

SANTOS LAW

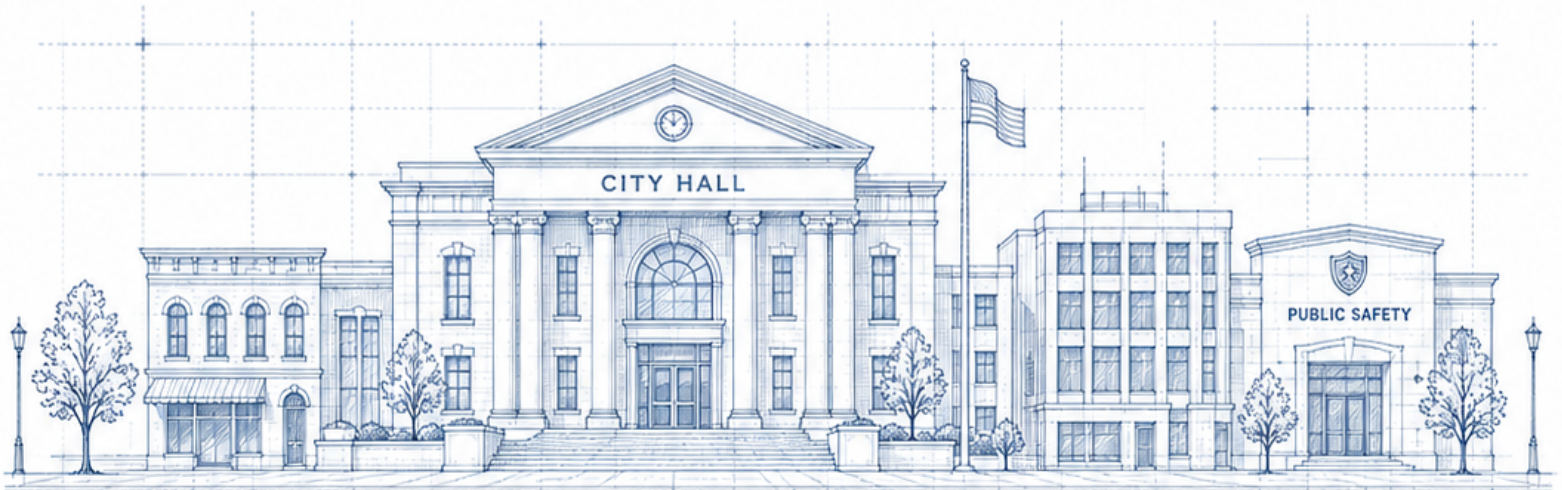


Texas Municipal Employment Law Field Guide

*A practical Santos Law resource for mayors, councilmembers,
city administrators, city secretaries, police chiefs, department heads,
HR staff, and municipal leadership in Texas cities*



This field guide provides a practical overview of key municipal employment law issues for Texas cities. It is designed to help city officials and staff manage hiring, classification, discipline, leave, complaints, and termination decisions with greater clarity, consistency, and confidence.



Disclaimer and Source Note

This guide is for general informational and educational purposes only. It is not legal advice and does not create an attorney-client relationship with any city, official, employee, or reader. Employment decisions are fact-specific and may involve federal law, Texas law, local policies, civil service rules, collective bargaining issues, insurance requirements, and constitutional considerations. Cities should consult legal counsel before acting on sensitive personnel matters.

Primary source inspiration: Texas Municipal League, *Employment Law Manual for Texas Cities*, April 11, 2025 update. This Santos Law guide is an original, condensed field resource and is not a copy of the TML manual.

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1. Introduction: Why Municipal Employment Law Matters

Cities are public employers. That means ordinary workplace decisions can carry public-law consequences, political consequences, open-records consequences, insurance consequences, and employee-relations consequences. A termination that might be routine in a private business can become a council issue, a public information request, a grievance, a civil rights charge, a whistleblower allegation, or a lawsuit.

The goal is not to make city leadership afraid to manage employees. The goal is to help the city manage employees with structure: clear authority, current policies, consistent documentation, fair process, and timely legal review when risk factors appear.

The Risk of Informal Decisions

- Informal hiring promises can create expectations the city did not intend to create.
- Informal discipline can look inconsistent or retaliatory later.
- Informal investigations can miss key witnesses, documents, timelines, or confidentiality limits.
- Informal terminations can create avoidable issues with final pay, benefits, property return, system access, and internal messaging.

