

Workplace Policies: Why We Need Them and How They Can Keep Us Out of Trouble

Elisha D. Hodge, J.D.
MTAS Legal Consultant
TGFOA
March 12, 2021



Municipal Technical Advisory Service
INSTITUTE *for* PUBLIC SERVICE

Why Have Workplace Policies?

- 1. They set expectations
- 2. They keep management accountable
- 3. They ensure compliance with the law
- 4. They can help defend against employee claims
- 5. Provides a framework for where employees can turn for assistance.

5 Key Reasons Why It's Important To Have Policies and Procedures, Sarah Neideck, July 19, 2016, HR Daily Community



What Types of Policies Will We Cover?

- Travel
- Vehicle Use
- Leave
- Telework/AWS
- Firearms
- Harassment and Abusive Conduct
- Acceptable Use (Internet)
- Social Media
- Outside Employment



Travel Policy

- **Municipality: T.C.A. § 6-54-901**

The municipal legislative body shall by ordinance determine whether or not to pay the expenses of the mayor or any member of the local governing body, and any board or committee member elected or appointed by the mayor or local governing body, and any official or employee of the municipality whose salary is set by charter or general law; and, if it is determined that the municipality will reimburse expenses, shall enact a written policy as to how expenses will be reimbursed and determine what expenses are reimbursable.

Travel Policy

- **State: T.C.A. § 8-26-116**

Notwithstanding any law to the contrary, claims for official travel expenses of state employees and members of boards and commissions shall be subject to the uniform travel rules and regulations issued by the commissioner of finance and administration pursuant to § 4-3-1008, except for employees and members of boards and commissions attached to the court system and the general assembly, who shall be subject to travel rules and regulations under the law applying to them and approved by the head of those departments.

<https://www.tn.gov/content/dam/tn/finance/documents/fapolicies/policy8.pdf>



Vehicle Use Policy

- **Municipality: T.C.A. § 6-54-905**

Municipalities may provide vehicles for the use of the mayor, any member of the local governing body, any board or committee member elected or appointed by the mayor or local governing body, and any official or employee whose salary is set by charter or general law. Such vehicles shall be provided pursuant to a written policy adopted by the municipal legislative body. The written policy for vehicle use shall be separate from the travel and expense policy provided for in the previous sections of this part and shall contain no other subject matter.

State Vehicle Policy: [https://www.tn.gov/content/dam/tn/hr/documents/12-056%20Operation%20of%20Motor%20Vehicles%20by%20State%20Employees%20\(Rav.%2010220\).pdf](https://www.tn.gov/content/dam/tn/hr/documents/12-056%20Operation%20of%20Motor%20Vehicles%20by%20State%20Employees%20(Rav.%2010220).pdf)



Leave Policy

- **Municipality: T.C.A. § 6-54-123**
Personnel rules and regulations

*See the MTAS website for more information on required personnel policies for municipalities.

<https://www.mtas.tennessee.edu/reference/personnel-policies-required>



Base/Required Policy (Leave)

- **County: T.C.A. § 5-23-101**

Base policy related to leave is required to include:

Whether employees are entitled to paid vacation or annual leave, sick leave, or other leave, policies for accrual and use of such leave, policies for compliance with state and federal family and medical leave laws, and provisions for maintaining leave records;

