

Case Study: An Assessment of the City of San Marcos Employee Handbook

By

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Applied Research Project

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Abstract

Purpose: The purpose of this Applied Research Project is threefold. First, this research develops a practical ideal model employee handbook by adapting one developed by Rebecca Short (1997) and expanded by Neftali Garcia (2002). Second, the model is used to assess the *City of San Marcos Employee Handbook*. Finally, based on this assessment recommendations to improve the San Marcos *Handbook* are presented.

Methods: This research uses two methods: document analysis and structured interviews of City of San Marcos employees. Analyzing the living document allows this research to use a primary source to make a better assessment for recommendations. Structured interviews of City personnel, including Human Resources staff, allow the researcher to gauge the practical use.

Findings: Overall, the *Handbook* is outdated and is not used as the primary tool of communication for agency policy. It is recommended that the *Handbook* be revised and updated to reference critical, key legislation such as the Patient Protection and Affordable Care Act of 2010 and the Lilly Ledbetter Fair Pay Act of 2009. The *Handbook* should also include improvements in the areas of compensation, benefits, social media, and leave. As a primary, living document in employee-employer relations, an employee handbook should be a trusted workplace tool that effectively communicates policies to employees.

About the Author

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Chapter 1

Introduction

Research Purpose

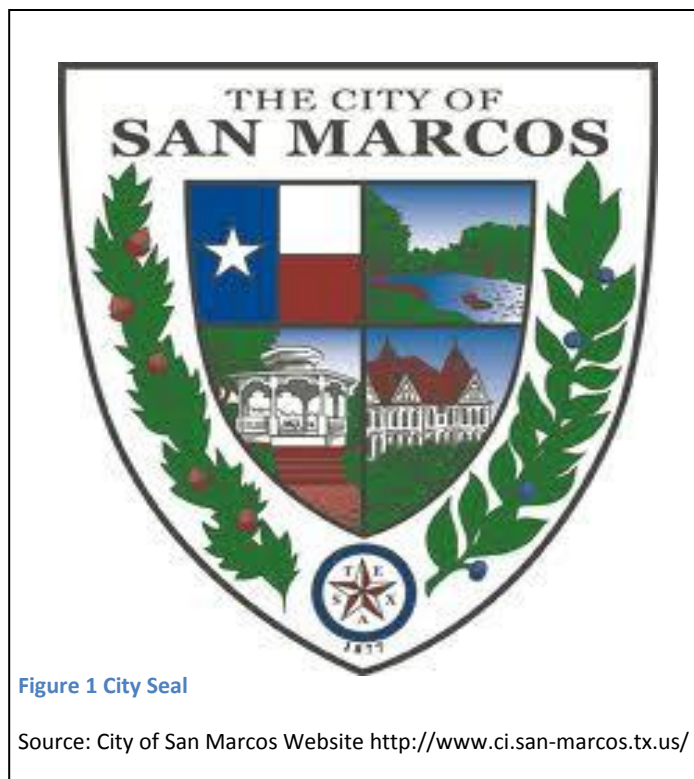
Employee handbooks are important mechanisms that communicate agency policies and procedures and serve as tool to guide employer-employee relations. It is important that handbooks reflect changes in policies. The *City of San Marcos Employee Handbook* has not been updated in over 10 years and needs changes to make it a better communication tool. The *Handbook* needs revisions to include more up-to-date information; therefore, the purpose of this applied research paper is to assess the *City of San Marcos Employee Handbook*. In order to do so, this paper does three things. First, this research develops a practical ideal model employee handbook by adapting one previously developed by Rebecca Short (1997) and later expanded by Neftali Garcia (2002). Second, the model is used to assess the *City of San Marcos Employee Handbook*. Finally, based on this assessment, recommendations to improve the *San Marcos Employee Handbook* are presented.

What Are Employee Handbooks?

Employee handbooks are one of many tools used to communicate policy and expectations between the agency and employee (US Small Business Administration 2013). Sometimes called manuals, handbooks lay out the policies of an organization by incorporating federal, state, and local laws and statutes. In addition, an updated employee handbook facilitates clear communication around policy and thus reduces the likelihood of litigation (Felsberg 2004, p. 117; Snell 2010, p. 15).

City of San Marcos and Handbook

The City of San Marcos lies nestled deep in the heart of Texas in Hays County along the I-35 Austin-San Antonio corridor. It is home to Texas State University, an emerging-research institution, which adds to the city's vibrant and youthful appeal. It boasts an estimated population of over 55,000 with a daytime population of



over 66,000 (City of San Marcos, ND).¹ The city's rich history dates back to 12,000 years with the Clovis Indians whom lived off the land that was enriched by the flowing San Marcos river that runs through the city today.

A manager-council form of government governs San Marcos. In this form of government, the legislative body consists of the City Council and the Mayor while a City Manager oversees administrative duties and the day-to-day functions of the City. The members of the City Council and Mayor are elected by the citizenry and adhere to the rules of the City's charter; while, the City Manager is picked by the Council (Zech 2008, p. 16). The City Manager of San Marcos, as of 2013, oversees more than 500 employees (City of San Marcos, ND).²

The current City *Handbook* is a broad document that covers a number of topics within its 59 pages. It is made up of 11 chapters, which include:

¹ See <http://www.ci.san-marcos.tx.us/index.aspx?page=358>

² *ibid*

- Authority and Administration
- Recruitment and Employment
- Compensation
- Leaves
- Benefits
- Employee Records
- Rules and Conduct
- Harassment
- Employment Separation
- Discipline
- Complaint Process

The final page includes policies that are expired. Chapters tend to be brief, with the longest chapter, Rules and Conduct, running 20 pages. Most other chapters range from 2-10 pages. An employee handbook is a primary, living document, which communicates workplace policy and the focus of this research.

Garcia's Research (2002) v. Short's Research (1997)

This research uses an ideal handbook model originally conceived by Rebecca Short (1997). Short's ideal handbook model was used as assessment mechanism for employee handbooks. Neftali Garcia (2002) refined her model further and adapted it adapted it to assess 20 Texas state agency handbooks.

Neftali Garcia's (2002) research differed from Short's (1997) in three ways. First, he analyzed the handbook of fewer agencies (Garcia analyzed 20 whereas Short analyzed 25). Second, his conceptual framework was expanded to include (and delete) aspects that were not covered in Short's research (both included nine ideal components). Third, Garcia covered both large, mid-size, and smaller state agencies whereas Short only studied large and mid-size agencies.

Short (1997) concluded that the employee handbooks she reviewed did not meet the standards based upon her practical ideal model in the areas: Absenteeism, Compensation,

Grievance Procedure, Performance Appraisals, and Miscellaneous; this is mostly due to not incorporating the policy in the handbook and failure to reference relevant workplace legislation (p. 89-91). Five years later, Garcia (2002), concluded that Texas State agency handbooks had improved and were at a satisfactory level. The handbooks he studied included mandated policies such as Equal Employment Opportunity, Sexual Harassment, Grievance Procedure and Performance Appraisals (p. 61).

