



POLICIES AND REGULATORY FILINGS FOR WATER DISTRICTS

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POLICIES VS. FILINGS



POLICIES ARE ADOPTED,
MAINTAINED, AND USED
INTERNALLY



FILINGS ARE LEGAL DOCUMENTS
THAT MUST BE FILED WITH A
STATE REGULATORY AGENCY
(TCEQ, PUC, COMPTROLLER)

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WHAT IS A “POLICY?”



A deliberate system of principles to guide decisions and achieve rational outcomes.



A statement of intent, implemented as a procedure or protocol.



Adopted by governing bodies.



Not a law, but the law might require you to adopt a policy.

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WHY DO WE NEED POLICIES?

- Provide a roadmap for day to day operations.
- Ensure compliance with laws and regulations.
- Guide decision-making.
- Streamline internal processes.



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WATER DISTRICT POLICIES

Detailed explanations and model policies
at www.trwa.org/page/legalforms

Required	Recommended	Covered by Statute
Code of Ethics	District Service Policy	Conflict of Interest Policy (Ch. 171 Loc. Gov. Code)
Travel Expenditure Policy	Personnel Policy	Whistleblower Policy (Ch. 554 Gov. Code)
Investment Policy	Board Policy	
Professional Services Policy	Extension Policy (Usually in DSP)	
Management Policy	Public Comment Policy	
Records Management Policy		

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REQUIRED POLICIES

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CODE OF ETHICS FOR DIRECTORS, OFFICERS, & EMPLOYEES

REQUIRED

- Required by Water Code § 49.199
- TRWA encourages public input in the adoption process
- Should reflect Water Code § 49.052 (disqualification of directors) and Local Government Code Chapter 171 (conflicts of interest, notification/abstention in voting)
- Can reflect Government Code Chapter 573 (nepotism), and acceptance of gifts
- Review periodically to ensure it is current and being followed in practice

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TRAVEL EXPENDITURE POLICY

REQUIRED



Required by Water Code § 49.199



Should cover travel expenditures for all personnel



Should describe eligible expenses



Pre-approval and documentation requirements



Texas Comptroller's Travel Allowance Guide:
fmx.cpa.state.tx.us/fmx/travel/textravel/index.php

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INVESTMENT POLICY

Required by Water Code § 49.199

Must conform with Public Funds Investment Act (PFIA), Chapter 2256 Government Code

Describes how funds are invested, investment strategies and authorized investments.

Designates an investment officer (must take PFIA training)

REQUIRED

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PROFESSIONAL SERVICES POLICY

REQUIRED

Required by Water Code § 49.199

Attorneys, Engineers, Auditors, Financial Advisors, or other Professional Consultants

Usually references and incorporates Chapter 2254, Government Code (Professional Services Procurement Act)

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MANAGEMENT POLICY

- Required by Water Code § 49.199
- Maintenance of accounting records
- Preparation of an annual audit
- Creation of an audit committee
- Long-term strategic plan



REQUIRED

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RECORDS MANAGEMENT POLICY

REQUIRED

- Required for all local governments by Loc. Gov. Code § 203.021
- Texas State Library & Archives Commission
 - Schedule GR (all local governments)
<http://www.tsl.state.tx.us/slr/recordspubs/gr.html>
 - Schedule UT (utility-specific)
<http://www.tsl.state.tx.us/slr/recordspubs/ut.html>
- Also required to submit a Declaration of Compliance (can be found at Schedule GR link)

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SCHEDULE GR –
RECORDS COMMON
TO ALL LOCAL
GOVERNMENTS

RECORDS
MANAGEMENT
POLICY

Table of Contents

<http://www.tsl.state.tx.us/slr/recordspubs/gr.html>

- [Introduction](#)
- [Part 1: Administrative Records](#)
 - [Section 1-1: Records of Governing Bodies](#)
 - [Section 1-2: General Records](#)
- [Part 2: Financial Records](#)
 - [Section 2-1: Fiscal Administration and Reporting Records](#)
 - [Section 2-2: Accounting Records](#)
- [Part 3: Personnel and Payroll Records](#)
 - [Section 3-1: Personnel Records](#)
 - [Section 3-2: Payroll Records](#)
- [Part 4: Support Services Records](#)
 - [Section 4-1: Purchasing Records](#)
 - [Section 4-2: Facility, Vehicle, and Equipment Management Records](#)
 - [Section 4-3: Communication Records](#)
 - [Section 4-4: Workplace Safety Records](#)
- [Part 5: Information Technology Records](#)
 - [Section 5-1: Records of Automated Applications](#)
 - [Section 5-2: Computer Operations and Technical Support Records](#)

