

Leadership 101

A Practical Guide



"The culture of any organization is shaped by the worst behavior the leader is willing to tolerate."

-- Gruenter and Whitaker

Quorum Court

vs.

Elected Official Authority



Quorum Court Authority v. Elected Official Authority

Ark. Code Ann. Sec. 14-14-805

QC may pass personnel policies of a general nature, including, but not limited to, establishment of general vacation and sick leave policies, general office hour policies, general policies with reference to nepotism, or general policies to be applicable in the hiring of county employees. Legislation shall be only of a general nature and shall be uniform in application to all employees of the county. Day-to-day administrative responsibility of each county office shall continue to rest within the discretion of the elected county officials.



Quorum Court

Ark. Code Ann. Sec. 14-14-805

Quorum Courts have the authority to set the "general office hours" for the county offices. Elected officials must be open through a county ordinance. They also have the authority to make failure to comply with the ordinance a misdemeanor offense, which could be punishable including a fine and/or jail time.



What if the Quorum Court is silent on an issue?

Elected officials can create an executive policy on areas where the QC is silent.

Executive Personnel Policies & Procedures

Contents of an Executive Personnel Policies

Executive personnel policies and procedures cannot contradict the policies contained in the County Personnel Policy, but should address the day-to-day operations of your offices. Topics may include:

- Office Hours
- Call in Procedures
- Absenteeism & Tardiness
- Employee Breaks*
- Sick Leave, Vacation & Holidays*
- Professionalism & Civility
- Personal Hygiene
- Dress Code
- Cell Phones & Internet Usage
- Desks & Shared Spaces
- Confidentiality

Office Hours

Make sure your employees know what the office's hours of operation are!

Reminder: The general office hours may be set in the County Personnel Policy



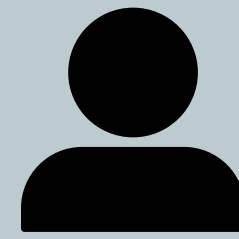
Who believes that regular
and reliable attendance is
an essential job function
for your employees?

Call in Procedures

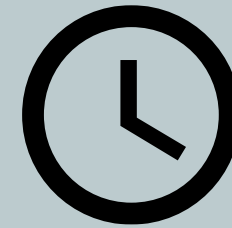
Considerations for creating a clear call in procedure and for documenting absenteeism.



How does the employee need to call in?



Who does the employee need to call in to?



When does the employee need to call in by?



What information does the employee need to provide?



How are you documenting this information?



Absenteeism & Tardiness

At what point is your employee considered tardy? (1 minute? 5 minutes? 15 minutes?)

Why is your employee absent? (FMLA/ADA reason? Other reason?) WRITE IT DOWN!

Are your employee's time sheets accurately reflecting days missed and the time that they showed up late?

Documenting absenteeism and tardiness is a MUST.



Documenting Protected Leave

Employees may be required to miss work due to a serious health condition or a disability. These absences **CANNOT** be held against the employee.

All absences not related to an approved FMLA reason and/or the employee's disability are not protected. It is important to document **WHY** an employee is missing work and to be able to support that with some form of documentation.

SAMPLE LANGUAGE

The office's hours of operation are 8:00 AM through 4:30 PM. Employees' regularly scheduled clock in window is 7:55 to 8:05. Clock in after 8:05 will be considered tardy. Three (3) tardies in a thirty (30) day period may result in disciplinary action.

SAMPLE LANGUAGE

The office's hours of operation are 8:00 AM through 4:30 PM. All employees are expected to arrive at work on time and stay until the end of the day. On time means that an employee will be at his or her workstation, logged on to their computer, and ready to assist customers by 8:00AM. Tardiness and absenteeism will not be tolerated. If you must miss work for any reason, you must follow the office call-in policy. You must contact your direct supervisor via phone call or text message 1 hour prior to the start of business. If you call and you do not receive an answer, you must leave a voicemail.

SAMPLE LANGUAGE

Attendance is an essential job function. As an office that serves the public during business hours it is an essential function of each position that the employee be able to report to work on time each day. Excessive absenteeism creates a hardship for the office and the rest of the staff. The attendance policy is vital to the success of the office. Please make every effort to make it to work on time. To be considered on time, you must be in the office by 7:55 AM and be at your workstation, logged on to the computer, and ready to assist customers at 8:00. If you walk into the office at 8:00 am, YOU ARE LATE!

Late Policy: Any person late more than 2 times in a month will be reprimanded. I understand some situations take place that make being late unavoidable. If you feel your tardiness was unavoidable, a written statement can be given and the [ELECTED OFFICIAL] will determine if in fact the tardiness was excusable.

If you are unable to attend work text or call my cell phone (ELECTED OFFICIAL) by 7:45 am, if I do not answer, you must leave me a message.

SAMPLE LANGUAGE

All employees are expected to be at their workstations engaged in work for the number of hours they are scheduled to work.

Tardiness is defined as failure to report for work at the regularly scheduled time, either at the start of the day or when returning from breaks or lunch periods. This policy does not apply to occasional tardiness.

Employees are entitled to a [insert how long] unpaid lunch period. Each employee is to take his or her lunch at their assigned lunch time period. Employees are also provided two (2) paid fifteen (15) minute breaks – one break in the morning and the other in the afternoon. Only one (1) employee may be on break at a time. Breaks cannot be taken first thing in the morning, immediately before or after lunch, or right before leaving work for the day.

If you are going to be late, you must contact the Clerk as soon as possible via text messages 30 minutes before the start of business.

Employees who exhibit a pattern of tardiness will first be counseled. If tardiness continues, employees should be docked for lateness more than ten (10) minutes or more in a day. Regardless of whether docking of pay has occurred, habitual tardiness is grounds for disciplinary action.

SAMPLE LANGUAGE

You are responsible for keeping your own time.

You are required to use the time clock link on your web browser (www.timeclockplus.com). You must clock in and out for your lunch break. This is required by all employees whether you are leaving the building or eating in the employee kitchen. You are also required to clock out when you leave the grounds of the County Annex for personal reasons. Under no circumstances are you to clock in or out for another employee.