Summary of Chapters

This research comprises six chapters. Employee handbooks usually cover a variety of topics. Because employment law governs workplaces and *Handbooks* are supposed to reference these laws, Chapter Two overviews relevant major laws and acts. These subsequently become critical priorities within the assessment model. Chapter Three develops the handbook assessment criteria by adapting the Short (1997) and Garcia (2002) practical ideal models³ using contemporary literature. Chapter Four presents the methodology used to assess whether the policies of San Marcos are communicated through the *Handbook* and the conceptual framework is operationalized. Chapter Five explains the results from the assessment. Finally, Chapter Six outlines and presents recommendations to improve the City of San Marcos employee handbook are presented as well as suggestions for future research. This research concludes with appendices and a bibliography.

³ To learn more about the practical ideal type model see Shields, 1998 and Shields and Rangarajan, 2013.

Chapter 2

Legal Components of Priorities

Chapter Purpose

Employee handbooks are legal documents that facilitate ongoing Human Resources policies and practices that adhere to the laws that govern employer-employee relationships. These policies and practices include fair pay, hiring, promotion, and other issues that arise in the workplace. To ensure fairness and non-discrimination, the United States Congress began to pass laws to protect employees. This chapter provides an overview of the laws and acts that form the basis of Human Resources policies.

Equal Pay

Background

The movement to equalize pay for women and men has been important over the years. During the 1940s, there was movement for equal pay because of the increased number of women in the workforce who replaced men sent to fight in World War II. According to Elisburg (1978), by “1940 one-fourth of the workforce was female” and fulfilled job areas, such as “steel, machinery tools, munitions, aircraft production, and shipbuilding,” for which they were compensated differently (p. 196). Due to the continued increased number of women in the workforce, many federal agencies began to endorse equal pay for women.

The increasing number of women entering the workforce, along with statistics on wage discrimination, pushed Congress in the 1940s to consider debating legislation on wage equalization between the sexes. (Elisburg, 1978, p. 197).

The Equal Pay Act of 1963 (Section 206)

After years of debate, the Equal Pay Act (EPA) became an amendment to Section 6 of the Fair Labor Standards Act (FLSA) in 1962, which allows for a compromise between those for and

against the legislation. Those against equal pay argued that the issue was not for government involvement and that women were more costly to employ because of absenteeism and higher turnover, while others for equal pay argued that women were an added contribution to the economy (Elisburg, 1978).⁴

Section 206 of the Equal Pay Act forbids compensation discrimination based on gender or sex for similar duties performed. Under this act, it is unlawful for an employer to pay individuals who perform the same duties differently based upon their gender. Legislation specifically addresses employee-employer relations:

(1) No employer having employees subject to any provisions of this section shall discriminate, within any establishment in which such employees are employed, between employees on the basis of sex by paying wages to employees in such establishment at a rate less than the rate at which he pays wages to employees of the opposite sex in such establishment for equal work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions, except where such payment is made pursuant to (i) a seniority system; (ii) a merit system; (iii) a system which measures earnings by quantity or quality of production; or (iv) a differential based on any other factor other than sex: *Provided*, That an employer who is paying a wage rate differential in violation of this subsection shall not, in order to comply with the provisions of this subsection, reduce the wage rate of any employee. Equal Pay Act of 1963 SEC 206 (d).

Today, the Equal Employment Opportunity Commission oversees the law. According to *Section 216* of the act:

Any employer who violates the provisions of section 206 [*section 6*] or section 207 [*section 7*] of this title shall be liable to the employee or employees affected in the amount of their unpaid minimum wages, or their unpaid overtime compensation, as the case may be, and in an additional equal amount as liquidated damages. [Equal Pay Act of 1963 SEC 216 (b)]

It is critical to include this act in a handbook to ensure that the employer acknowledges their responsibilities as well as informing employees of their rights.

⁴ Section 6 of the Fair Labor and Standards Act sets the standards for minimum wage.

The Lilly Ledbetter Fair Pay Act (Section 3)

The equal pay debate did not end with the Equal Pay Act of 1963. In 2007, Lilly Ledbetter, a Goodyear employee in Alabama for nearly two decades, alleged that she was discriminated against by her employer.. When she discovered that her male counterparts were receiving higher salaries, Ledbetter decided to file a legal complaint—later known as *Ledbetter v. Goodyear Tire and Rubber Co* (2007).

After Ledbetter received a large sum for punitive damages, the Eleventh Circuit Court of Appeals reversed the decision (NWLC, 2009). When the case went to the Supreme Court, Justice Alito upheld the decision of the appellate court citing that one cannot file a complaint if the discriminatory act occurred 180 days before the filing.

In 2009, two years after the Ledbetter decision, President Obama signed into law the new Lilly Ledbetter Act to curb this wage inequality. Under the new law, each act of discrimination in which a paycheck is received restarts the 180-day limit rule previously reversed by the Supreme Court. This act is critical in ensuring equal pay.⁵ It is important that employers and employees understand their rights and responsibilities under the Lilly Ledbetter Fair Pay Act. Therefore, it is critical to communicate this policy in the *Handbook*.

The Equal Employment Act of 1972

This Act is an amendment to the *Title VII of the Civil Rights Act of 1964*, which forbids discrimination in regards to race, color, national origin, sex, and religion. This Act extends the right of the EEOC “to conduct its own enforcement litigation” (Legal Information Institute, 2013).⁶

⁵ According the National Women’s Law Center, women are paid on average “77 cents for every dollar paid to men (NWLC 2009).” The discrepancy is even more apparent for women of color.

⁶ See the Legal Information Intitute at Cornell University Law School website at http://www.law.cornell.edu/wex/equal_employment_opportunity_commission.

Discrimination

Background

Prior to 1964, people of color throughout the United States, particularly African-Americans, did not have the same job opportunities as their white counterparts. Jim Crow segregation and blatant racism prevented many African-Americans from climbing the job ladder due to discrimination in hiring, promotion, and firing practices.

During the 1950s and 1960s, the country became embroiled in equal rights for all. Marches, sit-ins, freedom rides, and speeches became tools to gain African-Americans and others afflicted by discrimination an equal chance at pursuing the American Dream.

With the election of President Kennedy, there was hope to pursue the dream. Kennedy lobbied Congress to pass a civil rights bill. When Kennedy was assassinated, President Lyndon B. Johnson continued the fight for equal rights for all Americans. President Johnson lobbied Congress to pass a number of civil rights legislation, including the Civil Rights Act of 1964, which forbids discrimination in public places.

Title VII of the Civil Rights Act of 1964⁷

One of the first pieces of legislation to combat discrimination in the workplace was Title VII of the Civil Rights Act of 1964. It makes it illegal to discriminate based on race, color, religion, sex and national origin. Unlawful employment practices such as discrimination in hiring, compensation, conditions of employment and the segregation of employees are covered under **Section 703 a(1)(2)**, which says:

It shall be an unlawful employment practice for an employer -
(1) to fail or refuse to hire or to discharge any individual, or otherwise 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; or

⁷ See *Title VII of the Civil Rights Act of 1964* (Pub. L. 88-352) (Title VII), <http://www.eeoc.gov/laws/statutes/titlevii.cfm>.

(2) to limit, segregate, or classify his employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin. [Title VII of the Civil Rights Act of 1964 Section 703 a(1)(2)]

In order to guarantee these rights, the Equal Employment Opportunity Commission (EEOC) was created through Title VII. The EEOC investigates claims of discrimination and files suits on behalf of individuals with substantiated claims.⁸

This law is critical in maintaining equal rights in employment by guaranteeing federal protection from discrimination based upon race, color, religion or national origin. It is important that employers and employees know their rights and responsibilities under this law.