SCHEDULE UT –
UTILITY-SPECIFIC
RECORDS

RECORDS
MANAGEMENT
POLICY

Table of Contents

<http://www.tsl.state.tx.us/slr/recordspubs/ut.html>

- [Introduction](#)
- [Part 1: General Records](#)
- [Part 2: Water and Wastewater Records](#)
- [Part 3: Solid Waste and Hazardous Waste Management Records](#)
- [Part 4: Electric Utility Records](#)
- [Part 5: Gas Utility Records](#)

TCEQ/PUC Communications	Complaints	Confidentiality Requests
Customer Billing Records	Customer Account Histories	Equipment History Records
Meter Reading Records	Rate Schedules	Service Application & Deposit Records
Microbiological Analysis Records	Chemical Analysis Records	Lead & Copper Compliance Records

RECOMMENDED POLICIES

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DISTRICT SERVICE POLICY

Rules and
Regulations

Service
Extension
Policy

Rates and Fees

Drought
Contingency
Plan

- Update Regularly
- When in doubt, check here!
- TRWA Sample Policy available for purchase online

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PERSONNEL POLICY

“Can I fire an employee if...?”

“What do we do if an employee complains that another employee did...?”

“Do we really need to do performance evaluations?”

“What do I do if an employee keeps going over on their sick/vacation time?”

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THE RULES OF THE GAME SHOULD BE WRITTEN DOWN

- Employees should have a clear understanding of conduct that will subject them to discipline, and what that discipline will be.
- Discrimination/Harassment policies, when followed, protect you the employer.
- Procedures for the accrual and use of leave should be clear.

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THE RULES OF THE GAME SHOULD BE WRITTEN DOWN

- Should clearly lay out your workweek and pay schedule.
- Employees need a clear job description; also protects the employer when expectations aren't met.
- Clear hiring practices maintain fairness to internal and external applicants; again, this protects you the employer.

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BOARD POLICY

HOW DO BOARD MEETINGS WORK?



Functions and Roles of
Officers



Solves the Common
“Agenda Conundrum”



Committee
Responsibilities

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PUBLIC COMMENT POLICY

Public Comment is Mandatory as of September 1, 2019 (H.B. 2840)

But the law allows you to adopt “reasonable rules” regarding the public’s right to address the board.

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WHY ADOPT A PUBLIC COMMENT POLICY?



Define your procedures



Establish time limits



Establish a location for speakers



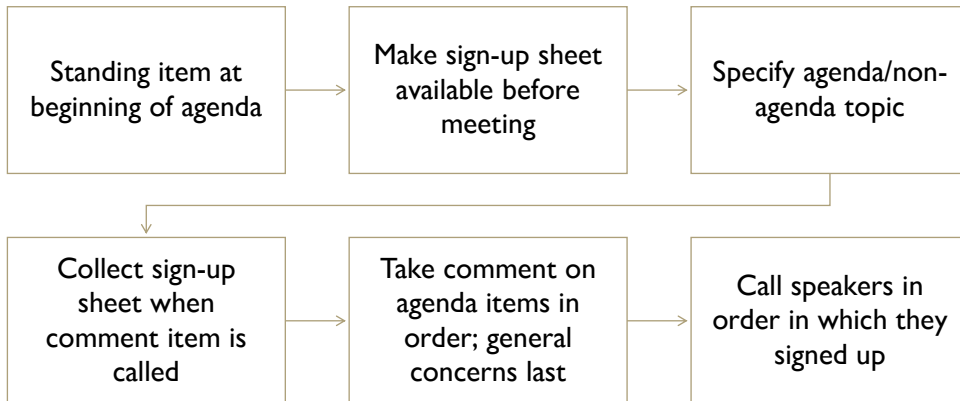
Implement rules of decorum



Distinguish between comment on agenda items and issues of general concern

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TRWA PUBLIC COMMENT PROCEDURE