Professionalism & Civility

You can require your employees to:

- Be professional
- Be nice to co-workers
- Be nice to members of the public
- Smile

The continued success of the [INSERT OFFICE NAME] depends on maintaining a climate where people can work together effectively, harmoniously, and safely. All employees of the [INSERT OFFICE NAME] are to conduct themselves in a professional manner at all times. This includes, but is not limited to, performing all tasks assigned to you in a timely manner, complying with the office dress code, not using profanity in the office, and maintaining a positive attitude.

All staff members of the [INSERT OFFICE NAME] are to treat one another with respect. Being respectful to your co-workers includes, but is not limited to, greeting one another, apologizing when necessary, and saying “please” and “thank you.”

Gossip, which is defined as perpetuating the spread of information about co-workers, vendors, or other professional contacts, that could be considered libelous or defamatory under Arkansas law, general rudeness, vulgarity, excessive use of profanity, or any other disruptive conduct or activity are prohibited and will not be tolerated in the workplace.

While differences of opinion are common in the workplace, staff members are prohibited from insulting co-workers, name calling, or engaging in any other action considered offensive. If a problem arises with a co-worker that cannot be resolved privately and respectfully, please bring it to the [TITLE'S] attention so that the issue can be addressed.

Customer service is our first priority. The taxpayers are this office’s customers. All employees are to treat all customers with respect at all times, whether this is in person, in an email, on the phone, or other encounter.

Intimidating, threatening or hostile statements are unacceptable and will not be tolerated. If threats are being made or physical violence occurs by anyone, employee, customer, or otherwise, the [TITLE] shall be notified and, if necessary, Sheriff’s Office or City Police shall be notified.

Conduct that does not conform with the expectations of the office will result in discipline, up to and including termination.

SAMPLE LANGUAGE

All employees of the [INSERT OFFICE NAME] are to conduct themselves in a professional manner at all times. This includes, but is not limited to, performing all tasks assigned to you in a timely manner, complying with the office dress code, not using profanity in the office, and maintaining a positive attitude. All staff members of the [INSERT OFFICE NAME] are to treat one another with respect. While differences of opinion are common in the workplace, staff members are prohibited from insulting co-workers, name calling, or engaging in any other action considered offensive. Conduct that does not conform with the expectations of the office will result in discipline, up to and including termination. The citizens of [COUNTY] are this office's customers. All employees are to treat all customers with respect at all times. Customer service is our first priority.

Hygiene & Dress Codes

Many county offices require employees to engage with members of the public and/or attend court.

Do you have any expectations for your employees' appearance when they come to work?



SAMPLE LANGUAGE

All employees are expected to follow proper hygiene in the workplace. This includes, but is not limited to:

- Bathing regularly;
- Maintaining hair that is clean and well kempt in appearance;
- Brushing your teeth daily before coming to work;
- Using deodorant and/or antiperspirant daily before coming to work to prevent unpleasant body odors; and
- Maintaining nails so that they are cleaned and trimmed.

Out of respect for the health and well-being of all staff, employees are prohibited from using scented perfumes, colognes, lotions, or other similar items while at work. These can cause allergic reactions, migraines, and respiratory difficulty for some employees.

All employees are required to wash their hands after using the restroom or other activities that could spread germs.

SAMPLE LANGUAGE

Employees are expected to dress in a minimum of business casual Monday through Friday. The [INSERT OFFICE NAME] has many visitors, and the appearance of our staff affects our image as a public office. Business casual attire includes, but is not limited to, khakis, slacks, or skirts and dresses (no shorter than two finger widths above the knee), polos, button downs, blouses, and sweaters. Jeans may not be worn Monday through Thursday; however, employees may wear dark wash jeans without holes or embellishments on Fridays only. Clothing should not be revealing, which includes both low cut and tight clothing, should be free from stains, holes/rips (whether bought that way or not), and should be free from odors. Clothing that is used for exercise or outdoor activities, shorts, leggings, t-shirts, and flip flops are also prohibited. Employees must refrain from wearing clothing with graphics or writing that could be considered offensive.

SAMPLE LANGUAGE

The [INSERT OFFICE NAME] has many visitors, and the appearance of our staff affects our image as a public office. Employees are expected to arrive to work dressed in a presentable way. Employees are permitted to dress casually unless court is in session while adhering to the following requirements:

1.Clothing should not be revealing, which includes clothing that is low cut, exposes the stomach area, and tight clothing, should be free from stains, holes/rips (whether bought that way or not), and should be free from odors.

2.Clothing that is used for exercise or outdoor activities, shorts, leggings, t-shirts, and flip flops are also prohibited.

3.Employees must refrain from wearing clothing with graphics or writing that could be considered offensive.

On court days, more formal business attire is required. Court day attire includes, but is not limited to, khakis, slacks/dress pants, button downs, blouses, longer skirts and dresses, and dress shoes.

Tattoos and piercings that are not ear piercings (facial, lip, tongue, etc.) shall be covered and not visible during work hours.

Cell Phones & Internet Usage

Are they acceptable in your office?

The use of cell phones and internet for reasons that are not workrelated can be a distraction. What is your policy about cell phone use while an employee is on the clock?



SAMPLE LANGUAGE

Cell Phone Usage

The use of cell phones for personal use, including, but not limited to, texting, phone calls, and emails, should be limited to the employee's break time. All employees are given two (2) fifteen-minute breaks per day. If someone needs to contact you for an emergency during the workday, it is preferred that they call the office to reach you.

Internet Usage

Internet usage for personal matters must be kept to a minimum. Internet usage for personal matters shall never interfere with the employee's job duties. All employees are prohibited from using the internet for personal matters in front of customers. All employees are prohibited from posting on social media while on the clock.

SAMPLE LANGUAGE

Cell Phones

Cell Phones are a vital part of our lives; however, they are NOT to come before our customers. Cell phones are to remain on silent/vibrate. If you are waiting on a customer and your cell phone rings, or you receive a text message, IGNORE/DO NOT ANSWER it until you are finished with your customer. There may be exceptions to this policy in extreme cases; however, you MUST notify the Assessor of the urgency to have to answer while waiting on a customer.