Age Discrimination in Employment Act (Section 623)

Not only did the 1950s and 1960s see a shift in ideas on equality, it also saw an increase in births. This population is now known as the Baby Boomers; “Between the years 2010 and 2030, when the post World War II baby boom population begins to retire, the elderly will comprise an estimated 21.8 percent of the total population” (Holliday, 2010, p. 20). With this in mind, it is critical that one understands the laws and legislation regarding age and age discrimination. According to Jessica Rothenberg and colleagues on their work on the ADEA, “The Age Discrimination in Employment Act (ADEA) of 1967 was part of an unprecedented turn in 1960s public policy toward advancing economic and social justice by protecting the rights of vulnerable populations” (Rothenberg, et al. 2011, p.10). The historical purpose of the act was to “promote employment of older persons based on their ability rather than age; to prohibit arbitrary age discrimination in employment; [and] to help employers and workers find ways of meeting problems arising from the impact of age on employment” (Rothenberg, et al. 2011, p.10;

⁸ Sexual harassment suits are sometimes filed under Title VII.

ADEA 1967, Section 2). Research done by Rothenberg (2011) and colleagues show that *ageism*, or the practice of discriminating based upon age, can be due to a number of factors, including, perception that “older workers are difficult to train, resistant to change, and less flexible and adaptable than younger workers” (Rothenberg, et al. 2011, p.11).

Discrimination against older workers is an issue that encouraged legislation to promote age equality in the workplace. The Age Discrimination in Employment Act (ADEA) forbids discrimination by an employer based on age in regards to compensation, discharge, hiring, segregation, or classification.⁹

Therefore, the government has enacted legislation to protect older workers. *Section 623* of the law specifically states:

(a) Employer practices

It shall be unlawful for an employer-

- (1) to fail or refuse to hire or to discharge any individual or otherwise discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual’s age;
- (2) to limit, segregate, or classify his employees in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual’s age; or
- (3) to reduce the wage rate of any employee in order to comply with this chapter. [*Age Discrimination in Employment Act of 1967*Section 623 a(1)(2)(3) (ADEA)]

With this in mind, it is critical that employers and employees know their rights and responsibilities in regards to the Age Discrimination in Employment Act and thus incorporate it in the *Handbook*.

⁹ The law through **Section 631(a)** applies to individuals over the age of 40.

Americans with Disabilities Act (Section 102)

Civil rights and non-discriminatory policies, as time went on, came to encompass areas other than those listed under the Civil Rights Act including the disabled and age. In 1990, Congress passed the Americans with Disabilities Act (ADA) that forbids discrimination based upon disability in regards to the “job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment” (EEOC, 1990).

The ADA has three sections called “Titles.” Title I deals with employment issues and ensures those with disabilities will not be discriminated against in hiring, promotion, and other work-related practices. It also ensures that there is access to accommodations for disabled employees in order for them to perform their duties (Bowman, 2011). Titles II and III ensure that those with disabilities receive accommodations in public places including hospitals, government buildings and other places receiving federal assistance.

Unfortunately, after the law went into effect in 1990, disabled employees still faced obstacles by way of finding it difficult to take legal action against employers for violating their rights. This difficulty was due to stricter definitions by the courts on who is considered disabled (Bowman, 2011). The courts also overturned requirements put on employers by the EEOC, which defined who was disabled. Years after the ADA was enacted, amendments were added to address some of these problems. According to Bowman (2011), these amendments had six effects:

1. Increased the number of those considered disabled;
2. Mitigating factors are to be ignored when determining who is disabled;
3. Increased the list of what constitutes a major life activity; and

4. EEOC is permitted to regulate the ADA and define substantial limitations.

These new amendments now cover more individuals with a variety of disabilities; thus, employers are finding dismissal of disability claims less frequent. (Bowman, 2011).¹⁰ Changes in the law make it critical that the *Employee Handbook* spell out rights and responsibilities under the Americans with Disabilities Act.

The Patient Protection and Affordable Care Act of 2010

The policies implemented by Congress that affect employers, not only deal with equal pay and civil rights but also how they should fund their employees' healthcare. The topic of healthcare and who is entitled to it and how it should be funded is one of great debate among politicians. This debate came to a boiling point when President Obama, elected in 2009, vowed that he would fix the United States' broken healthcare system. This resulted in the Patient Protection and Affordable Care Act of 2010, informally known as *Obamacare*. Signed into law in 2010 by President Obama, the act mandated a massive healthcare overhaul with new rights and responsibilities for both employers and employees.¹¹ These rights and responsibilities include the following elements:

- Employer "free rider" assessment;
- No annual dollar limits on "essential" health benefits;
- No preexisting-condition exclusions;
- Dependent child coverage to the age of 26 even if eligible for other coverage through their own employer; and
- 90-day waiting period limitation.

¹⁰ Bowman even asserts that it is important for employers to write clear job descriptions, "taking all job requirements into account (2011)." He also asserts that disability accommodations can now be requested during job interviews.

¹¹ Further discussion of this law is included in Chapter 3 under 'Medical Benefits.'

(Wojcik, 2013, p. 31)

Failure to comply with the law can result in heavy fines for both employees and employers. It is important that everyone be aware of their rights and responsibilities under the Patient Protection and Affordable Care Act. Therefore, reference to this new law should be included in employee handbooks or a reference to specific health options booklet.

Summary

This chapter highlighted legislation considered critical to include within employee handbooks. Failure by employees and employers to know and comply with rights and responsibilities can have severe consequences such as termination and legal complications. Reference to these laws are critical for employee handbooks. Failure to communicate information about acts could result in ineffective organizational communication about rights and responsibilities of the workers and the agency.

The next chapter presents the literature that supports the framework used to assess the City of San Marcos Employee Handbook— in which this research refers to as the practical ideal model.

Chapter 3 Literature Review

Components of an Employee Handbook

Chapter Purpose

The purpose of this chapter is to develop and defend the practical ideal handbook model. This chapter presents the components and subcomponents of the handbook model and justifies inclusion of each using current scholarship. In addition, the practical ideal employee handbook model is summarized and linked to the literature using a conceptual framework table.

Conceptual Framework

A *practical ideal type model*, hereafter referred to as the ideal handbook model, was used to assess the employee handbook. In this model, criteria are set that are used to rate the information obtained in the research (Shields & Rangarajan, 2013). This model allows for systematic analysis of the City of San Marcos's *Employee Handbook* and provides a forum for recommendations to improve the existing handbook. The ideal handbook model contains the following categories:

1. Introductory and Preface Materials
2. Compensation: Administration
3. Leave Policies
4. Insurance, Retirement and Benefits
5. EEO and Discrimination
6. Sexual Harassment/Bullying
7. Use of Social Media/Electronic Media
8. Conditions of Employment
9. Miscellaneous

As discussed in their *Playbook* on research methods, Shields & Rangarajan (2013) stress the importance of the literature review as a way to build a conceptual framework and provide coherence to data collection and analysis. The framework is the basis of this chapter. The

next section discusses the importance of including introductory and preface materials such as a date-of-revision, table of contents, welcome statement, and mission statement.

1. INTRODUCTORY AND PREFACE MATERIALS

The first component of the ideal handbook model looks at the materials that are at the beginning of the *Handbook*. *Introductory and preface materials* serve as a guide for the reader and directs them to the location of a particular topic (Nguyen, 2011; Darbi, 2012). This component includes the date a handbook was updated, table of contents, welcome statement, mission statement, and historical information (Short, 1997; Garcia, 2002). This information sets the foundation, not only for the rest of the *Handbook*, but also the employees' initial impression of the agency.