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TIME LIMITS

- Agenda Items: maximum limit per person, for each item
- General Concern Items: maximum limit per person, for each meeting
- Designate a timekeeper
- Prohibit pooling of time
- Translators require 2x the time (statutory)
- Board comments do not count against time



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REQUIRED FILINGS

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- Directors & Candidates
- Audits & Financials
- Drought & Conservation
- Miscellaneous

Full list at: www.trwa.org/page/Legal-PoliciesFormsResources >> Resources

CATEGORIES OF FILINGS

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REQUIRED FILINGS

DIRECTORS & CANDIDATES

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- **Appointment of Campaign Treasurer by Candidate – Form CTA** – All candidates for a public office in Texas must file this with the proper filing authority (e.g. district record keeper) when they become a candidate, even if they do not intend to accept campaign contributions or make campaign expenditures.
- For districts in multiple counties, a candidate instead must file this with the Texas Ethics Commission.
- Texas Election Code §252.005(1)(B)
- https://www.ethics.state.tx.us/data/resources/guides/local_duty_guide.pdf

CANDIDATES

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NEW DIRECTORS

- **Statement of Officer (Anti-bribery Statement) - Form 2201** – filed with Secretary of State (SOS) before newly elected or appointed officers or directors take office; must be filed before the Oath of Office. (Texas Water Code 49.055(a))
- **Oath of Office - Form 2204** – file duplicate original with Secretary of State within 10 days after its execution; oath cannot be administered until Statement of Officer (anti-bribery) has been executed and filed with SOS; incumbents also must file this every time they are re-elected and their new term starts (Texas Water Code 49.055(d))



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NEW DIRECTORS

- **Director Bond** – Before each director can begin to perform the duties of office, must execute a bond for \$10,000 payable to the district and conditioned on the faithful performance of that director's duties; all bonds must be approved by the board and paid for by the district. File and maintain at the district office. (Texas Water Code 49.055(c))
- **District Registration Form (TCEQ-0179 Form)** – Within 30 days after a new director is elected or appointed, must file their name, mailing address and date term expires with the Texas Commission on Environmental Quality. TCEQ requires all blanks on the form, if applicable, to be filled out every time one changes. (Texas Water Code 49.054(f))



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DIRECTOR TRAINING

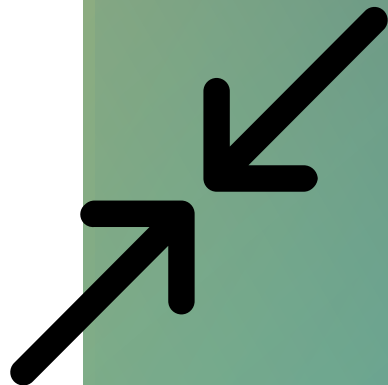
- **Open Government Training** – All new directors must complete 1-hour Open Meetings Act and 1-hour Public Information Act Training. Keep certificate on file in office.
 - The Attorney General offers online versions of each of these, and TRWA often presents compliant training at our conferences.
- **Cybersecurity Training** – All directors must complete a certified program on cybersecurity each year. Keep certificate on file in office.
 - Texas Department of Information Resources maintains a list of approved providers. TRWA offers an online version of this course.