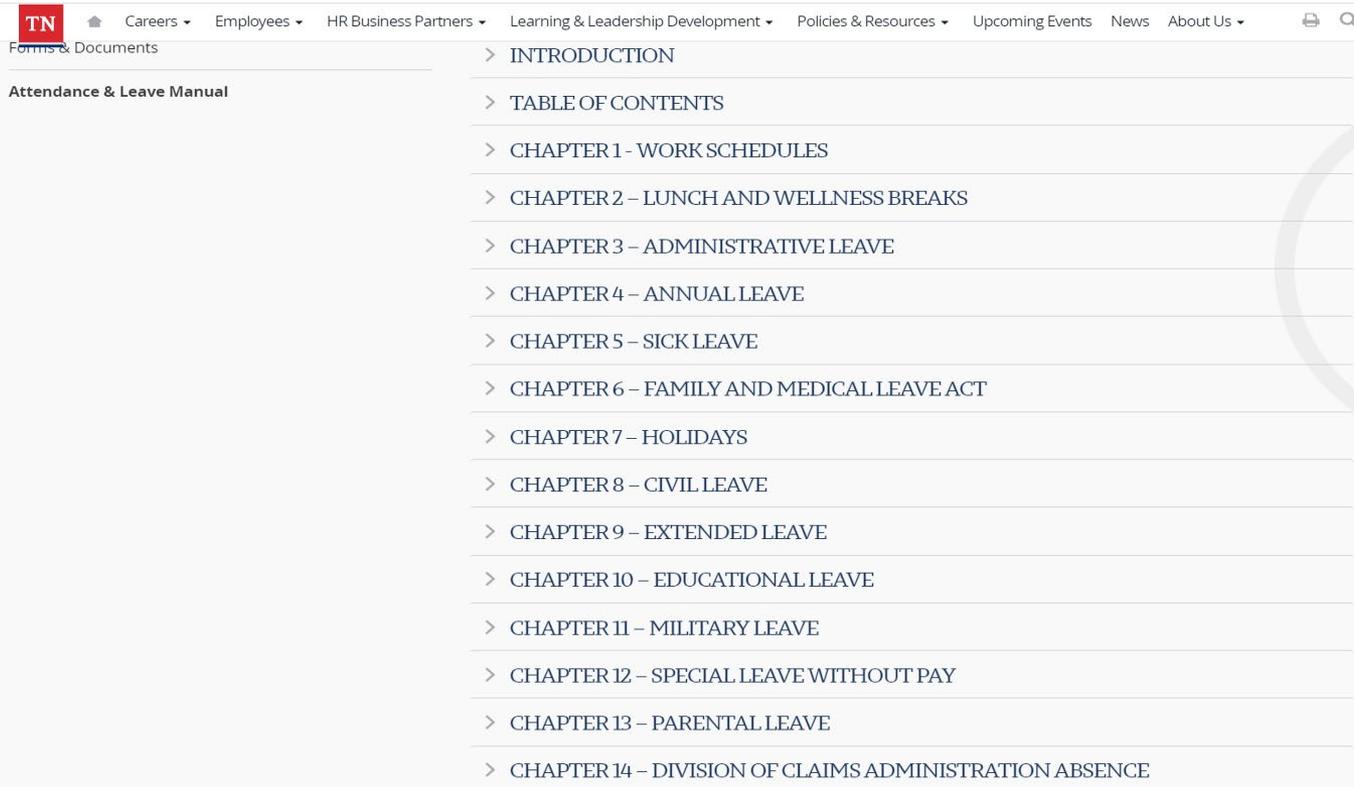
*See the CTAS website for more information related to base/required personnel policies <https://eli.ctas.tennessee.edu/reference/required-personnel-policies>



Leave Policy

State: T.C.A. § 8-50-801 et seq.

State of Tennessee Attendance and Leave [Manual](#)



The screenshot shows a web page with a navigation menu at the top containing links for Careers, Employees, HR Business Partners, Learning & Leadership Development, Policies & Resources, Upcoming Events, News, and About Us. Below the navigation is a search bar and a 'Forms & Documents' section. The 'Attendance & Leave Manual' is highlighted, and its table of contents is displayed as a list of chapters with expandable arrows.

- > INTRODUCTION
- > TABLE OF CONTENTS
- > CHAPTER 1 - WORK SCHEDULES
- > CHAPTER 2 - LUNCH AND WELLNESS BREAKS
- > CHAPTER 3 - ADMINISTRATIVE LEAVE
- > CHAPTER 4 - ANNUAL LEAVE
- > CHAPTER 5 - SICK LEAVE
- > CHAPTER 6 - FAMILY AND MEDICAL LEAVE ACT
- > CHAPTER 7 - HOLIDAYS
- > CHAPTER 8 - CIVIL LEAVE
- > CHAPTER 9 - EXTENDED LEAVE
- > CHAPTER 10 - EDUCATIONAL LEAVE
- > CHAPTER 11 - MILITARY LEAVE
- > CHAPTER 12 - SPECIAL LEAVE WITHOUT PAY
- > CHAPTER 13 - PARENTAL LEAVE
- > CHAPTER 14 - DIVISION OF CLAIMS ADMINISTRATION ABSENCE