It is important all employee manuals and handbooks include materials that state the agency's background, which gives the employee insight into the history and an appreciation of the agency's roots. A handbook also serves as a directory to guide for information on policies and procedures of the agency, therefore it is important to include a table-of-contents for easy navigation (Garcia, 2002). It is ideal to include the directory in the first few pages to guide employees and employers to specific topics for ease of navigation. A table-of-contents not only helps a reader navigate through the *Handbook*, but also quickly summarizes the contents (Nguyen, 2011).

Disclaimers, such as those emphasizing whether the handbook is a contractual agreement between employee and employer, should be included in the *Handbook*.¹² Preface material, such as the date of the handbook or the date of upgrade and approval, should be included in the first

¹² According to Felsberg (2004), an employee handbook should include a disclaimer that states that the manual is not to be use as a contract otherwise, it can be seen as a contract between the employee and the employer. Felsberg states that, "A clear, conspicuously located disclaimer should state that the purpose of the handbook is to provide guidance and that it is not a contract or intended to create a contract."

few pages. Ideally, this should be on the first page. A brief statement saying, “Revised [month] [20xx] is appropriate.”¹³

A “Welcome Statement” along with the City’s “Mission Statement” should be included within an employee handbook as well. A “Welcome Statement” should warmly introduce the agency to employees. The ‘Welcome Statement’ should include why the agency is happy to employ the employee and the benefit the employee will be to the agency. Inclusion of the organization mission statement in the handbook is very important. Mission statements as part of strategic management that outline the goals or initiatives set forth by the governing body, such as a City Council (Darbi, 2012, p. 95). The goals can be part of a comprehensive plan that the city has set forth. When a city mission statement is included, the employee should understand that they are a part of a larger organization that has goals. It helps the employee put their position into perspective on a larger scale. Historical information on the agency should be incorporated into the handbook preface because it helps the employee to know the organization’s background as it instills a sense of pride in being a part of a vital public organization.

Introductory and preface material play an important role introducing the employee the agency and its expectations. This component lays the foundation for employee-employer relations by acting as to gateway to subsequent policies discussed within the handbook. Just as important as introductory and preface material is the agency’s compensation policies.

2. COMPENSATION

Deductions, pay periods, pay plans, probationary periods, termination/resignation policy and overtime pay are a part of *compensation* and should be explained clearly in the handbook (Snell, 2010; US Small Business Administration, 2013; Garcia, 2002; Felsberg, 2004). This

¹³ Felsberg (2004) stresses the importance of updating employee handbooks every two years to stay abreast with changes in agency policy and state, local, and federal legislation.

component should also contain laws and statutes that deal with fair and equal pay (Garcia, 2002). The Equal Pay Act is important because of the history of women receiving less pay than men (Roach, 2009). *Employee compensation* is an important aspect of an employee handbook. Jeffrey Snell (2010) says, “employers need to carefully check their employee handbooks and other rules and policies to ensure they are not in danger of jeopardizing the legal statuses of their salaried employees.” Because it is imperative to not risk jeopardizing these employees’ wages, this section should be current. In order to do such, there are laws and statutes that must be incorporated. Cities as employers are mandated to comply with equal employment laws. Employee handbooks, previously defined on page 2 as tools to communicate policy and expectations, should refer to these laws: *Equal Pay Act of 1963 (EPA)*, *Title VII of the Civil Rights Act of 1964*, the newly signed *Lilly Ledbetter Fair Pay Act of 2009*, and the *Fair Labor and Standards Act*.

Acknowledgement of Equal Pay Act (EPA)

Unfortunately, many Americans face obstacles in compensation due to race, gender, religion and so forth. To counter this disparity, the *Equal Pay Act* was put into place. The EPA guarantees by law that women and men with comparable qualifications receive equal pay for comparable jobs (Roach, 2009). This means that a female program manager is to receive no less than a male program manager. Unfortunately, even though the law states otherwise; inequality in pay still occurs between women and men. The equal pay law mandates that discriminatory claims must be filed within 180 days of the discriminatory act (Garcia, 2002). This provision has the practical implication that the law can actually be a hindrance to achieving its non-discriminatory intent (Roach, 2009).

Due to the difficulty that one may have in bringing an EPA suit, President Obama and Congress felt that further legislation was necessary. The *Lilly Ledbetter Fair Pay Act* “allows plaintiffs to more easily bring an Equal Pay claim for pay discrimination” (Roach, 2009). Previous decisions by the Supreme Court, such as the 180-day filing period after each paycheck in which discrimination can be proven, made filing a complaint in a timely manner arduous. Signed into law in 2009, the Lilly Ledbetter Act is an extension of the EPA and strictly prohibits discrimination when it comes to equal compensation. The act mandates that any act of discrimination in regards to compensation, including benefits and wages, is in violation of the law and that a plaintiff may receive “back pay for up to two years proceeding the filing period” (Roach, 2009, p. 11).

Another important law that is imperative for employers to be up-to-date with and include in their employee handbooks is *Title VII of the Civil Rights Act of 1964*. Title VII covers more than just unequal pay between the sexes but covers racial, religious, and sexual orientation disparities. To be clear, the law targets employers with more than 15 employees, which includes local governments. Roach (2009), discusses two forms of discrimination that are covered by Title VII: *disparate treatment* and *disparate impact*. Disparate treatment is when someone is singled out or treated “differently” because they are part of a particular group (Roach, 2009, p.2). This may actually include promoting a woman or an African-American to fill a quota, which some may view as discrimination towards a white person who was just as qualified but did not get the position. Disparate discrimination is the discrimination against a person of a certain group, typically a minority (Roach, 2009, p. 2). This may include not giving a woman or an African-American a promotion due to gender or race. Violation of Title VII can have dire consequences in the form of lawsuits for employers. Because these laws are the basis of

compensation regulation and employee handbooks lay out employer-employee rights and responsibilities, it is important that these laws should be understood.

Pay Plans and Periods

Compensation also covers areas such as *job classifications* and *grades* along with *pay plans* and *periods* (Garcia, 2002; Felsberg, 2004). Governments-local, state, or federal-typically classify a worker as full-time or part-time. Employee handbooks should specify what is defined as full-time and part-time employment. Different classes may have different benefit options such as the amount of leave time one is able to take. These classifications may also include any exemptions that are incorporated into the pay plans. Certain salaried employees may be *exempt* from receiving overtime wages, while *non-exempt* employees may be eligible for time over 40 hours.¹⁴ This section of an employee handbook usually covers what consists of a workweek within the agency and pay periods (weekly, biweekly, monthly, etc) or “wage/salary payment intervals” (Felsberg, 2004, p. 120).” Falsberg (2004) has concluded that any payroll deductions should also be included in the section describing compensation.

Probationary Periods

Probationary periods are important too and allow an employer to evaluate an employee’s long run compatibility. It is also a period in which an agency can let go of an employee without legal risks. Therefore, it is important for probationary periods and expectations during the these periods to be defined in the employee handbook. According to Garcia (2002), there is no consensus about whether probationary periods should be included in the employee handbook. As of this research, there is still no consensus regarding probationary periods’ inclusion but they should be included so that employees are informed of their responsibilities.

