

Louisiana Legislative Auditor

BEST PRACTICES – PAYROLL/PERSONNEL

The Louisiana Legislative Auditor (LLA) is providing the following best practices to help local government entities create their own written policies and procedures. Because this document may not include all legal provisions applicable to different types of local government entities, entities should consult with legal counsel when developing written policies and procedures. Also, many of the legal provisions referenced in this document may not apply to quasi-public organizations, such as non-profits. Quasi-public organizations should refer to the LLA's legal FAQs for additional guidance.

Sources:

Louisiana Legislative Auditor FAQs – <https://www.lla.la.gov/legal-faqs/>
La. Constitution, Article VII, Section 14(A)
Louisiana Attorney General – Opinions 15-186, 99-397, 94-284, and 86-652
Fair Labor Standards Act
Family Medical Leave Act

Written policies and procedures over payroll/personnel should include **hiring processes, personnel files, time and attendance, overtime and leave, payroll processing, performance appraisals, and discrimination/harassment.**

Hiring Processes:

1. Management should perform a “needs” assessment when determining whether to hire a new employee. The assessment should include a consideration of whether existing employees' job duties can be modified to cover the vacant position, as well as the cost/benefit of hiring a contractor to perform the function.
2. Management should work with its board to establish minimum qualifications, job responsibilities, and formal pay scales/salary ranges before posting the position (i.e. create a job description). An applicant should have a clear understanding of the job duties and responsibilities from the job description. Pay scales/salary ranges should match the quality of the desired applicant and may require management to conduct a salary study.
3. Management should establish a protocol for receiving resumes or applications, interviewing applicants, performing background checks, and verifying credentials (e.g. diploma, transcript).

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4. Management's focus should be on a candidate's qualifications, and the interviewer is not permitted to ask the candidate about religion, marital status, child care arrangements, or sexual orientation. Also, management can not disqualify a candidate based on race or gender.

Personnel Files:

1. Personnel files should include the following, as applicable:
 - Employment application form that includes background information (e.g., name, address, date of birth, emergency contact) and work experience of the employee;
 - Educational achievement documentation (e.g. high school diploma, college transcript);
 - Job description, signed by employee;
 - Authorized salary/pay rate and increases/decreases;
 - Promotion documentation;
 - Employee authorized deductions (e.g., insurance, deferred compensation plan);
 - Direct deposit forms;
 - Retirement system forms;
 - Income tax withholding forms (e.g., IRS Form W-4 and Louisiana Department of Revenue Form L-4);
 - Performance appraisals;
 - Annual certification forms; and
 - Disciplinary action documentation, if any.
2. All employers must also maintain U.S. Citizenship Immigration Services Form I-9 (Employment Eligibility Verification) for each individual hired. The Form I-9 must be retained by the employer and be available for inspection by authorized U.S. Government officials from the Department of Homeland Security, Department of Labor, or Department of Justice.

Time and Attendance

1. Each employee should complete and sign a time sheet, including daily hours worked, beginning and ending work times, break and lunch times, and leave (e.g., annual and sick) taken. If not using timesheets, employees must otherwise certify that they have worked their required hours (e.g., 40 hours/week for a full-time employee).

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The Louisiana Attorney General (AG) has noted that time sheets or a similar form of documentation are required to document and substantiate the accrual of leave (*AG Opinions 15-186, 99-397, and 94-284*). Further, the AG has noted that payment for work that is not performed is a prohibited donation of public funds under Article VII, Section 14 of the Louisiana Constitution and may constitute public payroll fraud under Louisiana Revised Statute 14:138 (*AG Opinion 86-652*). Therefore, there should be some form of documentation and adequate supervision to ensure that the salaried employee is working the scheduled hours upon which their salary is based. Time sheets are generally not required for elected officials, unless the official is earning leave.

2. Time sheets and related leave requests should be approved by each employee's supervisor prior to payroll processing. Exceptions should be discussed with employees and resolved in a timely manner. For directors, CEOs, etc., hired by a board, time sheets should be approved by a board member.