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CURRENT DIRECTORS

Local Government Officer Conflicts Disclosure Statement (Form CIS)

- District officers and directors file this with district's record keeper before 5 p.m. on seventh business day after becoming aware of facts surrounding district contracts that would trigger filing of this statement.
- Also must post this disclosure on district website, if maintain one. (Texas Local Government Code 176.003)
- <https://www.ethics.state.tx.us/data/forms/conflict/CIS.pdf>

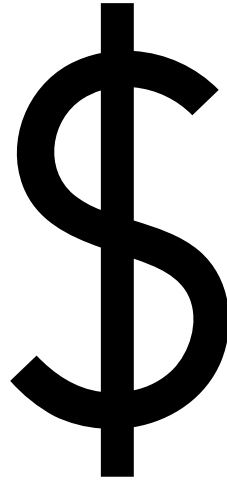


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CURRENT DIRECTORS

Campaign Finance Reports

- Must be filed semi-annually if:
 - You're a candidate for office AND
 - You have more than \$500 in political expenditures or accept more than \$500 in contributions during reporting period.
- Requirements vary depending on number of counties served – check Texas Ethics Commission for specific guidelines.



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REQUIRED
FILINGS
AUDITS & FINANCIALS

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AUDITS & FINANCIALS

Each year, each water district must complete one of the following financial status reports with TCEQ:

- **Annual Audit**
- **Annual Financial Report**
- **Financial Dormancy Affidavit**

TCEQ RG-378

https://www.tceq.texas.gov/assets/public/comm_exec/pubs/rg/rg-378.pdf

Consult a professional auditor to determine applicability.

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ANNUAL AUDIT VS. FINANCIAL REPORT

Audit

- Prepared by Independent Auditor
- Required if:
 - Gross receipts above \$250,000 or
 - Total cash + temporary investments above \$250,000
- File within 135 days of close of fiscal year

Report

- Prepared by filer
- Form TCEQ-0722
- File within 45 days of close of fiscal year

Note: Must notify TCEQ within 30 days of any change in fiscal year (Water Code 49.158)

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REQUIRED FILINGS

DROUGHT & CONSERVATION

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DROUGHT CONTINGENCY PLAN

- Systems serving 3,300+ connections: File with TCEQ every five years
- Revisions must be submitted within 90 days of adoption
- Must provide a copy to your regional water planning group(s)
- Systems serving under 3,300 – must adopt and file internally for inspection
- All systems must file a Drought Status Form with TCEQ when implementing mandatory stages of DCP



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WATER CONSERVATION PLAN

- File with TCEQ every five years if:
 - 3,300+ Connections
 - \$500,000+ in TWDB Loans
 - Hold an existing water rights permit for 1,000 acre-feet/year of surface water
- File revisions within 90 days of adoption; must include implementation report with five- and ten-year targets for water savings
- Must also file a Water Conservation Annual Report by May 1 of each year showing progress in implementing the plan

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Water Loss Audit

- Computes water loss during previous year
- File every five years if <3,300 connections and no TWDB funding
- File by May 1 each year if >3,300 connections or TWDB funding

Water Use Survey

- Gathers data for long-term water supply planning
- Required of ALL water systems
- Due on first business day in March
- Systems are ineligible for TWDB funding if they do not file

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REQUIRED FILINGS

MISCELLANEOUS FILINGS

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EASEMENTS

- USDA General/Specific Easements
- Sanitary Control Easements
- Must be filed in county deed records of the county in which the property is located
- **Not valid against subsequent purchasers if not filed!**



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SUBDIVISION SERVICE EXTENSION POLICY

- Water Code § 13.2502
- Publish in local newspaper every two years (or every year to be safe)
- Allows utility to deny service to applicants if developer did not comply with the service extension policy



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RECORDS RETENTION POLICY

- File with Texas State Library & Archives Commission
- File within 30 days of adoption
- Must also file Form SLR 504 – Designation of Local Government Records Management Officer



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EMINENT DOMAIN

- The right of a government or its agent to take private property for public use.
- Right granted by the legislature.
- Annual, mandatory report to the Comptroller due February 1; may file beginning November 1.
- Civil penalty of \$1,000 after 30 days; additional \$1,000 after 30 more days
- TRWA Filing Service: www.trwa.org/page/sb1812



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CONSUMER CONFIDENCE REPORT



- Provides customers with information about the quality of their drinking water.
- For systems required to file a water loss audit, must also report water loss in next CCR or on next water bill following the audit.
- Send to all customers by July 1; must certify to TCEQ that it was distributed and that information contained therein is correct.

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QUESTIONS?