¹⁴ See Fair Labor and Standards Act on page 6.

Hiring/Promotion/Demotion Policies

Employees who are not notified of the process of promotion, and demotion are more likely to feel that they have been treated unfairly (Felsberg, 2004). Hence policies regarding *hiring, promotion, and demotion* should be part of the employee handbook. Falsberg (2004) further explains that employees who are more informed of the policies are less likely to file legal complaints, or the policies should be consistent with the aforementioned statutes (p. 120).

Overtime

The *Fair Labor and Standards Act* (FLSA) covers overtime policies, which is another law that should typically be considered a component of compensation (Garcia, 2002; US Dept of Labor, 2009). According to the US Department of Labor, certain employees working over 40 hours a week are required to be paid time and a half for any overtime worked (US Dept of Labor, 2009). Local governments are considered local agencies covered by FLSA standards and employees should have some knowledge as to how the law applies to them.

Policies regarding compensation for work performed are very important knowledge for employees to know. Answers to questions pertaining to pay periods, promotions, demotions, and overtime need to be communicated in the handbook. Any further questions that an employee may have should be directed to the proper department and staff member. Also important are leave policies, which can be related to compensation policies.

3. LEAVE POLICIES

It is not only important for employees to know how their work is compensated but also their rights and responsibilities in regards to missing work. *Leave* consists of *sick leave, annual leave, bereavement, military duty, jury duty, and family medical leave* or any type of leave that would cause an employee to miss work (Garcia, 2002).

Sick Leave

Trends in society and recent legislation are influencing how organizations are framing employee leave policies. The Family and Medical Leave Act of 1993 is the law that employers use to frame their leave policies. Society has begun to recognize that family care and employment responsibility may conflict and that, in certain, instances family responsibility may supersede job responsibilities.

People get sick or an unfortunate injury may occur. Though the literature is not expansive in regards to sick leave, it is important that an employee handbook incorporate federal policies regarding medical leave. When considering a public agency, the policies should reflect the *Family and Medical Leave Act of 1993 (FMLA)*. The FMLA guarantees that employers with more than 50 employees must allow up to 12 weeks of unpaid leave within 12 months. Circumstances such as: the birth (or adoption) of a child; to care for an immediate family member who is ill; or due to an injury or condition that does not allow the employee to perform his or her duties are covered under the FMLA (Wolf, 2009).

Maternal/Paternal Leave

Family responsibility includes leave after the birth of a child as well. Not only are female employees affected by these policies, so are male employees. Fathers are becoming more involved in their children's lives in a capacity that has typically been reserved for mothers (Wells & Sakardi, 2011). Michael Wells and Anna Sakardi (2011) explore the role that fathers play in developing a well-rounded child by citing the success of Sweden, which was the first country to give paternity leave in 1974. With this in mind, employee handbooks should contain information on how leave is divided between two parents who work for the agency.

Holidays for Agencies

Not all leave time is personal; there are state and federal holidays mandated throughout the year. Some holidays, such as the Fourth of July, fall under this category and should be included in the handbook (Garcia, 2002). Employees in certain departments, such as police or fire, may be required to work during holidays and this requirement should be specified in the handbook as well.

An employee should have a clear and concise understanding of how time from work is governed by the agency. Leave policies reflect how an agency compensates for time not worked due to issues such as illness, bereavement, military duty, and family needs. Handbooks need to clearly reflect these policies. Just as important are policies reflecting an agency's insurance, retirement, and benefits package.

4. INSURANCE, RETIREMENT AND BENEFITS

Benefits are an integral component of the employee handbook because they are considered part of the compensation package. Therefore, employees need to be aware of these changes or be guided to a person or a department who can better answer their questions.

With a large percentage of the workforce getting older, retirement and other legally mandated benefit policies (such as disability, Social Security and Medicare) are becoming more important to employees and therefore should be communicated clearly.

Basic descriptions (or summaries) of benefit policies and eligibility requirements should be included within the employee handbook (Garcia, 2002; Wells, 2009). It is not appropriate to put "detailed descriptions" of the content of benefits (Wells, 2009).¹⁵

¹⁵ The **Employee Retirement Income Security Act of 1974** requires that employees receive information, or "Summary Plan Description," of benefit plans which can be incorporated into the employee handbook

Medical Insurance (including Dental)

Healthcare legislation has changed drastically since Garcia and Short did their research, it is important to include new changes to healthcare policy such as the *Patient Protection and Affordable Care Act* (Carpenter 2011).¹⁶

Many provisions of the Affordable Care Act affect employers, from the reinsuring funds that cover early retirees (some of whom may not be eligible for Medicare) and new reporting requirements that incorporate a more tedious record-keeping (Carpenter, 2011). Employees are now allowed to keep their children on their healthcare plan until they reach the age of twenty-six. Additional changes include that individuals cannot be denied health insurance due to pre-existing conditions; therefore, it is imperative for employees to note the differences between their prior and current plans (Snell, 2010). These are changes in which employees need to be informed.

Though there is not much literature on dental benefits being included in employee handbooks, it typically falls under the section of health benefits along with life insurance and worker's compensation (Garcia, 2002).

Retirement Eligibility and Membership

With Baby Boomers retiring, one of the most important benefit policies, besides healthcare, is retirement, which mostly occurs between the ages of 62 and 67. David Neumark (2009) finds that changes to the *Age Discrimination in Employment Act of 1967* (ADEA) in 2004 “made it easier for employers to coordinate retiree health benefits with Medicare.” When it comes to retirement benefits and insurance, employers typically fall into compliance with state and federal law like the ADEA (Garcia, 2002)

¹⁶ The PPACA will be fully operationalized in 2014 and many of these changes will have implications for employee handbooks.

Social Security and Medicare

Social Security and *Medicare* are federally mandated parts of the benefits package. Agencies work in conjunction with state and federal laws and statutes in regard to these policies. As Neumark (2009) discusses, current legislation typically allows employers to coordinate healthcare benefits with Medicare-particularly employees over the age of 65. Informing the employee that the agency works in conjunction with the federal government on benefits such as social security and Medicare and directing them to the individual who can answer their questions is appropriate.

It also is important that the *disability benefits* policy is communicated clearly because employees can file disability claims if they are disabled due to their job.¹⁷ Though a Human Resources Department may choose not to fully disseminate this information in the handbook, it is important to inform employees that the agency does have a policy regarding disability benefits.

Insurance, retirement, and benefits policies are important parts of the compensation package for employees. Referencing benefits policies in the handbook and directing employees to the appropriate department and staff member for further inquiry. Also important are the agency's anti-discrimination policies. As a public agency, San Marcos is expected to uphold policies as an equal opportunity employer. The next section emphasizes the importance of incorporating these policies in the handbook.

5. EEO AND DISCRIMINATION

Policies of systematic discrimination in the United States produced employment related laws and statutes that have been set up to protect disadvantaged groups. These laws have implications for employee handbooks and represent a fifth component of the ideal handbook

¹⁷ Typically goes along with social security and Medicare policy

model. It is particularly important for an agency to be up-to-date on these laws and statutes to ensure adherence to as well as distribute the information to their employees. Discrimination clauses are covered under the *Civil Rights Act of 1964*.¹⁸ It is important to inform employees (management and otherwise) of discrimination policies rules and equal employment opportunities rights and responsibilities (Wolf, 2009).