Policy on Leave Following an Arrest

- **County and Municipality: § 7-51-1701**

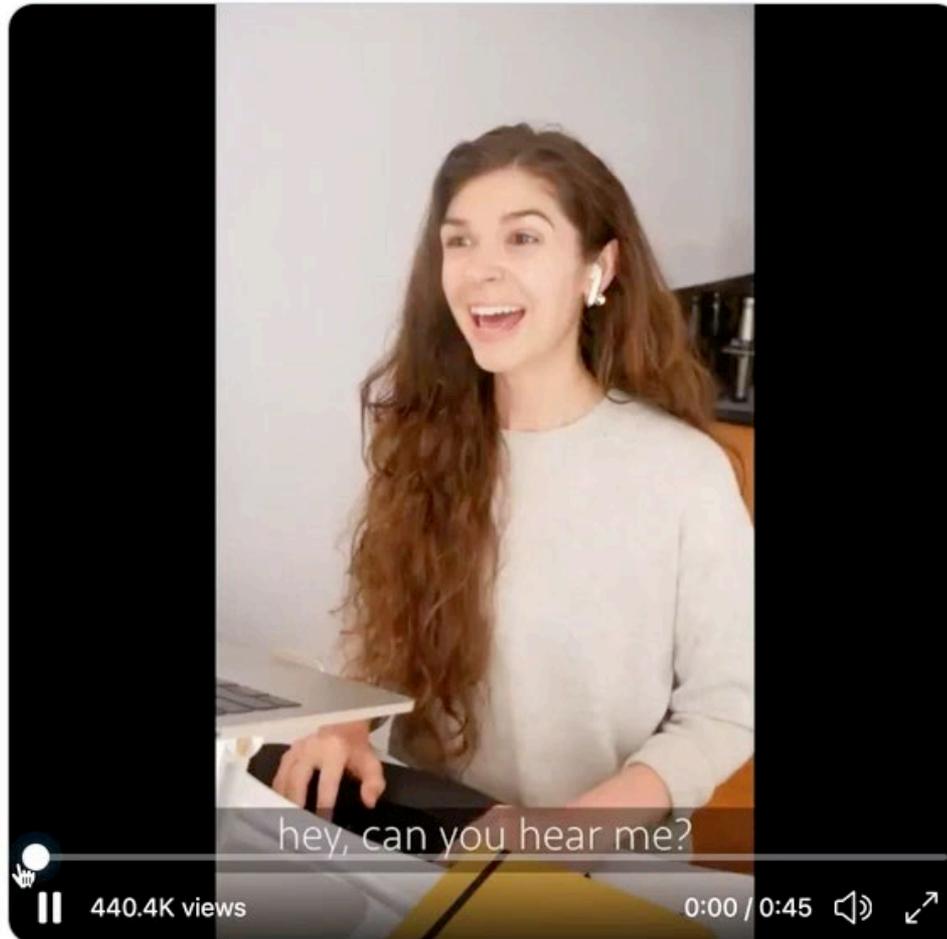
If a municipality or county has or implements a personnel policy that places an employee on leave for any period of time immediately following any arrest of the employee, the municipality or county must also implement a policy of restoring back pay to the employee if the charges are dropped or the employee is found not guilty of the charges. This requirement shall not apply if the employee pleads guilty to the charges or enters into a plea agreement on the charges.

*See SB0610/HB714



And Then There was COVID-19 . . .

working from home 🙄



And Then We were in 2021 . . .

HI, WHO JUST JOINED?	CAN YOU EMAIL THAT TO EVERYONE?	IS _____ ON THE CALL?	UH, _____ YOU'RE STILL SHARING...	HEY, GUYS, I HAVE TO JUMP TO ANOTHER CALL
(SOUND OF SOMEONE TYPING, POSSIBLY WITH A HAMMER)	(LOUD, PAINFUL ECHO/ FEEDBACK)	(CHILD OR ANIMAL NOISES)	HI, CAN YOU HEAR ME?	NO, IT'S STILL LOADING.
NEXT SLIDE, PLEASE.	CAN EVERYONE GO ON MUTE?	I'M SORRY; I WAS ON MUTE	(FOR OVERTALKERS) SORRY, GO AHEAD	HELLO? HELLO?
SO (cuts out) I CAN (unintelligible) BY (cuts out) OK?	SORRY I'M LATE (INSERT LAME EXCUSE.)	I HAVE A HARD STOP AT...	I'M SORRY, YOU CUT OUT THERE.	CAN WE TAKE THIS OFFLINE?
I'LL HAVE TO GET BACK TO YOU.	CAN EVERYONE SEE MY SCREEN?	SORRY, I WAS HAVING CONNECTION ISSUES.	I THINK THERE'S A LAG.	SORRY, I DIDN'T CATCH THAT. CAN YOU REPEAT?