Practice Point

Before a significant personnel decision, ask: Who has authority? What policy applies? What documentation exists? Has the employee raised leave, health, safety, pay, discrimination, or retaliation concerns? Is legal review needed before action?

Four Risk Reducers

Policy	Adopt current personnel policies and follow them consistently.
Documentation	Record performance, attendance, complaints, investigations, and decisions in neutral language.
Consistency	Treat similarly situated employees similarly unless there is a documented reason not to.
Legal review	Pause before high-risk decisions involving leave, health conditions, protected activity, police discipline, whistleblowing, or council pressure.

2. Quick Employment Law Risk Checklist

Use this one-page checklist before major personnel action or during an annual employment-law review.

Hiring	Are job descriptions current? Was the posting handled consistently? Were interviews lawful and documented? Have nepotism concerns been screened?
Classification	Is the employee properly classified as exempt or non-exempt? Are overtime and comp time rules understood?
Personnel files	Are personnel, medical, investigation, and confidential records maintained appropriately?
Policies	Does the handbook preserve at-will status, include complaint channels, and match actual city practice?
Discipline	Is there clear documentation of the issue, prior coaching, policy violations, witness information, and the expected correction?
Termination	Has the city reviewed protected activity, leave status, disability issues, final pay, property return, access cut-off, and internal communication?
Leave	Has the city considered FMLA, ADA, workers compensation, pregnancy, military leave, sick leave, and local policy obligations?
Complaints	Has the city documented the complaint, protected against retaliation, and assigned an appropriate investigator?
Accommodations	Has the city engaged in an interactive process before denying, disciplining, or terminating?
Police/fire	Are department rules, chain of command, internal affairs, civil service, and fit-for-duty issues being handled carefully?
Open records	Could personnel records, emails, texts, body camera materials, or investigation files become public information?
Council/staff roles	Is council staying in the policy lane rather than directing individual personnel outcomes outside proper channels?

Before You Act

If the matter involves health information, leave, discrimination, harassment, retaliation, safety complaints, pay complaints, whistleblowing, police discipline, or a long-term employee, slow down and seek legal review.

3. Hiring and Onboarding

A strong hiring process protects both the city and the applicant. The city should be able to explain the position, the selection criteria, the interview process, the conditional offer, and the onboarding steps without relying on memory.

Core Hiring Practices

- Use updated job descriptions that identify essential functions, physical requirements, reporting structure, required licenses, and expected schedule.
- Use consistent applications and interview questions for similarly situated applicants.
- Avoid interview questions about disability, medical history, pregnancy, religion, age, family status, workers compensation history, or other protected matters.
- Screen for nepotism issues before making an offer, especially in small cities where family relationships are common.
- Use conditional offer letters when background checks, drug screens, driving record checks, license checks, or physical requirements remain pending.
- Have new employees acknowledge receipt of the personnel handbook, technology policies, vehicle or equipment policies, and chain-of-command expectations.

Background Checks and Conditional Offers

Background checks should be tied to the job, applied consistently, and handled with appropriate notices and documentation. For law enforcement and safety-sensitive roles, the city may have additional state, licensing, insurance, or department-specific requirements.

Common Mistake

Telling an applicant, "You are hired," before all conditions are complete. Use conditional language until required checks, licenses, council approvals, or budget confirmations are complete.

Onboarding Checklist

- Signed offer or appointment documentation is in file.
- I-9 and tax forms completed.
- Required licenses, certificates, and driving status verified.
- Policy acknowledgments signed.
- Technology, email, records, social media, and confidentiality expectations reviewed.
- Supervisor, chain of command, probationary status, and evaluation schedule explained.
- City property issued and logged.

4. Employee Classification, Compensation, and Timekeeping

Payroll mistakes are among the most common municipal employment risks. Titles do not control the analysis. A salaried employee is not automatically exempt from overtime. A part-time employee can still create overtime issues. An independent contractor can be misclassified if the city controls the work like an employee relationship.