Personal phone calls shall be limited to a minimal. If at any time you are on a personal phone call and a customer approaches, you must hang up and help the customer. If you are on a personal phone call and everyone else is busy, you must hang up and answer the ringing phone. If you answer the phone and you know it is a personal call for someone and the person they are requesting is with someone, politely tell the caller the employee is with a customer or on another line and ask if the employee can return their phone call. The Customer is our first priority.

Internet Use

The use of the internet is for work purposes. I do not have a problem with you using the internet to look up something personal as long as it only takes a couple of minutes. However, you must not EVER be on a personal site in front of a customer. This is a County office and is designed to serve our community. The use of social media during work hours does not look good on the office. Posting, liking, commenting, and any other activity on social media is only allowed during breaks or during your lunch.



Desks & Workspaces

SAMPLE LANGUAGE

A clean workspace is necessary to promote a positive image and a professional work environment to our customers, while simultaneously ensuring the safety and security of all work-related documents. All employees are required to maintain a clean workspace at all times. A clean workspace is one that is free from garbage, such as snack wrappers or other debris, loose papers, excess office supplies, and personal items. This helps to reduce lost or misplaced documents and helps to promote and maintain a sanitary workspace. Employees must also keep the space underneath and around their desks clean and free of unnecessary items including, but not limited to, boxes, bags, papers, clothing, personal items, and office-related equipment and supplies.

Beverages are permitted at an employee's desk if they have a lid and/or a screw top. Small snacks are also permitted at your workspace; however, meals are not to be eaten at your desk and are reserved for your lunch break. Employees staying in the office for lunch must utilize the break room for consuming their meal and are required to clean up after its use.



Confidentiality

The interests of the employee, as a citizen, in commenting upon matters of public concern must be balanced against the interest of the state as an employer in promoting the efficiency of the public services it performs through its employees.

The mere fact that an employee's speech involves a topic traditionally considered of public import does not necessarily mean that the speech is on a matter of public concern.

SAMPLE LANGUAGE

It is the obligation of the [INSERT OFFICE NAME] to maintain effective and open communications with the citizens of [NAME] County and the public in general. [FirstName LastName], is the designated/authorized individual to receive requests for release of office information. The [INSERT OFFICE NAME], [FirstName LastName], or an approved designee are the only individuals authorized to released information regarding the operations and departments that fall under the jurisdiction of the [NAME] County [TITLE].

Individual employees within the [INSERT OFFICE NAME] who wish to share any information shall make a request the County [TITLE] or [FirstName LastName] prior to engaging in the activity. Failure to follow this procedure may result in disciplinary action.

As employees of a public agency, employees of the [INSERT OFFICE NAME] are cautioned that speech on or off-duty communicated pursuant to their official duties—which is defined as speech that owes its existence to the employee’s professional duties and responsibilities—is not protected speech under the First Amendment of the United States Constitution. Employees of the Agency are reminded that any such speech of this form may form the basis for discipline should the speech be deemed detrimental to the Department.

Employee Breaks

General Breaks

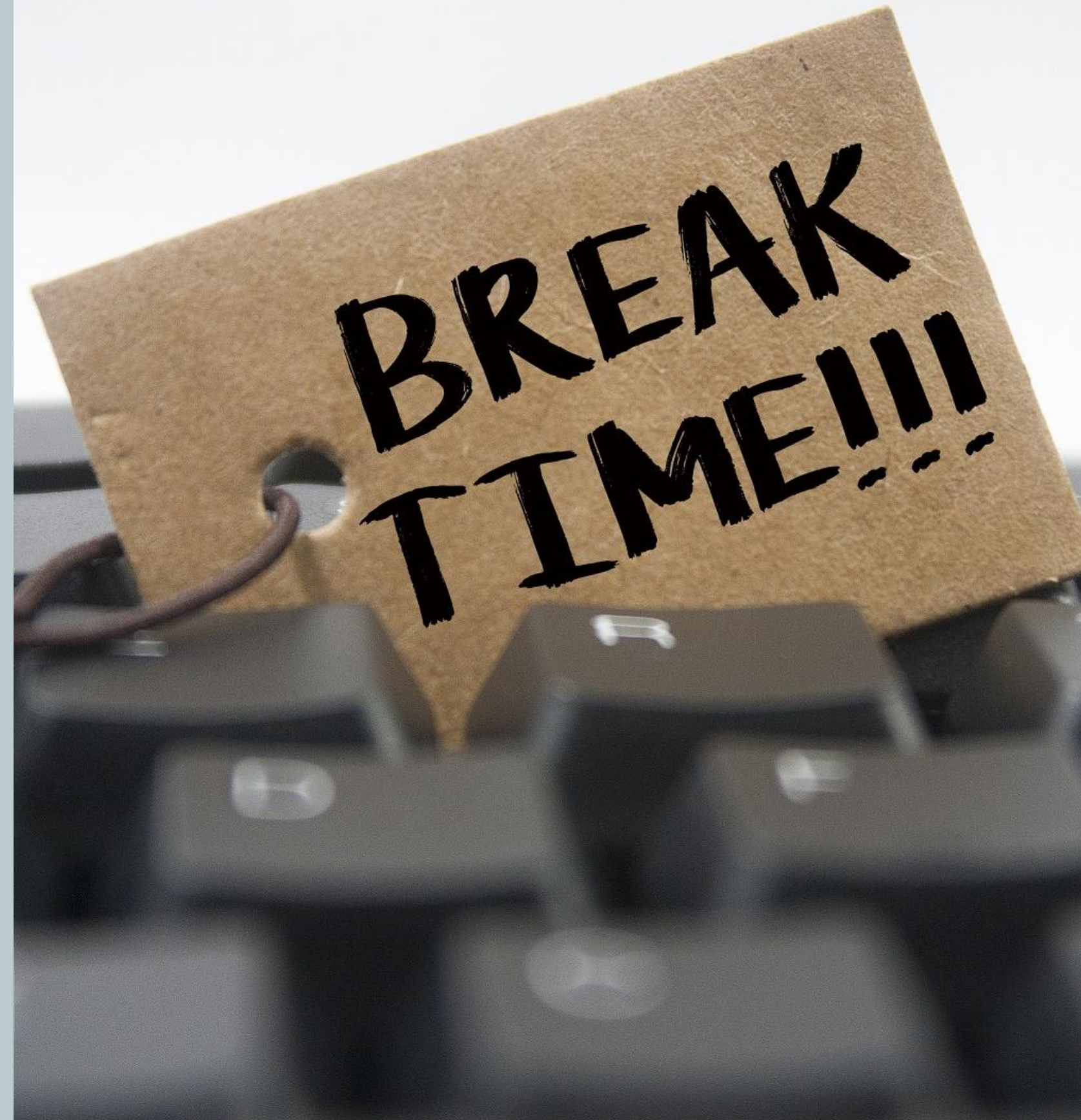
- How many breaks? Is this in your County Policy?
- Duration?
- How many employees may be on break at a time?
- Are employees required to notify someone before going on break?