CONFERENCE CALL BINGO

© E GILLIAM



Telework/AWS Policy

1. How many of you work for State agencies that have AWS policies?

<https://www.tn.gov/content/dam/tn/hr/policy/14-001%20Alternative%20Workplace%20Solutions%20032520.pdf>

2. How many of you work for municipalities that have telework/AWS policies? When were they adopted?
3. How many of you work for counties that have telework/AWS policies? When were they adopted?



Firearms Policies

T.C.A. § 39-17-1314:

(a) Except as otherwise provided by state law or as specifically provided in subsection (b), the general assembly preempts the whole field of the regulation of firearms, ammunition, or components of firearms or ammunition, or combinations thereof including, but not limited to, the use, purchase, transfer, taxation, manufacture, ownership, possession, carrying, sale, acquisition, gift, devise, licensing, registration, storage, and transportation thereof, to the exclusion of all county, city, town, municipality, or metropolitan government law, ordinances, resolutions, enactments or regulation. No county, city, town, municipality, or metropolitan government nor any local agency, department, or official shall occupy any part of the field regulation of firearms, ammunition or components of firearms or ammunition, or combinations thereof.

(b) A city, county, town, municipality or metropolitan government is expressly authorized to regulate by ordinance, resolution, policy, rule or other enactment the following:

(1) The carrying of firearms by employees or independent contractors of the city, county, town municipality or metropolitan government when acting in the course and scope of their employment or contract, except as otherwise provided in [§ 39-17-1313](#).

*See also T.C.A. § 39-17-1307(e)(2)(B) re: policy for motor vehicles and boats



Harassment Policy

Federal law: Title VII of the Civil Rights Act of 1964

“It shall be an unlawful employment practice for an employer . . . to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin”

42 U.S.C. 2000e-2(a)(1) (emphasis added)

State law: T.C.A. § 4-21-401

“(a) It is a discriminatory practice for an employer to:

(1) Fail or refuse to hire or discharge any person or otherwise to discriminate against an individual with respect to compensation, terms, conditions or privileges of employment because of such individual's race, creed, color, religion, sex, age or national origin”



Harassment Policy (cont.)

Harassment is a form of employment discrimination that violates Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, (ADEA), and the Americans with Disabilities Act of 1990, (ADA).

Harassment is unwelcome conduct that is based on race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability or genetic information. Harassment becomes unlawful where:

- 1) enduring the offensive conduct becomes a condition of continued employment, or
- 2) the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive.

*Anti-discrimination laws also prohibit harassment against individuals in retaliation for filing a discrimination charge, testifying, or participating in any way in an investigation, proceeding, or lawsuit under these laws; or opposing employment practices that they reasonably believe discriminate against individuals, in violation of these laws.

Source: U.S. EEOC Commission





Municipal Technical Advisory Service
INSTITUTE *for* PUBLIC SERVICE

Abusive Conduct Policy

T.C.A. § 50-1-503:

Health Workplace Act Policy

- Developed by TACIR no later than March 1, 2015, in consultation with CTAS and MTAS
- Policy required to:
 - » (1) Assist employers in recognizing and responding to abusive conduct in the workplace; and
 - » (2) Prevent retaliation against any employee who has reported abusive conduct in the workplace.

T.C.A. § 50-1-504:

If an employer adopts the model policy created by TACIR or adopts a policy that conforms to the requirements set out in § 50-1-503(b), then the employer is immune from suit for any employee's abusive conduct that results in negligent or intentional infliction of mental anguish.