Statement of Nondiscrimination

An employee handbook needs a statement that makes it clear to the employee what is considered discriminatory by the agency. A *statement of nondiscrimination* in an employment handbook manual consists of a statement that the agency does not discriminate based on race, sex, gender, creed, or religion. As argued by Garcia (2002), there should be specific references regarding how the agency perceives discrimination and equal opportunity included in the employee manual.

Equal Employment Opportunity (EEO) Compliance

Wolf further discusses that the laws and statutes like the Title VII, Americans with Disabilities Act and the Age Discrimination Act ensure that agencies do not discriminate and that every employee is treated equally (Wolf, 2009). Having this information at the disposal of the employees in the manual, not only sets accountability, but also it makes everyone aware of their responsibilities.

Rights under Americans with Disabilities Act (ADA)

The *Americans with Disabilities Act* gives protection to those with disabilities in the work place by ensuring that discrimination against an employee due to disability does not occur. The ADA forbids discrimination against individuals with disabilities, physical or mental. It is the legal duty of employers to accommodate for the disabled, unless as Wolf (2009) explains, it

¹⁸ Geared towards public agencies and organizations with more than 15 employees.

would bring about “hardships” on the employer. ADA is best mentioned under the Equal Employment Opportunity section of the employee handbook.

Rights under Age Discrimination in Employment Act (ADEA)

The *Age Discrimination in Employment Act* guarantees protection from discrimination based upon age in hiring, termination, promotion, and other job related practices. The Age Discrimination in Employment Act (ADEA) originally was meant to protect individuals between the ages of 40 and 65 (Neumark, 2009). David Neumark (2009) has deduced that because there have been amendments added to the original act, the age has now been increased to protect all ages. This act may play a more important role with baby boomers on the verge of retirement and is important that reference to age discrimination policies be incorporated within employee handbooks.

As a public agency, San Marcos has a responsibility to ensure that every employee is treated fairly regardless of race, gender, religion, and national origin. Failure to do so can result in legal repercussions. It is important that the handbook clearly adheres to local, state, and federal laws governing discrimination. Equally as important is for employees to understand their responsibility in maintaining a productive environment that is void of bullying and harassment as the next section discusses.

6. BULLYING/SEXUAL HARASSMENT

The sixth component of an ideal employee handbook model deals with sexual harassment and bullying. Both practices are harmful to the workplace environment and sexual harassment in its many manifestations is illegal. *Bullying*, previously not covered by Garcia (2002) or Short (1997), is not a new phenomenon. It is appropriate to cover bullying—an issue that if not dealt with, can lead to lasting effects on the individual and their productivity in the workplace. Teresa

Daniel (2009) calls bullying the act of “repeated mistreatment” that includes “verbal abuse, or conduct which is threatening, humiliating, intimidating, or sabotage” that can cause interference with an employee’s job or duties and can cause mental and physical anguish or harm (p. 7). She further describes bullying as a “concept” that can eventually turn violent. The repercussions from bullying can be tragic and vast, including fear to suicidal thoughts. It is appropriate to address bullying in employee handbooks and make it clear that not only is bullying unacceptable, but that it can be illegal under laws governing harassment and discrimination. Definitions of bullying should be included in a handbook to help employees gain knowledge of the consequences and repercussions of bullying.¹⁹ Research done by the Workplace Bullying Institute (2007) has found that most bullies in the workplace are men and most victims are women and most tend to be in managerial roles.²⁰

Laws, including the *Title VII of the Civil Rights Act*, the ADA, the ADEA, and the *False Claims Act*, are used to curtail workplace bullying (Daniel, 2009). Collectively, these legislative acts protect those who may face bullying due to race, gender, national origin, or age. According to Daniel (2009), the False Claims Act protects whistleblowers who often face repercussions—including being bullied—for disclosing an organization’s ethical or legal misconduct.^{21 22} Though no formal legislation for workplace bullying has been put in place to protect against workplace bullying, civil rights legislation can be used to combat bullying, in particularly the acts previously discussed. To protect against liabilities and creating a safe and healthy

¹⁹ Daniel cites Pamela Lutgen-Sandvik of Arizona State University to further explain bullying as a “synonymous phenomena” that can include attacks both “verbal and nonverbal (Daniel, 2009, p. 8).”

²⁰ Daniel cites the U.S. Workplace Bullying Survey of 2007, which was given by the Workplace Bullying Institute and interviewed 7,740 adults and found that 57% of working adults are bullied. See U.S Workplace Bullying Survey of 2007 by the Workplace Bullying Institute.

²¹ Ibid.

²² Typically this applies to state and federal agencies. Local agencies, such as local governments and private agencies, would have to check with their in-house attorneys to see if this law applies.

environment, noting what is acceptable in regards to conduct should be included in employee handbooks (Daniel 2009).

Statement Denouncing Sexual Harassment/Sexual Harassment Defined

As with bullying, there should be a statement that denounces *sexual harassment* (which can be considered a form of bullying). This statement should include the agency's clear definition of sexual harassment. Abigail Saguay (2003) explains that there have been no updated, clear, and concise definitions of sexual harassment aside from what is described by the Equal Employment Opportunity Commission. Garcia (2002) cites the Equal Employment Opportunity Commission (EEOC) as defining *sexual harassment* as "unwelcomed sexual advances, requests for sexual favors, and other verbal or physical conduct of sexual nature (EEOC, ND)." Because of the lack of literature and the lack of clarity on the definition of sexual harassment, it is imperative that the organization describe what it considers sexual harassment.

Complaint Procedure and Investigative Process

The policy for filing a complaint for bullying or sexual harassment should be well defined in the employee handbook. According to Teresa Daniel (2003), "employers are now automatically liable for sexual harassment by their supervisors" unless there was no harm done (p. 33).²³ From the time of the complaint and into the investigative process, the issue should be handled in a timely manner. Daniel goes on further to explain the EEOC's Enforcement Guidance on the issue of sexual harassment, which outlines the procedure that an agency must take in accordance with the law in handling complaints. According to Daniel (2003), these consist of:

1. Explanations of sexual harassment, etc;
2. Notifying the employee that their complaint will be protected against retaliation;

²³ Daniel cites *Farager v. City of Boca Raton* and *Burlington Industries, Inc. V. Fuerth*, both 1998.

3. A clear and concise complain process;
4. Assurance of confidentiality; and
5. Assurance of immediate and appropriate action.

Every employee handbook should reference the policies governing that agency's process for dealing with sexual harassment (Gibson & Johnson, 1998). This can include bullying since there should be a policy and process dealing with workforce bullying complaints. If the perpetrator is a supervisor, employees should be made aware of whom to go to with their complaints to avoid retaliation (Gibson and Johnson, 1998).

After the investigative process, disciplinary action should be taken. The employee should be made aware that their complaints will be handled in a clear and speedy fashion and that they are safe from retaliation. Charles Mitchell (2009) references Supreme Court Justice Samuel Alito who relates retaliation to a form of discrimination; therefore, those who have filed harassment complaints are protected by law against retaliation (Mitchell, 2009).²⁴ With this in mind, it is imperative that an agency outline their policies in its employee handbook.

Every employee at an agency has a responsibility to uphold the policies on harassment. Acts such as sexual harassment and bullying are not only against the law, but they foster an environment that is counterproductive to the agency's goals. Therefore, it is important to clearly and thoroughly express in the handbook, the employee and employer's rights and responsibilities in regards to harassment, the investigative, and the complaint processes. Communicating policies, like harassment, that effect employee conduct are very important. Another area affecting employee conduct is the use of social and electronic media.

