned Income Tax Credit to each employee from whom the organization did not withhold any income tax, by providing the employee with IRS Notice 797?		
If the organization has more than four employees, does the organization pay unemployment compensation tax or has it made an election under the Texas Unemployment Compensation Act to pay reimbursements instead of contributions?		
Does the organization have any employees on If so, has the organization ensured compliance with Uniform Services Employment and Reemployment Rights Act?		
Does the organization timely report any new employees to the Texas New Hire program?		

Training	YES	NO



Is training provided to supervisors regarding employment actions that could generate lawsuits, such as harassment (including sexual harassment), discrimination, wrongful discharge, defamation, assault and battery, false imprisonment, and other unlawful policies?		
Are all employees trained regarding unlawful harassment and discrimination?		
Do employees verify in writing that they have attended training programs?		
Do new employees receive orientation and training?		
Are training programs offered to all employees in a fair and consistent manner?		

Personnel Evaluations, Promotions, and Transfers	YES	NO
Does the organization have a standardized evaluation system based on job-related objective criteria?		
Does the organization conduct evaluations annually by a person familiar with the employee's performance and keep a written record?		
Does the organization train supervisors on how to conduct consistent evaluations and give constructive feedback to employees?		
Does the organization use an evaluation and promotional system that gives all employees an equal opportunity for advancement or promotion?		
Are employees required to sign an acknowledgment that they received the performance review?		
Does the organization have a performance improvement process that incorporates qualitative job performance measures?		
Does the organization have a process for employees to comment or appeal an evaluation?		

Compensation	YES	NO
Are all employees properly classified as exempt or non exempt?		
Are non-exempt employees paid at least twice a month?		
Does the organization have regular pay days?		
Has the organization posted a notice of day, time, and place of regular pay days?		
Does the organization make deductions from an employee's salary pursuant to a valid court order or with written permission of employee?		
Does the organization comply promptly with child support withholding orders?		

Is the compensation paid to female employees equal to that paid to male employees performing the same work?		
Are non-exempt employees paid overtime for all time worked in excess of 40 hours in one work week in compliance with federal wage laws?		
Are all employees paid at least the minimum wage unless the law permits paying them a sub-minimum wage?		
Does the organization ensure that total garnishment does not exceed 25% of income?		
Does the organization pay for attendance at meetings and training programs that are not voluntary?		
Does the organization pay for meal periods if the employees are required to answer the phones during that time?		
Does the organization pay for travel time from job site to job site during the work day?		
Does the organization have written authorization for direct deposit of paychecks?		
Does the organization ensure proper record keeping of pay history?		
Does the organization ensure compliance with the Equal Pay Act requiring equal pay to men and women performing substantially equal work?		

Safety and Health	YES	NO
Does the organization have a safety program?		
Are emergency exit procedures in place?		
Are employees trained on safety procedures?		
Is the organization sensitive to domestic violence issues?		
If more than 15 employees does the organization have an alcohol and drug abuse policy?		
Does the organization maintain record of each employee injury and report to appropriate authorities?		

Leaves of Absence	YES	NO
Does the organization keep attendance records?		
Are leave policies applied consistently to all employees?		

If the organization has more than 50 employees, are employers given notice of entitlement to take up to 12 weeks of unpaid leave under the Family and Medical Leave Act?		
Does the organization permit voting as mandated by the state law?		

Discipline & Performance Management	YES	NO
Does the organization have a procedure to give an employee notice of deficiencies and an opportunity to improve?		
Are all employees treated similarly with regard to performance measurements?		
Does the procedure include written notification to the employee that continued egregious conduct and failure to correct actions could result in discharge?		

<i>Termination</i>	YES	NO
Does the organization have procedures for termination of employees?		
Are exit interviews conducted for terminating employees?		
Does the organization retain terminated employees' records for four years?		
Does the organization provide an employee who is involuntarily terminated with a paycheck no later than the 6th day after the termination, and an employee who resigns with a paycheck no later than the next regularly scheduled payday?		
Does the organization utilize consistent documentation and procedures for terminations?		
Are termination decisions reviewed by higher-level management or a committee prior to implementation?		
Are terminations handled as confidentially as possible?		
Does the organization have a designated person to provide references for former employees?		
Does the organization require a written release from liability from the employee for employment references?		
If more than 20 employees, does the organization provide information on COBRA rights?		
Does the organization advise employees about state insurance continuance rights?		
Are employees who return from military leave only terminated for just cause within the first year after returning from military leave?		
Does the organization ensure clarity on what is paid upon termination such as unused vacation or sick leave?		

Does the organization evaluate unemployment claims?		
Does the organization have a separate agreement with release that complies with the Older Worker Benefits Protection Act?		
Does the organization carry Employment Practices Liability Insurance?		