State Abusive Conduct Policy: [https://www.tn.gov/content/dam/tn/hr/policy/17-001%20Abusive%20Conduct%20in%20the%20Workplace%20\(Rav.%2010220\).pdf](https://www.tn.gov/content/dam/tn/hr/policy/17-001%20Abusive%20Conduct%20in%20the%20Workplace%20(Rav.%2010220).pdf)



Acceptable Use Policy



Acceptable Use Policy

T.C.A. § 10-7-512:

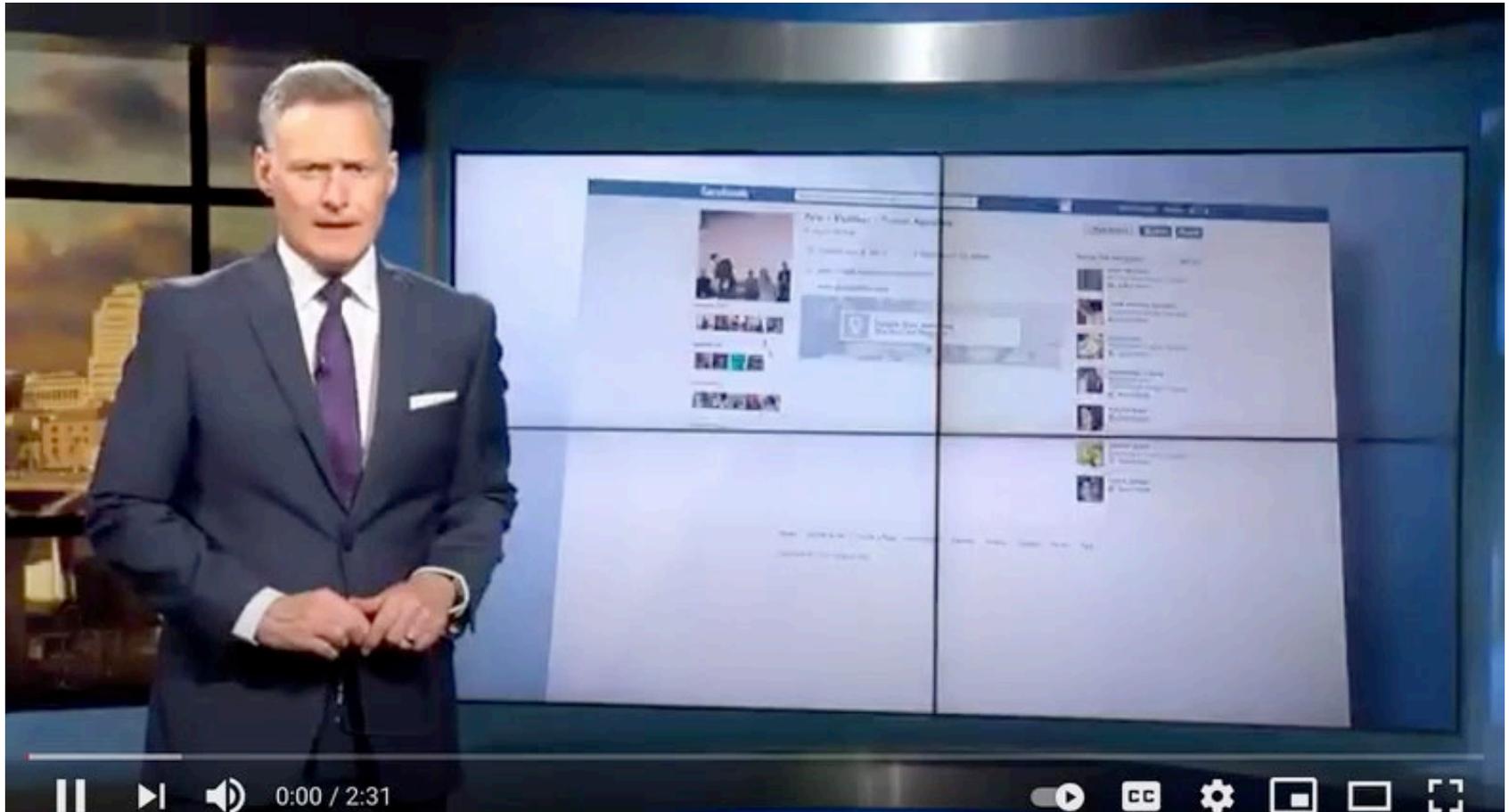
(a) On or before July 1, 2000, the state or any agency, institution, or political subdivision thereof that operates or maintains an electronic mail communications system shall adopt a written policy on any monitoring of electronic mail communications and the circumstances under which it will be conducted.