Lunch Breaks

- Duration
- Are employees provided a designated lunch time?
 - If not, how many employees may be on break at a time?

Other Breaks

- Pumping breaks under FLSA (the PUMP Act), and PWFA



FLSA & the PUMP Act

Protections for Nursing Mothers Act

An employer SHALL provide --

(1) a reasonable break time for an employee to express breast milk for such employee's nursing child for 1 year after the child's birth each time such employee has a need to express milk.

(2) a place, other than a bathroom, that is shielded from view and free from intrusion of coworkers and the public, which may be used by the employee to express breast milk.

An employer IS NOT required to compensate an employee receiving reasonable break time under subsection (a)(1).

Break time provided under section (a)(1) SHALL be considered hours worked if the employee is not completely relieved from duty during the entirety of the break.



Designated Space Requirements

Pregnant Workers' Fairness Act (PWFA)

The pumping space must meet the following requirements:

- Is in reasonable proximity to the employee's usual work area;
- Is a place other than a bathroom;
- Is shielded from view and free from intrusion;
- Is regularly cleaned;
- Has electricity;
- Has appropriate seating;
- Has a surface sufficient to place a breast pump (not the floor); and
- Is in reasonable proximity to a sink, running water, and a refrigerator for storage.

Arkansas Law

A.C.A 11-5-116

"Employee shall make reasonable efforts to minimize disruption to the employee's operations."

"To the extent possible, the break time required... shall run concurrently with any paid and unpaid break time already provided to the employee."



SAMPLE LANGUAGE

Pursuant to the County Personnel Policy, all employees are provided two 15-minute breaks per day - one in the morning and one in the afternoon. Only one employee is permitted to be on break at a time. In addition to the two (2) breaks provided to employees, each employee is provided a one (1) hour lunch break. All employees are provided a set time to take his or her lunch break. Employees are required to leave and return from his or her lunch break within the one (1) hour set time period. If you are assisting a customer and are unable to conclude your assistance in time to take your lunch break as scheduled, you must notify me and your direct supervisor of the conflict that has occurred. If you choose to switch lunch break times with a co-worker, you must inform me and your direct supervisor of the switch. You must clock in and out for your lunch break. This is required by all employees whether you are leaving the building or eating in the employee kitchen. You are also required to clock out when you leave the grounds of the County Annex.

SAMPLE LANGUAGE

Pursuant to federal law, nursing mothers are entitled to reasonable break time to express breast milk for her child for one (1) year after the child's birth. Employees who are the sole occupant of an office with a shielded view free from intrusion of coworkers and the public shall utilize their office to take breaks to express breast milk. Employee's whose offices do not meet these criteria, and for employees who share an office with other employees, shall use the [INSERT SPACE NAME] for breaks to express breast milk.

Breaks to express breast milk will run concurrently with the two (2) paid breaks already afforded to employees. If additional breaks are needed to express breast milk, they will be unpaid. Employees are required to clock in and clock out for these additional breaks. Employees are required to make reasonable efforts to take these breaks in a manner that will minimize disruption to the operations of the office.



Sick Leave, Vacation, Holidays, etc.

- Does your office have any blackout dates your employees need to be aware of?
- How to make a request?
- How many people may be on leave at a time?*
- Is medical documentation required after the use of sick leave?
- Are employees allowed to use vacation before or after a holiday?

REMINDER: Executive policies are for the day-to day issues only and cannot contradict information in the County's personnel policy, which will generally dictate accrual and other issues.

SAMPLE LANGUAGE

Stay at home if you are ill and are contagious. Employees who are using paid time off “(PTO)” should make their request for leave as early as possible. For sick leave taken unexpectedly, employees should contact the Clerk and/or the Chief Deputy via phone call or text prior to 7:00 a.m

PTO for doctor’s appointments and medical procedures should be scheduled in advance. The Office Time Off calendar should be reviewed prior to scheduling appointments. Court dates and dates previously scheduled off by other employees should be avoided if at all possible.

PTO – ‘Paid Time Off’ – When requesting PTO use the “Leave Request” form provided by the office. This form may be submitted to the Chief Deputy (or Clerk in his/her absence) When approved the Clerk/Chief Deputy will post the approved leave on the office leave calendar.

No more than 2 weeks of vacation time should be on the calendar for one employee to ensure that days are open for all employees to have opportunity to have time off. If vacation/PTO is canceled, please notify the Chief Deputy and have taken off the calendar as soon as possible.

Time off without sufficient PTO banked will not be granted except in the case of illness or other emergency situation.

Be mindful of your coworkers in making your request for time off, especially around any holidays. There should not be a situation where an employee requests time off around every holiday. When planning days off around holidays employees should not request days off before and after the holiday days. This will give more opportunity for all employees to enjoy some time off during the holidays.

Unfortunately, there may be times that requests cannot be granted but the Clerk will try to accommodate each request as much as possible.