Key Concepts

Exempt vs. non-exempt	Determine whether the position meets a recognized exemption. Do not rely on job title alone.
Overtime	Non-exempt employees generally must be paid overtime for hours worked over 40 in a workweek, unless a public-sector exception applies.
Comp time	Public employers may use compensatory time under applicable rules, but the city must track accrual, use, and payout obligations.
Off-the-clock work	Emails, calls, remote work, early start time, late cleanup, and travel time may raise compensable-time issues.
Independent contractors	Calling someone a contractor does not make them one. Review control, duties, schedule, tools, supervision, and integration into city operations.

Practice Point

Review classifications before budget season, before major schedule changes, and before moving an employee from hourly to salary. Fixing an issue early is usually cheaper than defending years of pay practices.

Timekeeping Expectations

- Require accurate time records for all non-exempt employees.
- Prohibit off-the-clock work and train supervisors not to encourage it.
- Document approval rules for overtime, call-outs, remote work, travel, meetings, and training.
- Do not dock or adjust time records in a way that hides actual time worked.
- Coordinate with finance/payroll before changing schedules, stipends, vehicle use, or on-call arrangements.

5. Personnel Policies and Handbooks

Every city should maintain personnel policies that match actual city operations. A handbook that is outdated, copied from another city, or ignored in practice can create more risk than protection.

What Good Policies Do

- Preserve at-will employment where appropriate.
- Define authority for hiring, discipline, leave, complaints, evaluations, and termination.
- Provide complaint channels for harassment, discrimination, retaliation, safety, pay, and workplace concerns.
- Set expectations for attendance, timekeeping, technology, social media, confidentiality, vehicle use, uniforms, equipment, and public interaction.
- Separate council policy oversight from day-to-day staff supervision.
- Create consistent process without locking the city into rigid discipline steps in every situation.

Policies to Review Annually

- [] At-will employment and no-contract language.
- [] Equal employment opportunity, anti-harassment, anti-discrimination, and retaliation policies.
- [] Complaint reporting and investigation procedures.
- [] Leave policies, including FMLA if applicable, sick leave, vacation, workers compensation, pregnancy, and military leave.
- [] Technology, email, text, social media, and records retention policies.
- [] Vehicle, take-home property, purchasing cards, uniforms, and city equipment policies.
- [] Chain of command and media/public communication policies.

Common Mistake

Adopting a handbook but failing to train supervisors. Most employment risk is created by front-line implementation, not by policy language sitting in a binder.

6. Discipline and Documentation

Good documentation is factual, timely, neutral, and tied to a policy, expectation, or performance standard. The purpose is not to create a paper trail after the city has already decided what it wants to do. The purpose is to create an accurate record of the issue, the response, and the expected correction.

Progressive Discipline

Progressive discipline can be useful, but it should not become a trap. Policies should preserve the city's ability to skip steps when misconduct is serious, safety-sensitive, dishonest, threatening, discriminatory, or otherwise incompatible with continued employment.

Documentation Best Practices

- Describe what happened, when it happened, who was involved, what policy or expectation applies, and what correction is required.
- Avoid emotional labels like lazy, toxic, bad attitude, or not a team player unless supported by concrete behavior.
- Include the employee response if one is given.
- Identify next steps, deadlines, training, follow-up meetings, or consequences for continued issues.
- Keep medical assumptions, rumors, protected categories, and irrelevant personal commentary out of discipline records.

Red Flag

Do not discipline immediately after an employee raises a complaint, requests leave, reports an injury, mentions a health condition, complains about pay, or reports safety concerns without reviewing retaliation risk.

Misconduct Investigations

- Identify the allegation and scope before interviewing witnesses.
- Preserve emails, texts, video, body camera footage, personnel records, schedules, and other relevant records.
- Use neutral questions and avoid promising absolute confidentiality.
- Separate fact-finding from discipline decision-making where appropriate.
- Document findings and the basis for any action taken.

7. Termination and Separation

Termination should be treated as a process, not a moment. Even when the city has good cause, poor process can create unnecessary risk. A pre-termination review helps identify leave, disability, retaliation, discrimination, whistleblower, due-process, civil-service, final-pay, benefits, property, and records issues before the decision is communicated.

Pre-Termination Review

- Who has legal authority to terminate or recommend termination?
- What policy, job expectation, or performance standard was violated?
- What documentation supports the decision?
- Has the employee recently complained, requested leave, reported an injury, raised safety/pay issues, or requested accommodation?
- Is the employee in a protected status, on leave, pregnant, injured, disabled, or recently returned from leave?
- Is there a contract, civil service rule, grant condition, or department-specific rule?
- Has legal counsel reviewed the decision if risk factors exist?

