

PERSONNEL MANAGEMENT FOR COUNTY OFFICIALS



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PERSONNEL MANAGEMENT

Public employment is different
Commissioners - responsibility
without authority
Should be a team effort
Day 1 changes are always
expensive!



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EFFECTIVE PERSONNEL MANAGEMENT

- **Role of the Board**
 - **Adopt a personnel policy and keep updated.**
 - **Adopt other policies such as:**
 - Use of County vehicles.
 - Purchasing - who, when, how much.
 - Computer usage to include Internet and e-mail.
 - **Adopt the budget to include salary/wage rates for all county positions.**
 - **Share concerns regarding employee performance or behavior with other elected officials.**



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UNDERSTANDING ROLES & RESPONSIBILITIES

- **Authority of Individual Commissioners.**
 - **The board sets policy for the county and exercises its authority as a single body, operating in public meetings preceded by notice.**
 - **An individual commissioner has no authority to supervise, discipline or fire county employees.**



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Administrative Policies



- ▶ Separate from Personnel Policy
- ▶ Provide direction to staff
- ▶ May differ for various departments
- ▶ Approved by Governing Board



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PUBLIC EMPLOYMENT

GUIDELINES & PROCEDURES



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Personnel Policy

- Have a policy
- Know your policy
- Follow your policy



If you don't like it - change it, don't ignore it !



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VETERANS PREFERENCE

The County will accord a preference to U.S. Armed Services veterans, or certain of his/her family members, in accordance with provisions of Idaho Code, Title 65, Chapter 5. In the event of equal qualifications for an available position, a veteran or family member who qualifies for the preference will be employed.



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MILITARY PREFERENCE ON APPLICATIONS FOR EMPLOYMENT

- Are you a veteran or family member who qualifies for and are claiming preference pursuant to Idaho Code § 65-503 or its successor?
- Have you previously claimed such preference?
- Veteran must provide copy of DD-214.
- **POSTING, APPLICATION**



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Selection



- **Attitude is important**
- **Document why**
- **Let others know that you have made a selection**
 - “We have selected the candidate that was the best fit for our organization.”



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SUPERVISOR

- One who supervises
- Judged not on what they do but what they get others to do (or not do)
- Represent the employer
- Need to (do) set an example



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DOCUMENTING

- What we didn't tell you!
 - Don't document what the employee did as much as...
 - Document what YOU did to correct the employee's behavior.



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DOCUMENTING

- If it isn't written it didn't happen
 - Or did it?
- Needs to be timely (retaliatory?)
- Needs to show fairness/balance
- Always known to the employee
- Don't "paper the file"



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HARASSMENT

- Behavior targeting employees in protected classes.
- Steps to protect from liability:
 - Have a policy and follow it
 - Provide training for all employees
 - All allegations must be taken seriously



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RETALIATION

- Any action taken against an employee for using available benefits or process such as:
 - Vacation, sick leave, or FMLA leave
 - Work Comp benefits
 - Filing complaints of harassment or any other grievances allowed by law or policy
 - Filing a tort claim
 - Filing a lawsuit
 - Participating in political activity
 - Anything else that irritates you other than purely poor performance



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INVESTIGATIONS



- **Absolutely needed in allegations of:**
 - ⇒ Illegal harassment
 - ⇒ Discrimination
 - ⇒ Criminal activity
- **Recommended in cases of:**
 - ⇒ Citizen complaint
 - ⇒ “Anonymous” tips



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INVESTIGATIONS



- ☑ **Prompt**
 - Should be within a few days
- ☑ **Thorough**
 - Interview all with information
- ☑ **Impartial**
 - Not anyone in command chain!!!
 - May need outside investigator



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RELATED DISCIPLINE

- Notice of proposed action (Paid leave)
 - Detailed reasons for proposed action
- Opportunity for hearing
- Conduct hearing
- Notice of decision



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TERMINATION

- The action most likely to lead to claims and litigation.
- Always ask for assistance before terminating an employee.
- Usually the reason is good - maybe not the process.
- Timing is critical, especially for retaliation claims.
- Consider options - resignation, reassignment, severance.
- ICRMP offer of assistance - defense panel attorneys.



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FEDERAL EMPLOYMENT LAWS (NOT ALL)

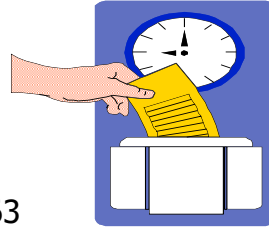
- HIPAA
- FLSA
- FMLA
- ADA
- Civil Rights (harassment, discrimination)



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Overview of FLSA

- Minimum Wage
- Child Labor
- Overtime Provisions
- Equal Pay Amendment - 1963



Original Act – 1938
 State and Local Government – Applicability
Amendments 1966, 1972, 1973
Garcia Vs. San Antonio MTA Ap.1985

Enforcement – Courts or DOL

FLSA is not "the LAW", but only establishes minimum



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BASIC RULE:

Everyone is HOURLY except for exceptions.

