


# Managing Through Documentation

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## Disclaimer

*This training is designed to provide general information about the subject matter covered. Neither TAC nor the trainers are engaged in rendering legal advice. If you need legal advice, TAC recommends that you seek the services of a competent attorney who is familiar with your specific situation.*



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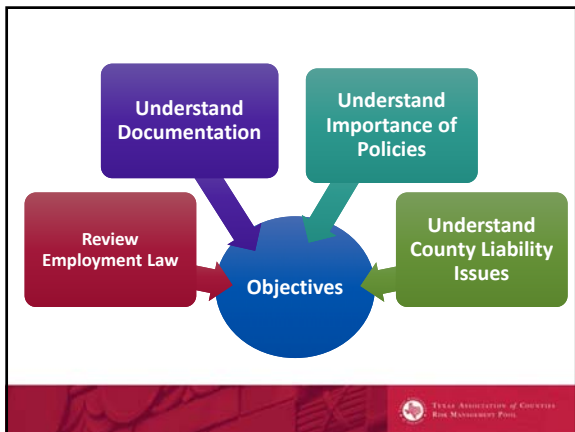
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### Why Documentation is Important

- ✓ Budgets are tight
- ✓ Helps to reduce liability in unemployment and EEOC claims
- ✓ Protects you – justifies your decisions on employment actions
- ✓ Explains problems to your employees

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### Federal Laws to Consider

- Title VII of the Civil Rights Act of 1964
- Pregnancy Discrimination Act
- Age Discrimination in Employment Act
- FMLA
- Americans With Disabilities Act – Amended 2008 ADA
- Uniformed Services Employment and Reemployment Rights Act



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### Liability

- Supervisors must comply with all legislation: Federal-State-Local
- County needs compliant policies
- Supervisors must treat all employees equally and fairly

# the “L” word

Supervisors must have SPECIFIC and VALID work related reasons for all actions

Supervisors must document everything.

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### Key Documentation Build a Solid Foundation

Disciplinary Documentation

Job Descriptions

Personnel Manuals

Performance Evaluations

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### Disciplinary Ground Rules

Maintain At-Will Employment—Don't surrender it in words or policies

Prohibit and Investigate claims of discrimination or harassment

Remember that whatever the last action you take for termination is what you must defend to EEOC or unemployment

**KNOW THE RULES!**

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### Disciplinary Ground Rules

Treat all employees equally and fairly

Distribute and follow all written policies and procedures

Be consistent in enforcement

Give accurate and objective evaluations

Keep personal matters confidential

Stop rumors from spreading

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### Disciplinary Ground Rules

Tolerate nothing that makes reasonable people feel uncomfortable	Follow progressive discipline when it's practical - don't rely on "at-will"
Don't retaliate	Beware – promises (oral and written) may create a binding contract



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### Documentation Ground Rules

- Nothing personal – no opinions, emotions or feelings
- Write it as if you are detached
- Focus on quality of work, behavior that impacts work, conduct, policies, attendance and availability
- Never attack character or psychological makeup



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### Documentation Ground Rules

- Include: who, what, when, where and how
- Include: the effect of the conduct as it relates to performance, job behavior or county policy
- Include: actions that will be taken now and future actions or consequences
- Allow a third party to review the facts with you
- Always evaluate the legal issues
- Allow the employee a chance to respond



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### How to Document

#### Written Warning

- ✓ What the employee did wrong – focus on behavior or rule violation.
- ✓ Why is the problem a problem – policy, etc.
- ✓ Specific impact of the incident
- ✓ Description of previous efforts to correct.
- ✓ **Your job is in jeopardy** is written into document.


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### Retaliation: Beware

Has the employee recently been engaged in a protected activity?

Complainant or Witness?	Pregnancy?	Workers' Comp Claim?
Disability?	Military Leave?	Harassment?
EEOC Complaint?	Whistleblower?	Wage and Hour Complaint?




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### Terminations



Ask yourself these questions before terminating and document with a checklist:

What are the real reasons for terminating this employee?

Are they work related reasons?

How would a jury of the employees peers look at the reasons?

Have you consulted legal counsel?


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Personnel Manuals:  
Considerations for Counties



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**Introduction to County**

- Welcome Statement
- Mission and Vision Statements
- Why employee job is essential for fulfilling mission
  - ✓ Hard work
  - ✓ Commitment
  - ✓ Exceeding customers' expectations



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**General Policies to Include**

- ✓ Employment at will
- ✓ Equal Employment Opportunity Statement
- ✓ Americans with Disabilities
- ✓ Discrimination and Harassment
- ✓ Family and Medical Leave and other leave



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### Work Rules and Responsibilities

Definitions	Employment Status	Attendance Rules
Conflicts of Interest	Political Activities	Outside Employment
	Grievances	

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### Work Rules and Responsibilities

Discipline	Licenses and certifications	Weather Closings
Emergencies	Safety and Worker's Comp	Confidentiality

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### Benefits and Compensation

- FLSA Safe Harbor
- Compensation Rules
- Payroll Deductions
- Work Days and Work Weeks
- Leaves – PTO, Vacation, Sick, Holiday, Leave of Absence
- Other – Military, Jury Duty, Funeral



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### What Else to Include

- Social Media Policies
- Cell Phone Policies
- IRS Fringe Benefit Policies
- Computer Policies
- Unique Issues for Your County



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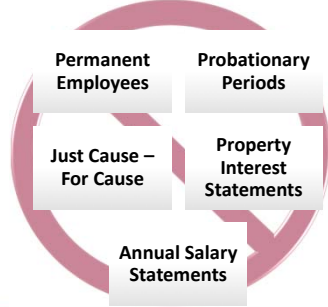
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### What NOT to Include



Permanent Employees

Probationary Periods

Just Cause – For Cause

Property Interest Statements

Annual Salary Statements

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### Employee Acknowledgement

#### Key Components

- Employee obligations to comply with manual
- Not a contract of employment
- Right to change at any time

**Key Language: “I have read these policies and agree to abide by and adhere to these policies”**

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### Employee Acknowledgements

- Each employee should receive a copy of the manual
- Each employee should sign an acknowledgement
- Each employee should sign for receipt of new and revised policies.



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### In Summary

Your county personnel manual should:

Explain written rules, benefits, and expectations for all employees	Be communicated to each employee
Be reviewed regularly and revised as needed	Be with compliant with all federal and state laws



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### Human Resources Consultants



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Northeast  
Southwest  
Southeast

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