Separation Logistics

- Prepare neutral written notice that accurately states the decision and effective date.
- Coordinate final pay, accrued leave payout if applicable, benefits, COBRA, retirement, and unemployment response strategy.
- Collect keys, badges, cards, vehicles, uniforms, devices, records, weapons, equipment, and city documents.
- Cut off system access at the right time without creating chaos or embarrassment.
- Communicate internally on a need-to-know basis using neutral language.
- Preserve relevant records if litigation, complaint, or public information risk is foreseeable.

Before You Act

If the employee has mentioned a health condition, requested leave, complained of discrimination or retaliation, filed a workers compensation claim, reported safety issues, or threatened legal action, pause before termination and review with counsel.

8. Leave, Disability, and Accommodation Issues

Leave and accommodation issues are common risk points because supervisors often see only the attendance problem, not the legal framework behind it. The city should train supervisors to elevate leave, injury, pregnancy, military service, and health-condition issues before discipline or termination.

Issue-Spotting Framework

FMLA	Does the city meet coverage thresholds? Is the employee eligible? Has notice been triggered by enough information about a serious health condition or qualifying family/military reason?
ADA	Is the employee requesting an accommodation, or has the city become aware of a possible disability-related work limitation? Has the city engaged in an interactive process?
Workers compensation	Has the employee reported an on-the-job injury? Are retaliation, light duty, leave, and return-to-work issues being handled consistently?
Pregnancy-related issues	Consider pregnancy discrimination, accommodation duties, leave policies, and consistent treatment.
Military leave	Review USERRA and city policy before taking action related to military service or absence.
Sick/vacation leave	Apply city policy consistently and avoid treating leave use as misconduct unless policy supports the action.

Common Mistake

Treating a medical issue as merely an attendance issue. The city can manage attendance, but it should first evaluate whether leave, accommodation, workers compensation, or pregnancy-related protections are implicated.

When to Pause

- Employee says a medical condition affects work.
- Employee provides a doctors note or restrictions.
- Employee asks for modified duties, schedule changes, leave, equipment, remote work, or more time.
- Employee is injured on duty or recently returned from injury leave.
- Supervisor is considering termination while leave or restrictions are unresolved.

9. Harassment, Discrimination, Retaliation, and Complaints

Complaints should be taken seriously even when the city believes the complaint is exaggerated, politically motivated, poorly worded, or made by a difficult employee. A complaint can trigger duties to investigate, stop misconduct, prevent retaliation, preserve evidence, and communicate appropriately.

Protected Categories and Protected Activity

Employment claims may involve protected categories such as race, color, religion, sex, pregnancy, national origin, age, disability, genetic information, military status, and other protected classifications under applicable law. Retaliation risk can arise when an employee complains about discrimination, harassment, safety, pay, leave interference, workers compensation, whistleblowing, or other legally protected conduct.

Complaint Intake Basics

- [] Thank the employee for reporting the concern without agreeing or disagreeing with the merits.
- [] Identify who, what, when, where, witnesses, documents, messages, photos, videos, and requested outcome.
- [] Avoid promising absolute confidentiality; explain information will be shared only as needed.
- [] Warn against retaliation and document that warning.
- [] Preserve records and assign an appropriate investigator.
- [] Follow up with the employee at appropriate intervals.

Investigation Principles

- Use a neutral investigator with no conflict when possible.
- Interview complainant, accused, and key witnesses.
- Review documents, electronic messages, schedules, video, prior complaints, and policies.
- Make findings based on evidence, not popularity or politics.
- Document conclusions and corrective action without unnecessary detail in public-facing records.

Red Flag

Retaliation claims are often easier for employees to frame than the underlying complaint. After a complaint, make sure any discipline, schedule change, reassignment, or termination is supported by clear, independent documentation.

10. Special Issues for Police Departments and Public Safety Employees

Police and public safety employment issues require extra care because personnel decisions may involve licensing, public trust, use of force, body camera evidence, criminal investigations, Brady/Giglio concerns, civil service rules where applicable, union or association dynamics, internal affairs processes, and public information requests.