SAMPLE LANGUAGE

Employees who call in to work sick must provide a doctor's note if the leave lasts two (2) days or more. Full-time employees accrue eight (8) hours of sick time every thirty (30) days from their date of hire. Additional information about sick leave accrual can be found in the County personnel policy. Full time employees only are also eligible to accrue vacation time. Additional information about vacation accrual can be found in the County personnel policy. Unless otherwise required by law, only two (2) employees will be permitted to be scheduled off work at the same time. Prior to scheduling any time off, please consult me. I will maintain the master calendar and approve all time off requests. Leave will be granted on a first come, first serve basis. If your leave request is granted and you do not have paid time off available, your leave will be unpaid. All employees receive eleven (11) paid holidays by the County. These holidays are: New Year's Day, Dr. Martin Luther King Jr.'s birthday, Presidents' Day, Good Friday, Memorial Day, Labor Day, Veteran's Day, Thanksgiving Day and the day following, Christmas Eve, and Christmas Day. Additional information about when holidays are observed can be found in the County personnel policy.

SAMPLE LANGUAGE

Vacations/Sick Days:

In addition to the County Personnel Policy procedures and rules, this office has the following Blackout Dates where No one is allowed to schedule time off:

The last week of May (includes the last 5 work days of the assessment period)

The week taxes are due in October (includes the 4 work days prior to 15th and 15th)

Employees who wish to plan vacation shall notify the [TITLE] of the dates requested in writing at least two weeks before the first requested day off. Please remember that the office must be properly covered at all times, therefore, unless otherwise required by law, only one person per office may take vacation at one time. Vacation requests are granted on a first come first serve basis.



Time Keeping

How do employee's clock in and clock out?

Does your office have a digital time keeping system online? Do you require employees submit paper timesheets?

Either way, employees need to be put on notice of the procedures and when they are expected to clock in and out.

You are required by law to maintain accurate time records for your employees.

Recipient



afternoon so I
started your Covid
hours on Wednesday
too

3:16 PM



Ok

3:17 PM

Tuesday, September 14, 2021

Are yall coming back
today?

1:10 PM

I see you walking in
if your going to take
more than 30 min for
lunch i need you to
let me know

1:14 PM



Left for lunch
at 11:50 I
text at 1:10 to
find her she
did not respond

EMPLOYEE NAME:

PAYROLL PERIOD BEGINNING: 5-2-22

EMPLOYEE NUMBER:

PAYROLL PERIOD ENDING:

DATE	DAY	IN	OUT	IN	OUT	REG HRS	O/T HRS	VAC HRS	SICK HRS	HOLIDAY
5-2	MON	8	130	200	430	8				
5-3	TUES	8	130	200	430	8				
5-4	WED	8	130	200	430	8				
5-5	THUR	8	130	200	430	8				
5-6	FRI	8	130	200	430	8				
5-9	MON	8	130	200	430	8				
5-10	TUES	8	130	200	430	8				
5-11	WED	8	130	200	430	8				
5-12	THUR	8	130	200	430	8				
5-13	FRI	8	130	200	430	8				
TOTALS:										

ALL TIME SHEETS MUST BE COMPLETED IN INK AND SIGNED BY EMPLOYEE AND ELECTED OFFICIAL OR SUPERVISOR. ALL CORRECTIONS MUST BE INITIALED.

I HEREBY CERTIFY THAT THESE ARE MY CORRECT HOURS OF TIME WORKED THIS PAY PERIOD.

EMPLOYEE: _____ SUPERVISOR: _____

MAY 16 2022

DAY	DATE	IN	OUT	TOTAL HOURS
Sunday	6/3/07	-----	-----	-----
Monday	6/4/07	8:00am	12:02pm	
		1:00pm	5:03pm	8
Tuesday	6/5/07	7:57am	11:58am	
		1:00pm	5:00pm	8
Wednesday	6/6/07	8:02am	12:10pm	
		1:06pm	5:05pm	8
Thursday	6/7/07	-----	-----	-----
Friday	6/8/07	-----	-----	-----
Saturday	6/9/07	-----	-----	-----
Total Workweek Hours:				24

SAMPLE LANGUAGE

Each employee will be responsible for clocking in and out of the employee portal to track his/her own hours worked and submitting it at the end of each pay period for the Clerk to approve and release to payroll for processing. All adjustments to time should be made by the Clerk, Chief Deputy Clerk or payroll administrator.



An employee violated policy/is not meeting expectations, what do you do now?

DOCUMENT!

DOCUMENT!

DOCUMENT!

Why is Documentation Important?

- Gives employees clear feedback so they can improve performance.
- Provides employees with notice of consequences for their behavior at work.
- Creates a record of actions taken and the reasons for the actions. Memories fail, managers move on, and other circumstances change.



WHAT IS DOCUMENTATION?

Documentation can be a formal writing placed in the file, but it doesn't always have to be.

RELEVANT TEXT MESSAGES BETWEEN
EMPLOYEES AND SUPERVISORS

MEMOS OR MEETINGS TO THE ENTIRE
STAFF

NOTES FROM TRAINING AND
COUNSELING SESSIONS WITH
EMPLOYEES

A NOTE IN THE FILE ABOUT
PERFORMANCE OR ATTENDANCE
DISCUSSION WITH AN EMPLOYEE

FOLLOW-UP EMAIL SUMMARIZING A
PERFORMANCE DISCUSSION OR VERBAL
WARNING

WRITTEN WARNINGS
(SHOULD INCLUDE SPECIFIC EXAMPLES OF
MISCONDUCT/CONSEQUENCES/POLICY
VIOLATIONS)

How to Document Attendance?

Maintain accurate timesheets

Screenshots of text messages/Document Calls

If an employee texts you that he or she is going to be late and/or is not showing up. Save that for the file!

If an employee calls - Write it down and include the date, time, etc.

Keep track of the reasons for the absence

- Flat tire
- Upset stomach
- Sick child
- Etc.