What Does That Mean?

1. If ***not exempt*** and the employee works more than 40 hours a week, OT pay is required.
2. If ***exempt***, the employee is SALARY and OT pay is NOT required.



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SO, WHO DOES IT APPLY TO?

An employee may be exempt IF:

- Paid more than \$455 per week; and
- Fits into 1 of 6 categories:
 - Executive;
 - Administrative;
 - Professional;
 - Computer Personnel;
 - Highly Compensated; or
 - Outside Salesman.



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PENALTIES FOR NON-COMPLIANCE

- SOL: 3 yrs. for willful violations + atty fees + costs.
- Willful violations = double damages (OT)
- If an entire class is misclassified, they all have to be paid OT for the last 3 yrs.



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MORE TIPS

- **For non-exempt employees:**
 - Failure to keep time records is a violation of the FLSA.
 - Failure to keep track of time allows a disgruntled ex-employee to make a wage claim against you.
 - Have a policy that no one can work OT without written permission from supervisor.



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8. Basis on which employee's wages are paid (e.g., "\$9 per hour", "\$440 a week", "piecework")
9. Regular hourly pay rate.
10. Total daily or weekly straight-time earnings.
11. Total overtime earnings for the workweek.
12. All additions to or deductions from the employee's wages.
13. Total wages paid each pay period.
14. Date of payment and the pay period covered by the payment.



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TIME SHEETS

- Need to be honest.
- Policy should state time to round to.(1/4 hr.?)
- Signed by employee and supervisor.
- Documentation for payroll.
- Corrections acknowledged by employee.
- Comply with FLSA records requirements.



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AVOID FLSA TROUBLE

- Periodically review those considered exempt to make sure they still qualify - document
- Make sure that “contractors” are not really employees
- Have honest time sheets
 - Supervisors need to actually review time sheets
 - Make sure that no one is keeping time “off the books” - (answering e-mails?)



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- Are all workers covered under the FLSA?
 - NO. Elected officials, appointees (those who sit on boards and commissions), true volunteers, and others.
 - DOL and IRS requirements may differ!



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FMLA

FAMILY MEDICAL LEAVE ACT



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FMLA

- ***Allows for up to 12 weeks of unpaid leave for qualifying employees.***
- ***New regs allow for up to 26 weeks for care of injured soldiers, or 12 weeks to family of soldiers called to active duty.***
- ***May be initiated by either employee or employer.***
- ***Employer may require documentation of employee eligibility.***
- ***May require paid leave to run concurrent.***



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FMLA ELIGIBILITY

1. **Worksite must employ 50+ employees (not counting elected officials);**
2. **Employee must have worked for employer for at least 12 months;**
3. **Employee must have worked at least 1,250 hours during the 12 months preceding.**



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WHEN APPLIED?

1. Care for newborn or newly adopted child or newly placed foster child;
2. Care for spouse, child or parent with serious health condition; or
3. Employee has a serious health condition.



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DOES FMLA LEAVE HAVE TO BE PAID?

NO!!!

Employee may use and an employer may require an employee to use accrued paid or personal leave to cover some or all FMLA leave taken.

Use of accrued sick or family leave is limited by employer's policy.



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Americans with Disabilities Act (ADA) of 1990

Prohibits discrimination based on disability in employment, public service, public accommodations, telecommunications, and transportation.

Applies to ALL public entities regardless of the number of employees.



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PURPOSE OF THE ACT

- The ADA prohibits discrimination of an individual based upon:
 - a physical or mental disability which substantially limits one or more major life activities, or
 - who is perceived or regarded as having a mental or physical impairment that substantially limits one or more major life activities.



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Reasonable Accommodation:

A qualified individual with a disability is someone who can perform the essential functions and who meets the other job requirements of education, experience, and skill.



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▪ Examples of Reasonable Accommodations:

- Job restructuring
- Modifying work schedules
- Reassigning to a vacant position
- Acquiring or modifying equipment
- Placing on light duty (if available)



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WAYS TO GET INTO TROUBLE

- Assuming that an employee is disabled
- Immediate denial of accommodation request
 - Need to work with others (HR)
 - Take time to respond if determined “unreasonable”
- Providing unwanted accommodation
- Allowing other employees to complain
- Allowing the “interactive process” to occur by Department



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QUESTIONS

- Can employer ask pre-employment questions about medical problems?
 - NO. Can't ask about the existence, nature or severity of a disability.
 - Can ask about their ability to perform a specific job function.
- Can employer require a pre-employment medical examination?
 - NO. A job offer may be conditioned on the results of a medical exam, but only if it is required of ALL entering employees in similar jobs.
 - Must be job related.



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QUESTIONS?