Public Safety Risk Areas

- Chain of command and authority: clarify who may issue orders, discipline, investigate, or recommend action.
- Internal investigations: define the allegation, preserve evidence, protect fairness, and separate criminal and administrative issues when needed.
- Personnel files: understand what belongs in department files, HR files, medical files, and confidential investigation files.
- City insignia/name: control use of city name, badge, logo, uniforms, vehicles, patches, and social media identifiers.
- Off-duty conduct: evaluate nexus to city employment, public trust, safety, policy, and department credibility.
- Take-home vehicles and equipment: use written eligibility, distance, use, maintenance, return, and disciplinary rules.
- Fit-for-duty: use objective safety or performance facts and legal review before requiring examination or removing from duty.

Practice Point

For police discipline, build the record before choosing the outcome. Identify the rule, evidence, witnesses, prior history, public-safety concern, and consistency with past practice.

Civil Service Note

Some Texas cities operate under civil service or other special statutory systems. If civil service applies, discipline, appeals, timelines, notice, and hearing rights may be very different from ordinary at-will employment. Confirm the framework before acting.

11. Public Information, Confidentiality, and Personnel Records

Municipal employment records often become public information issues. Personnel files, disciplinary records, emails, texts, complaints, payroll documents, investigations, body camera materials, and settlement records may be requested by the public, media, former employees, or opposing parties.

Records Principles

- Assume records created, collected, assembled, or maintained in connection with official city business may be subject to the Texas Public Information Act.
- Separate ordinary personnel records from confidential medical information.
- Protect attorney-client privileged communications and attorney work product by controlling who receives legal advice and where it is stored.
- Do not promise employees that all personnel matters are absolutely confidential.
- Route public information requests immediately to the proper records custodian or city secretary under city policy.
- Consider whether an Attorney General ruling is needed before withholding information.

Personnel File Structure

General personnel file	Application, offer letter, acknowledgments, evaluations, discipline, training, certifications.
Medical/confidential file	Medical notes, restrictions, ADA/FMLA documents, workers compensation medical information.
Investigation file	Complaint, witness notes, evidence, findings, corrective action; access should be limited.
Payroll/benefits file	Pay records, benefit elections, tax forms, leave balances, payroll changes.

Common Mistake

Putting medical notes, accommodation communications, or sensitive investigation material in the general personnel file. Keep confidential records segregated and access-limited.

12. Council, Mayor, and Staff Role Boundaries

Many employment problems become more dangerous when elected officials cross from policy oversight into individual personnel direction. The precise authority structure depends on the city's form of government, ordinances, policies, employment contracts, and applicable law, but the risk principle is consistent: individual officials should not independently direct personnel outcomes outside proper channels.

Role Discipline

Council	Sets policy, approves budget, appoints positions where authorized, evaluates charter/statutory officers where applicable, and acts as a body.
Mayor	Presides and performs statutory or local duties, but should avoid unilateral personnel direction unless authority clearly exists.
City administrator/manager	Handles day-to-day operations and supervision where delegated by ordinance, policy, contract, or practice.
Department heads	Supervise staff within authority, document issues, elevate risk concerns, and follow city policy.
City attorney	Advises on authority, process, legal risk, executive session, documentation, and employment-law compliance.

Executive Session and Agenda Considerations

- Do not use executive session as a substitute for proper agenda language or legal authority.
- Identify whether the issue concerns a specific officer or employee, legal advice, pending claim, or another recognized basis.
- Avoid deliberating employment decisions by walking quorum, serial communications, or informal side conversations.
- Keep public action, if any, consistent with the posted agenda and legal advice.

Red Flag

A councilmember wants a specific employee fired, demoted, reassigned, investigated, or denied promotion. That should be routed through proper authority and reviewed for retaliation, discrimination, due-process, and governance risk.

13. Red Flag Scenarios: Call Legal Before Acting

These situations do not always mean the city cannot act. They mean the city should slow down, gather facts, and obtain legal review before acting.