Documenting Protected Leave

Federal law requires that you maintain records including (but not limited to)

- Dates FMLA is taken (which must be designated in records as FMLA)
- Hours of FMLA leave used if taken in increments less than a day.
- Copies of FMLA notices provided by an employee to the employer and vice versa concerning FMLA leave (including written requests for leave as well as required notices)

What Information Should You Include?

The date of the offense

Details of the conversation and/or the incident that occurred

Names of anyone else involved

What was the expectation? (What should they have done differently?) Cite to your policy.

Have they previously been coached/trained on this before? If so, mention that!

What is the expectation going forward? Never again, improvement, time frame?

What Information Should You Include (Cont.)

Consequences: Further discipline or termination

Invite the employee to ask questions for clarification on expectations

Employee signature on the document.

- Refusal to sign.
- Email? Include a read receipt.
- Text message? Follow up to confirm receipt, screenshots

Copies of any communication to the personnel file

SAMPLE LANGUAGE

DATE

Dear Employee:

This letter is in follow up to our earlier conversation about your work performance. On April 30th, I noticed that you did not properly _____. As you know, one of the essential functions of your job is to be able to _____. You stated that you felt you need additional training, which is being provided to you over the next few days. My hope is that with the additional training you will be able to _____. However, if your performance does not improve you may receive further discipline up to and including termination. If you still have questions about how to do _____ after your training let me know right away.

Objective Expectations

Are your employee's meeting your expectations?

Implementing some form of work performance evaluation is a great way to keep tabs on whether your employees are performing their essential job duties to the standards required by your office.

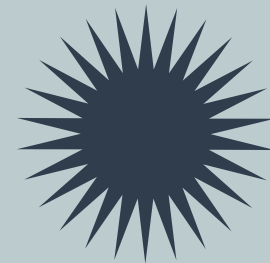
Evaluations also put employees on notice of any areas they need improvement in and create documentation of where employees are not meeting your standards.

We recommend annual performance reviews at a minimum.



Performance Reviews

What should you consider?



Attendance/Punctuality

Attitude

Conduct

Initiative

Leadership

Potential for Advancement

Quality of Work

Performance Evaluation Considerations

DO - Evaluate your employees' performance.

No one wants to have difficult conversations. It is much easier to say that someone is doing "fine" or "satisfactory" to get by to the next evaluation. However, this is where problems occur.

If you are not honest with your employees about

JOB DESCRIPTIONS

JOB DESCRIPTIONS INFORM THE EMPLOYEE OF
YOUR EXPECTATIONS FROM THE START.

1

What is required to do the job?
(LEO certification, CDL,
background check, drug test, X
number of years of experience,
etc.)

2

What do you expect your
employees to do? (lift,
push, stand, etc.)

3

What environment do you
expect your employees to work
in? (Loud, dangerous, hot, rainy,
etc.)

JOB DESCRIPTIONS



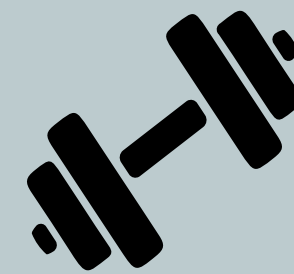
**Regular and reliable
attendance**

**Maintaining a
professional
demeanor/attitude**



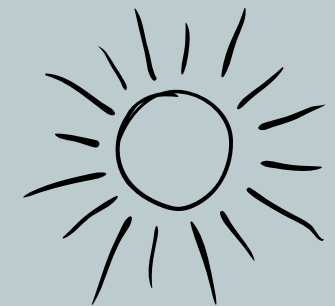
**Medication reporting
requirements:**

Do you require your employees to report if they are taking prescription medication that could cause side effects such as drowsiness, loss of consciousness, etc.?



Weight lifting requirements:

- How much weight?
- Assisted vs. unassisted
- How often?
- Repeatedly, frequently, regularly, occasionally, some other amount.



**Working environment
requirements:**

- Are employees required to work in undesirable conditions?
- Extreme heat
 - Constant sun
 - Wet/humid conditions
 - Loud - very loud environment
 - Near or with toxic and/or chemicals/fumes
 - etc.

SAMPLE LANGUAGE

"Sufficient clarity of speech and hearing abilities required including those which permit the employee to discern verbal instructions and communicate effectively in person and to discern heavy equipment safety warnings"

"Ability to understand and carry out oral and written directions"

SAMPLE LANGUAGE

PHYSICAL ACTIVITIES

The following physical activities described here are representative of those that must be met by an employee to successfully perform the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions and expectations.

Moderate diversity, moderately physical. Work activities which allow for a moderate amount of diversity in the performance of tasks which requires somewhat diversified physical demands of the employee.

While performing the functions of this job, the employee is continuously required to use hands to finger, handle, or feel; regularly required to stand, walk, reach with hands and arms; frequently required to stoop, kneel, crouch, or crawl; and occasionally required to climb or balance, talk or hear. The employee must frequently lift and/or move more than 100 pounds; regularly lift and/or move up to 50 pounds. Specific vision abilities required by this job include close vision; distance vision; color vision; peripheral vision; depth perception; and ability to adjust focus.

ADDITIONAL INFORMATION

- Knowledge of street drainage, repair and maintenance.
 - Knowledge of construction work in concrete and asphalt.
 - Ability to judge conditions of the road and ditches for grading.
 - Ability to exercise sound judgment in evaluating situations and in making decisions.
 - Ability to operate equipment used in road construction and maintenance.
 - Ability to operate chainsaws, power tools, lawn equipment for right of way maintenance and storm clean up.
-
- Ability to work outdoors and occasionally in cold or inclement weather.
 - Ability to follow simple oral and written instructions.

Work hours may be extended in the event of an emergency, disaster, manpower shortage, workload and work-in-progress. The duties listed above are intended only to show the various types of duties that will be performed. The omission of specific statement of duties does not exclude them from the position if the work is similar, related or a logical assignment to the position.

All positions within the Road Department are assigned by the Road Superintendent or Assistant Road Superintendent or a designated representative and are subject to be changed when deem in the best interest of the Road Department. This job description does not constitute an employment agreement between Saline County and the employee and is subject to change by the employer if the need of the employer and requirements of the job change.