²⁴ Mitchell cites Justice Samuel Alito in Gomez-Perez v. Potter (2008).

7. USE OF SOCIAL/ELECTRONIC MEDIA

The seventh component of the ideal handbook model covers social and electronic media. In the last decade technology has advanced at such a rapid pace that employers now find themselves having to write *social media* policies on Facebook, Twitter, and blogging, and other networking sites. *Electronic media* have gone beyond the average computer use in the workplace to include company owned iPhones and iPads. It is important to relay these policy changes brought about by new technology to the employees. However, laws are being shaped, so this is an area still being explored, and the literature on social media in employee handbooks is still in its infancy (Lieber, 2011).

Social media are a medium in which one is able to verbalize their opinions through words or video (Lieber, 2011; Sanchez, et al. 2012). Therefore, policies regarding social media use are important. Employees can potentially violate laws such as the ADA, ADEA, and Title VII by divulging information on social media sites (Lieber, 2011). An employee's social media image, according to Lindsey Rose in her Applied Research Project on social media and city employees, not only a representation of themselves, but also of the agency (Rose, 2013) The consequences of improper social media use can include defamation, trademark/copyright infringements, and release of confidential information. The consequences of these violations can be severe for both employees and the organization. Consequently, the regulations need to be included in the handbook (Lieber, 2011).

Privacy issues on the oversight of employee use of social media have gone before the Supreme Court (Sanchez, et al. 2012). Abril Sanchez (2012) and colleagues, explain that most social and electronic media utilized in the workplace is email.

Employees' privacy, according to Sanchez and colleagues (2012), is protected by the *Fourth Amendment* and the *Electronic Communications Privacy Act of 1986* (ECPA); the contemporary issue is defining how much control the employer has on the employee's social media use. To avoid misunderstandings, it is best that agencies include a clear and concise social media policy in the handbook.

Research on technological devices in workplaces, such as iPhones and iPads, not in use at the time of Garcia (2002) or Short's (1997) work, is still developing. These devices have Internet access and allow users to login to social media sites. When these devices are a part of the job duties, they are property of the agency, thereby governed by agency policy (Sanchez, et al. 2012).

The legality of agency issued electronic devices and social media usage in the workplace are questions that need to be answered. The ECPA, also called the *Wiretap Act*, protects individuals from improper search and seizure, and forbids "the interception, use, or disclosure of any electronic communication while in transit" (Sanchez, et al. 2012, p.80). Employees don't realize that these protections do not apply to them if they decide to put their information on a social media site; on the other hand, they protect employees' privacy by prohibiting employers from searching their electronic devices. Employers should know that this law does not pertain to those who sign a waiver of their rights by consenting to a written policy, which may be included in an employee handbook (Sanchez, et al. 2012). Therefore, it is important for agencies to put social and electronic media policies in the handbook.

Organizations are beginning to take full advantage of technology by issuing computers, cell phones, and email addresses to their employees. The use of technology brings new challenges to employers and employees, in particularly on the issues of privacy, search and

seizure. Any policy that the agency has on social and electronic media usage needs to be in the handbook.

8. CONDITIONS OF EMPLOYMENT

In order to maintain employment, all employees must meet prescribed standards. Many of these conditions are covered within the employee handbook. *Behavior, attendance, performance appraisals, conflict-of-interests* and other rules and regulations that employees must abide by to maintain employment should be presented within the handbook under “Conditions of Employment” (Garcia, 2002).

Public Employee Unions

While agencies have the authority to enforce standards that reflect their goals and values, through the employee code of conduct, the rules and regulations that govern unions are predicated on union code. These vary from the rules that govern non-union employees. In local government agencies, these unions can include police and firefighters. It is thus important to include a brief note of this in the handbook and also include information directing employees to which area can further service their needs and questions.

There is very little literature on *public employee unions* in relation to employee handbooks. Some members of public agencies may be *civil service members*, such as police officers and firefighters, so the topic is important. Policies of the agency and how issues are handled may differ from rules and regulations governing the union; therefore, there should be a brief statement within the handbook on where they are likely to differ and the appropriate department for further inquiries (Davis, 2013). Randall Davis (2013) goes further to explain in his work on unionization and work attitude that if agency rules coincide with union rules, then

this could lead to a positive influence of unions within the organization. It is important that union members know the agency's policy in regards to their interests.

Conflict-of-Interest

Some outside activities can affect the duties an employee may have within an agency. When other obligations begin to overlap with an employee's duties, it can be regarded as a conflict-of-interest. *Conflict-of-interest* can be described as "an incompatibility between an individual's interests and the individual's duty to another such as an employer or a client" (Kavanaugh 2010, p. 1). This includes a variety of actions in which an employee puts personal interests ahead of agency interests that can bring about legal and ethical dilemmas (Kavanaugh, 2010). Other forms of conflict-of-interest that are common in the workplace can include *dating* and *nepotism* (Babu 2011, p. 43). Sometimes doing business deals with outside individuals that may have a personal interest in the agency can also be considered a conflict-of-interest. Agencies should have policies regarding conflict-of-interest and presented in the handbook so that employees understand the policies and legal ramifications to conflict-of-interest actions.

Appearance and Conduct

Policies regarding appearance should be included in the employee handbook (Garcia, 2002). *Appropriate attire* and *appropriate conduct* are important so that an employee can fulfill his or her duties. According to Bandow and Hunter (2008), aggressive acts are a growing and "troubling phenomenon" (p. 103); while Wolf (2009), on the other hand, describes policies regarding conduct such as setting standards for the organization.

Within an employee handbook, what is defined as inappropriate conduct should be described (Bandow & Hunter, 2008). The definition about what is appropriate behavior and the

policy governing conduct should be in the handbook (Bandow & Hunter, 2008). Having an appropriate procedure to report misconduct is important and should be outlined. The employee should also understand that complaints about misconduct are considered confidential (Bandow & Hunter, 2008).

Substance Abuse

Substance abuse is an issue that affects organizations (Spell & Blum, 2005). Substance abuse can cause agencies liability and high costs. Whether using drug testing or Employee Assistance Programs,²⁵ all approaches should be within the law. While there is much research on substance abuse and employer responses to this, there is not much literature in regards to how these policies should be incorporated into employee handbooks. Any policy that can have implications on the employees' job duties should be included within the employee handbook including substance abuse.

Performance Appraisals

Performance appraisals are an important part in assessing an employee's progress at their duties. *Performance appraisals* have four main purposes: *assess job performance, give feedback on job performance, set expectations, and manage job performance* (Kondrasuk, 2012).

Performance can also be described as a tool for employee motivation (Martinez, 2006). Mindy Martinez (2006) explains in her Applied Research Project that there are nine components of performance appraisals: Quality of work, communication skills, interpersonal skills and teamwork, adaptability, dependability, goals, feedback, signatures, and job requirements (Martinez, 2006). Chris Obisi (2011) adds that performance appraisals can also be used as a basis

²⁵ According to Spell and Blum, Employee Assistance Programs are programs through the organization that are used to help employees with personal problems that may be a hindrance to their work. This may include substance abuse. (Spell and Blum, 2005:1125)

for salary increases, suggesting changes on attitude or skill and/or job knowledge, and a form of coaching and counseling . These components should be included within the employee handbook.