<input type="checkbox"/> Employee mentions a health condition before discipline or termination.	<input type="checkbox"/> Employee complains about discrimination, harassment, safety, pay, leave, or retaliation.
<input type="checkbox"/> Termination of a long-term employee or department head.	<input type="checkbox"/> Police officer discipline, internal investigation, fit-for-duty issue, or licensing concern.
<input type="checkbox"/> Employee is on leave, recently requested leave, or recently returned from leave.	<input type="checkbox"/> Employee reports an on-the-job injury or files a workers compensation claim.
<input type="checkbox"/> Potential whistleblower issue involving alleged legal violations, misuse of funds, safety, or public corruption.	<input type="checkbox"/> Councilmember or mayor wants a specific employee fired or disciplined.
<input type="checkbox"/> Employee requests accommodation, schedule change, remote work, light duty, or more leave.	<input type="checkbox"/> Employee threatens legal action, contacts an agency, or mentions an attorney.
<input type="checkbox"/> Public information request involves personnel records, complaint files, body camera footage, medical information, or attorney communications.	<input type="checkbox"/> City wants to discipline after the employee engaged in protected activity.
<input type="checkbox"/> City practice does not match written policy.	<input type="checkbox"/> City lacks documentation but wants immediate termination.
<input type="checkbox"/> Final pay, benefits, retirement, or property return are unclear.	

Before You Act

The safest phrase is often: "We are going to review the facts, policy, and process before making a final decision." That keeps the city from committing too early.

14. Sample Tools and Templates

These are concise working checklists, not full legal forms. Adapt them to the city's policies and consult counsel for sensitive matters.

Pre-Termination Checklist

- Decision-maker has authority under policy/law.
- Relevant policy, job duty, or performance expectation identified.
- Supporting documents reviewed.
- Protected activity and leave/accommodation issues screened.
- Consistency with prior discipline considered.
- Final pay, benefits, property return, and access plan prepared.
- Legal review completed if risk factors exist.

Disciplinary Documentation Checklist

- Date, time, location, and witnesses identified.
- Specific conduct described in neutral terms.
- Policy or expectation cited.
- Employee response included.
- Corrective expectations and deadline stated.
- Follow-up date scheduled.
- Record placed in proper file.

New Hire Onboarding Checklist

- Offer/appointment documented.
- Eligibility and required forms completed.
- Licenses/certifications verified.
- Policy acknowledgments signed.
- Technology and records rules reviewed.
- Supervisor and chain of command explained.
- City property issued and logged.

Personnel File Audit Checklist

- General personnel file complete.
- Medical/confidential documents segregated.
- Training and licenses current.
- Discipline/evaluations organized.
- Payroll/benefits records routed properly.
- Retention schedule considered.
- Access limited to authorized personnel.

14. Sample Tools and Templates, Continued

Complaint Intake Checklist

- Complainant name/contact and date received.
- Summary of concern in complainants words.
- Who, what, when, where, witnesses, documents, messages, video.
- Whether immediate safety or separation steps are needed.
- Non-retaliation instruction provided.
- Investigator assigned.
- Follow-up plan documented.

Separation Checklist

- Written notice prepared.
- Final pay and accrued leave reviewed.
- Benefits/COBRA/retirement steps coordinated.
- Keys, cards, uniforms, devices, vehicles, weapons, records, and equipment collected.
- Email, system, building, and software access addressed.
- Internal communication limited and neutral.
- Records preserved if claim or request is foreseeable.

Annual Policy Review Checklist

- Handbook reviewed for current law and city practice.
- Complaint channels tested.
- Leave policies updated.
- Technology/social media/records policies updated.
- Vehicle and equipment policies reviewed.
- Police/public safety policies coordinated.
- Supervisor training scheduled.

Practice Point

Cities should not wait for a crisis to review employment policies. Annual review is one of the lowest-cost ways to reduce personnel risk.

15. Closing Guidance

Municipal employment law risk is usually reduced through clear policies, consistent documentation, role discipline, and early legal review. The city does not need to over-lawyer every routine personnel issue. But it should know when an issue has crossed from routine management into legal-risk territory.

The Santos Law employment-law approach is simple: practical process before personnel risk becomes personnel litigation.

Use This Operating Rule

Before You Act

If the decision will materially affect an employees pay, job status, reputation, leave, accommodation, license, public safety role, or legal rights, pause long enough to confirm authority, policy, documentation, consistency, and legal risk.

Santos Law can assist Texas cities with personnel policies, discipline and termination review, workplace complaint response, public safety employment issues, public information questions involving personnel records, and governance questions involving council-staff role boundaries.

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This guide is a general resource and does not replace legal advice for any specific employment matter.