Jim works in the Road Department as an operator. He files a discrimination claim with the EEOC after he did not receive a promotion.

- The promotion was not publicly posted.
- There is no job description for the position.
- There were no applications submitted for the promotion.
- The person who was promoted was promoted verbally. (No documentation memorializing the promotion).

* No way to prove that he is not a qualified individual for the position.

EEOC ISSUED DETERMINATION AND RIGHT TO SUE LETTER. EMPLOYEE FILED A LAWSUIT WHICH IS PENDING



Why Does All of This Matter?

It doesn't matter, until it does.

An "at-will" employee can be fired for any reason, so long as it is not an illegal reason (Title VII, ADA, ADEA, Retaliation for exercising a constitutional or statutory right).

Employees can go to the EEOC for any civil right. An employee doesn't have to be right, they just have to fit into one of the protected classes to make it past "GO." - **Documentation nips this in the bud 99% of the time.**



Wage and Hour Issues

PREFACE

WAGE AND HOUR CLAIMS ARE NOT DEFENDED BY THE ASSOCIATION OF ARKANSAS COUNTIES UNDER THE GENERAL LIABILITY AGREEMENT. AS SUCH, I CAN PROVIDE THE LAW AND MY LEGAL OPINION, BUT I MUST DEFER FINAL GUIDANCE ON ANY WAGE AND HOUR ISSUES/FLSA QUESTIONS TO YOUR COUNTY CIVIL ATTORNEYS.

WHAT IS COMP TIME?

“PAID TIME OFF THE JOB WHICH IS EARNED AND ACCRUED BY AN EMPLOYEE IN LIEU OF IMMEDIATE CASH PAYMENT FOR EMPLOYMENT IN EXCESS OF THE STATUTORY HOURS FOR WHICH OVERTIME COMPENSATION IS REQUIRED BY SECTION 7 OF THE FLSA.”

EARNED AT A RATE OF 1.5 HOURS FOR EACH HOUR OF EMPLOYMENT FOR WHICH OVERTIME COMPENSATION IS REQUIRED.

FEDERAL LIMITS ON COMP TIME

240

CIVILIAN EMPLOYEES

480

“PUBLIC SAFETY, EMERGENCY
RESPONSE, AND SEASONAL”

**Can Comp Time Carry Over
Year to Year?**

YES!!!

USE OF COMP TIME

- AN EMPLOYEE WHO HAS ACCRUED COMP TIME OFF AND WHO HAS REQUESTED THE USE OF SUCH TIME **SHALL** BE PERMITTED TO USE SUCH TIME WITHIN A REASONABLE PERIOD OF TIME AFTER MAKING THE REQUEST IF THE USE OF THE COMP TIME DOES NOT UNDULY DISRUPT THE OPERATIONS OF THE PUBLIC AGENCY.
- **REASONABLE PERIOD**
 - DETERMINED ON A CASE-BY-CASE BASIS TAKING INTO CONSIDERATION:
 - THE NORMAL SCHEDULE OF WORK;
 - THE ANTICIPATED PEAK WORKLOADS BASED ON PAST EXPERIENCE;
 - EMERGENCY REQUIREMENTS FOR STAFF AND SERVICES; AND
 - THE AVAILABILITY OF QUALIFIED SUBSTITUE STAFF.
- **UNDULY DISRUPT**
 - MERE INCONVENIENCE TO THE EMPLOYER IS AN INSIGNIFICANT BASIS FOR DENIAL OF A REQUEST FOR COMP TIME OFF.
 - MUST IN GOOD FAITH ANTICIPATE THAT IT WOULD IMPOSE AN UNREASONABLE BURDEN ON THE AGENCY'S ABILITY TO PROVIDE SERVICES OF ACCEPTABLE QUALITY AND QUANTITY FOR THE PUBLIC DURING THE TIME REQUESTED WITHOUT THE USE OF THE EMPLOYEE'S SERVICES.

PAYING OUT COMP TIME

CURRENT EMPLOYEES:

- PAYMENTS CAN BE MADE AT ANY TIME.
- SHALL BE PAID AT THE REGULAR RATE EARNED BY THE EMPLOYEE AT THE TIME THE EMPLOYEE RECEIVES SUCH PAYMENT.

TERMINATED EMPLOYEES:

- SHALL BE PAID FOR UNUSED COMP TIME AT A RATE OF NO LESS THAN:
 - AVERAGE REGULAR RATE RECEIVED DURING THE LAST THREE (3) YEARS OF EMPLOYMENT; OR
 - FINAL REGULAR RATE RECEIVED BY SUCH EMPLOYEE.
- **WHICHEVER IS HIGHER.**

COMP TIME RULES SUMMARY

- MUST HAVE PRIOR AGREEMENT/UNDERSTANDING
- 240/480 Cap on Hours*
- CANNOT have a “use it or lose it policy”
- CAN be carried over year to year
- CAN require employees to use it
- CAN mandate it be used before all other types of leave to control banks
- MUST grant use unless “unduly disruptive” to business
- MUST be paid out at termination