(b) The policy shall include a statement that correspondence of the employee in the form of electronic mail may be a public record under the public records law and may be subject to public inspection under this part.

**See also T.C.A. § 50-1-1003 “Employee Online Privacy Act of 2014”*



Social Media Policy



Social Media Policy

- State and Local Government Social Media
- Personal Social Media
 - State Social Media policy: <https://www.tn.gov/hr/pr/attendance--leave-manual.html>

Outside Employment

Section 9 : MTAS Model Ethics Code:

Outside employment. An official or employee may not accept or continue any outside employment if the work unreasonably inhibits the performance of any affirmative duty of the municipal position or conflicts with any provision of the municipality's charter or any ordinance or policy.

T.C.A. § 8-30-405:

A state employee is not prohibited from engaging in outside employment. Such outside employment shall not adversely affect the employee's performance with the state, create a conflict of interest between such additional employment, or conflict with the regular employment schedule of the employee.



Tennessee Public Employee Political Freedom Act (PEPFA)

T.C.A. § 8-50-601 et seq.

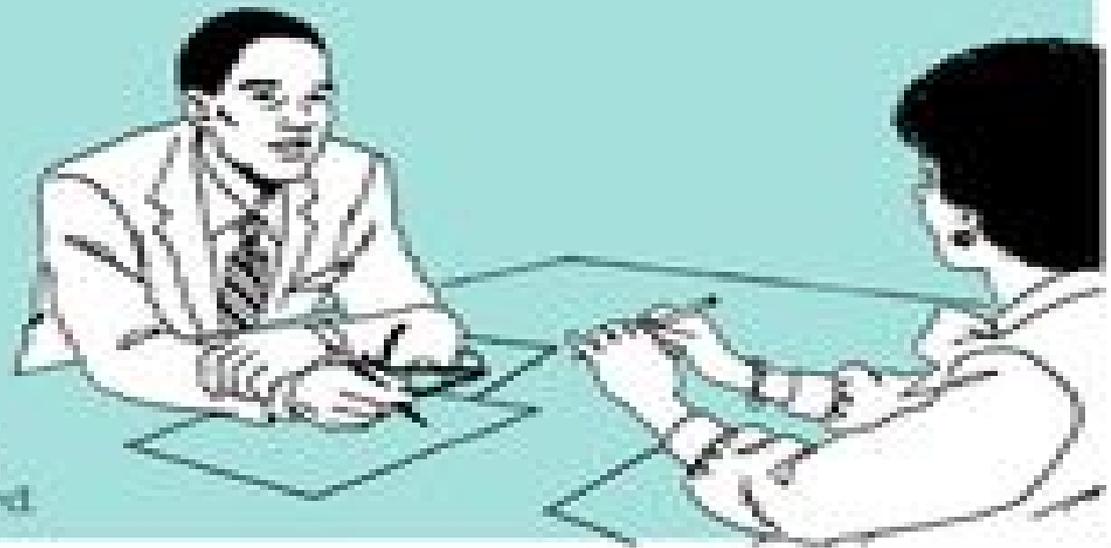


Reminders

- Review policies before acting.
- Make sure policies are being applied correctly, impartially, and consistently.
- Make sure employees have the most up-to-date policies and get a signature acknowledgement of receipt.
- Schedule regular training around workplace policies (do not wait until IT happens) Check with city/county attorney and insurer.

Questions?

You bring out the HR violation in me.



someecards
USER GENERATED



Municipal Technical Advisory Service
INSTITUTE for PUBLIC SERVICE

Resources

- I can be reached by phone at 615-532-6827 or you can email me at Elisha.Hodge@tennessee.edu.
- You can access the MTAS website at <https://www.mtas.tennessee.edu/>.
- You can access the CTAS website at <http://www.ctas.tennessee.edu/>
- You can access the Tennessee Department of Human Resources website at <https://www.tn.gov/hr.html>