Overtime and Leave:

1. Leave should not be advanced or given to employees before it is earned, as this may violate the Louisiana Constitution Article 7, Section 14, which prohibits the donation, loan, or pledge of public funds.
2. The entity should maintain written records to support the amount of leave earned and used by each employee, as well as any elected officials that earn leave. Computer software should be utilized to track and account for leave balances, including leave earned and taken, to eliminate the risk of clerical errors.
3. The chief executive, or equivalent, should review and approve in writing the leave hours that are recorded in each employee's leave records at the beginning of each year. If errors are found, the necessary corrections should be made to leave balances and the changes communicated to the affected employee(s).
4. The entity should develop standardized leave slips/forms for employees to document leave used. Leave slips should be reviewed and approved in writing by an appropriate supervisor, and be maintained on file at the entity's office.
5. Under the Fair Labor Standards Act, employers are required to provide time and a half for time worked in excess of 40 hours/week, either paid or compensatory time, for non-exempt employees. Compensatory time is generally limited to 240 hours, and any amounts in excess of 240 hours should be paid out to the employee. For exempt employees, the employer may

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provide compensatory time by policy and set limits on “carry-over” compensatory balances, with any policy changes only applied prospectively.

6. The Family Medical Leave Act provides for 12 weeks of unpaid leave for eligible employees, under a covered employer, for a serious health condition, within a 12-month period. The Act also provides for an additional 26 weeks of unpaid leave relating to military service.

Payroll Processing:

1. Management should segregate payroll processing duties such that employees do not have the ability to process or approve actions that affect their own pay. Good controls require different people to:
 - Prepare and update payroll and personnel data;
 - Review and approve payroll actions;
 - Review and approve payroll reports;
 - Distribute payroll; and
 - Review and reconcile bank accounts.

If a lack of staff prevents proper segregation of duties, a supervisor should review and approval all steps in the payroll process. The LLA recommends that either the chief executive or finance committee chairman obtain the payroll bank statement directly (unopened) from the bank and review the canceled checks to determine that (a) checks are paid to valid employees and the amounts paid appear reasonable; and (b) all checks include authorized signatures.

2. Management should examine employees’ access to the payroll system and limit access so that a single employee can not create employees, change employee pay information, and input hours worked. Management should also periodically review payroll system computer access rights (read access and write access) for all employees and evaluate whether access to payroll and personnel related information/data is appropriate for each employee’s job duties and responsibilities. Access should be restricted to business need only.
3. Each pay period, management should generate and review a report showing all changes made to payroll data (employees added/deleted and pay rate changes), including comparing the changes made per the log with proper documentation such as approved pay rates, by someone independent of the payroll function. Management should document its review in writing and investigate/resolve undocumented or improper changes to payroll data. Management should also review the regular payroll registers to confirm that improper

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payments are not being issued to terminated employees and that any termination payments have been properly approved in accordance with policy.

4. Employees should schedule recurring payments and reports, such as payroll taxes, insurance, retirement contributions, etc., to minimize the risk of missing a deadline for payment or filing.
5. Management should assign someone independent of the payroll function to investigate and resolve unclaimed payroll checks and, if appropriate, submit unclaimed property to the state treasurer annually.
6. Blank checks should be stored in a secured location and should never be signed in advance.

Performance Appraisals:

1. The entity should conduct annual performance evaluations annually for its employees, including management. These evaluations provide management with an opportunity to address compensation, training, and/or disciplinary issues.
2. When developing and implementing this process, management should consult with legal counsel and human resources staff, as applicable.
3. As part of the annual performance evaluation, each employee should sign an “annual certification form” acknowledging that the employee agrees to comply with entity policies and procedures, including employee, operations, safety, IT and/or travel handbooks, as applicable.

Discrimination/Harassment:

1. The entity should have a policy prohibiting harassment and should consult with legal counsel when establishing such a policy. Such a policy should include procedures for reporting a claim, investigation/resolution, and prohibiting retaliation.
2. Under the laws enforced by the Equal Employment Opportunity Commission, it is illegal to discriminate against an applicant or employee because of that person’s race, color, religion, sex (including gender identify, sexual orientation, and pregnancy), national origin, age (40 or older), disability or genetic information.

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3. It is also illegal to retaliate against a person because he or she complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit.
4. It is unlawful to to harass an applicant or employee because of that person's sex. Harassment can include "sexual harassment" or unwelcome sexual advances, requests for sexual favors, and other verbal or physical harassment of a sexual nature.
5. Harassment does not have to be of a sexual nature and can include offensive remarks about a person's sex. For example, it is illegal to harass a woman by making offensive comments about women in general.
6. Although the law does not prohibit simple teasing, offhand comments, or isolated incidents that are not very serious, harassment is illegal when it is so frequent or severe that it creates a hostile or offensive work environment or when it results in an adverse employment decision (such as the victim being fired or demoted).
7. The harasser can be the victim's supervisor, a supervisor in another area, a co-worker, or someone who is not an employee of the employer, such as a client or customer.