Employee Drug Testing

Medical Marijuana & Prescription Medications

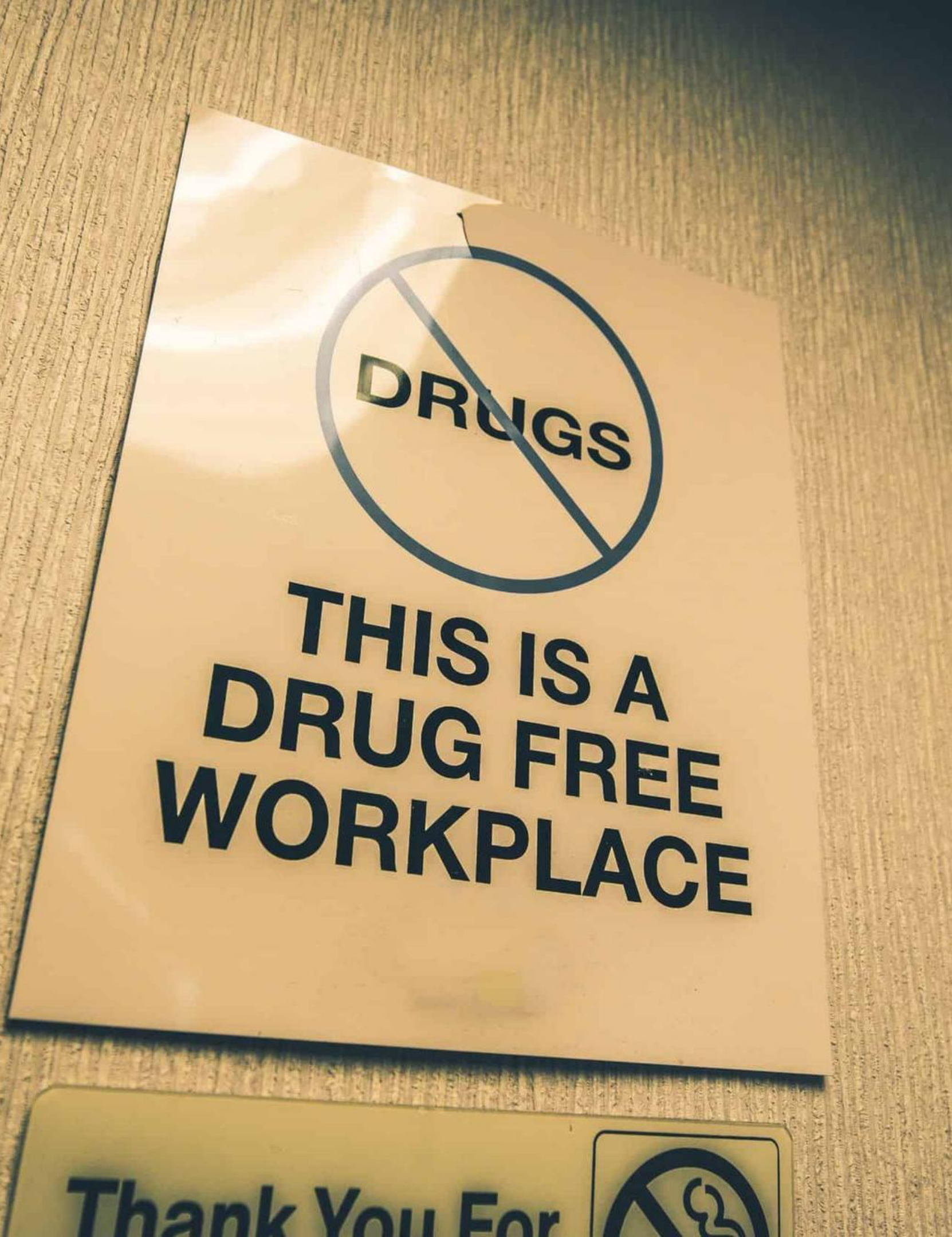
Arkansas Civil Rights Act

An employer shall not discriminate against an applicant or employee based on race, religion, national origin, gender, or the presence of any sensory, mental, or physical disability.

Arkansas Medical Marijuana Act§3(f)(3)

An employer shall not discriminate against an applicant or employee in hiring, termination, or any term or condition of employment, or otherwise penalize an applicant or employee based on past or present status as a qualifying patient.





What can you do?

Establish a drug-free workplace policy

Discipline up to and including termination for employees who:

- + Possess
- + Smoke
- + Ingest
- + Otherwise use marijuana

Require self-reporting of prescription medications

Requires:

- + On county property or during work hours
- AND
- + Good faith belief

Accommodating a Disability

1

You do not have to accommodate use of marijuana in the workplace.

2

You still have to accommodate an employee's underlying disability.

3

You still must use the interactive process under the ACRA as you would for any other prescribed medication that would otherwise violate your drug policy.

Types of Drug Testing

- Post-offer, Pre-employment
- Random
- Reasonable Suspicion
- Post-accident

Post-offer, Pre-employment

Optional for all employees, EXCEPT DOT covered employees.

What do your policies say? (County & Executive)

What is the practice and custom?

*This must be done in a nondiscriminatory manner meaning all similarly situated jobs must be treated the same.

*It does not violate the Fourth Amendment to require a suspicionless drug test of all applicants.

Only AFTER a contingent offer of employment has been made.

I recommend that you make the offer in writing

- Dear NAME,

You are offered the position of X with a pay of X dollars an hour. This offer is contingent upon successfully passing a drug test.

MUST be administered and results returned, before employee begins ANY work.



Reasonable Suspicion

Uncorroborated tips, "hunches," and "feelings" are NOT enough.

Can you articulate why there was suspicion?

- Odor
- Behavior
- Appearance
- Etc.

Did you document it in a report?

Are there witness statements?

Is there any video and/or photographs?

Post-accident still requires reasonable suspicion for all EXCEPT DOT employees.

Random Testing

Safety sensitive employees

Those who fall under DOT regulations, and those who have duties where a momentary lapse in attention can result in injury or death to another person.

Employees who are required to:

- + Carry a firearm;
- + Perform life threatening procedures;
- + Work with confidential information or criminal investigations;
- + Work with controlled substances;
- + Maintain a CDL;
- + Jailers;
- + Dispatchers

Results-oriented

Presentations are communication tools that can be used as demonstrations, lectures, reports, and more. Most of the time, they're presented before an audience.



You
CANNOT
drug test
everyone for
a "random"
drug test!



A NEW FORM OF DRUG TESTING

Generally, when an employer conducts a drug test on an employee, the test is performed by using a urine sample provided by the employee.

SALIVA TESTING

- Regulation went into effect June of 2023, but can be used now for not DOT drug testing.
- Must be a reliable test.

PROS:

Instant. No need to waste time waiting on an employee to pee.

CONS:

Test will only show a positive result if the employee has used marijuana in the past 48 hours.



Contact Information

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