The previous section connected the eighth ideal handbook model component, conditions of employment. The next section discusses the ninth and final component of the model. The information covered under this section includes the code-of- ethics, at-will employment, and disclaimers. These are important aspects that make a handbook enforceable. The literature presented in the section clarifies the importance of including these subjects.

Rules on behavior are very important within an agency. A handbook communicates the policy on these rules in a concise manner so that an employee can understand his or her responsibilities. Not understanding these policies can jeopardize an employee’s job with the agency. These conditions of employment may be relative to the agency’s code-of-ethics or other policies governing behavior. Therefore, it is important to explain that Texas is an at-will state and that San Marcos can dismiss an employee at its discretion. Disclaimers, with a signed acknowledgement, explaining that the employee understands the policies presented in the handbook are imperative to communicating the employee and the employer’s rights and responsibilities. The next section details why it is important to include this component within the handbook.

9. MISCELLANEOUS

Employee ‘at-will’ Statement

Texas adheres to the ‘at-will’ doctrine. *At-Will* states may fire or let go of any employee with little to no reason (Hoft, 2007).²⁶ According to Hoft (2007), “Employment for an indefinite term with no specific duration is considered to be “at-will” and terminable at the discretion of the

²⁶ Hoft cites *Monaco v. American General Assurance Company*, 2004-which was argued after Garcia’s 2002 Applied Research Project.

employee or the employer without legal consequences” (p. 14). Under the contract theory, employees must be notified of this or else the employee handbook could be seen as “an enforceable unilateral contract (Hoft 2007, p. 15).”

Not only should an ‘at-will’ statement be included in the miscellaneous information of an employee handbook, but a statement that notes that the employer or agency has the *right-to-revise* the employee handbook should be included as well (Garcia, 2002). This leaves the employer room to add updated laws and policies that the agency needs to make employees aware.

Code-of-Ethics

The *code-of-ethics* of the agency is an important piece of information that employees need to be informed about. It sets the guidelines in which the agency operates. Ethics “establish[es] principles concerning the way goals should be pursued and the way people should be treated” (Crosbie 2008, p. 185; Garcia, 2002).

Disclaimer

A *disclaimer* is an important part of the employee handbook as it informs the employee that the handbook is not a contract and states that duties can be terminated at-will from the agency (Hoft, 2007). An employee handbook should be looked at as a guideline and written in such a way that does not give the employee the idea that it is a contract. When an employee handbook is looked at as a contract, it could bring about legal actions on behalf of the employee for failure to enforce a contract (Hoft, 2007). The disclaimer should be straightforward and concise. Failure to include disclaimers in employee handbooks can be a major source of problems for an agency (Wolf, 2009). David Wolf (2009) further explains in his literature on employee handbook ‘must-haves,’ that an agency can ensure that an employee read and agreed

to the disclaimer by including a signed acknowledgement. Including a disclaimer is imperative to using the handbook as a tool to guide policy and should be included in the handbook.

Summary

This chapter reviews the literature and connects it to the conceptual framework. **Table 3.1** summarizes this chapter in the form of a conceptual framework table. This framework was developed to assess the agency's handbook in order to make recommendations to the City of San Marcos.

Not much has changed since Garcia wrote on the topic in 2002, but some laws and statutes have been updated and others still apply. The next chapter covers the methodology used in assessing the employee handbook for the City of San Marcos based on the literature presented in this chapter.

Table 3.1
Ideal Type of City Employee Handbooks with Literature Review

Ideal Category	Literature Review
1.Introductory and Preface Materials	
1.1 Date of Employee Handbook Update 1.2 Table of Contents 1.3 Welcome Statement 1.4 Mission Statement 1.5 Historical Information	Short (1997); Garcia (2002); Short (1997); Felsberg (2004), Nguyen (2011); Darbi (2012)
2. Compensation: Administrations	
2.1 *Acknowledgement of Equal Pay Act (EPA) 2.1.1 *Title VII of the Civil Rights Act of 1964 2.1.2 *The Lily Ledbetter Fair Pay Act of 2009 2.2 Pay Plans and Periods 2.3 Probationary Periods 2.4 Hiring/Promotion/Demotion Policies 2.5 Overtime 2.5.1 Requirements under Fair Labor Standards Act (FLSA) 2.6 Compensatory Time	Short (1997); Garcia (2002); Snell (2010); US Department of Labor, Wage and Labor Division (2009); Roach (2009)
3. Leave Policies	
3.1 Leave Time 3.1.1 Annual 3.1.2 Sick 3.1.3 Requirements of Family Medical Leave Act (FMLA) 3.1.4 Parental/Maternal (Paternal)/Foster Care 3.1.5 Funeral/Military/Jury Duty 3.1 Holidays for Agencies	Short (1997); Garcia (2002); Wells and Sakardi (2011); Wolf (2009)
4. Insurance, Retirement and Benefits	
4.1 Medical Insurance (Dental) 4.1.1 *Patient Protection and Affordable Care Act of 2010 4.2 Life Insurance 4.3 Workers Compensation 4.4 Retirement Eligibility and Membership 4.5 Disability 4.6 Social Security and Medicare	Short (1997); Garcia (2002); Carpenter (2011); Snell(2010); Felsberg (2004); Wolf (2009); Neumark (2009)
5. EEO and Discrimination	
5.1 Statement of Nondiscrimination 5.2 Equal Employment Opportunity (EEO) Compliance 5.3 *Rights under the Equal Employment Act of 1972 (EEA) 5.4 *Rights under Americans with Disabilities Act (ADA) 5.5 *Rights under Age Discrimination Act (AEDA)	Short (1997); Garcia (2002); Wolf (2009); Mitchell (2009); Neumark (2009)
6.* Sexual Harassment/Bullying	
6.1 Statement Denouncing Sexual Harassment 6.2 Sexual Harassment Defined 6.3 Statement Denouncing Bullying 6.4 Bullying Defined 6.5 Complaint Procedure and Investigative process 6.6 Disciplinary Actions	Short (1997); Daniel (2009); Garcia (2002); Saguay (2003); Daniel (2003); Institute of Workplace Bullying (2007); Gibson and Johnson (1998); Mitchell (2009);
7. Use of *Social Media/Electronic Media	
7.1 Social Media (Twitter, Facebook, Myspace, blogging, etc) 7.2 Use of Computers/Phones/other Technological Devices (iPhone, iPad, etc)	Short (1997); Garcia (2002); Lieber (2011); Sanchez, Abril, Levin and Del Riego (2012)

Ideal Category	Literature Review
8. Conditions of Employment	
8.1 Employment Practices 8.1.1 Working Hours and Absenteeism 8.1.2 Public Employee Unions 8.1.3 Conflict of Interest Prohibition 8.1.4 Appearance and Conduct 8.1.5 Political Activities 8.1.6 Outside Employment 8.1.7 Substance Abuse 8.2 Grievance Procedure 8.2.1 A statement defining the investigating process 8.2.2 A statement of due process 8.2.3 The notification process 8.2.4 Corrective Actions and Monitoring 8.3 Performance Appraisals 8.3.1 Time of Appraisals 8.3.2 Components 8.3.3 Employee/Management Acceptance 8.3.4 Accessibility of Performance Appraisals	Short (1997); Garcia (2002); Daniel (2009); Bandow and Hunter (2008); Spell and Blum (2005); Davis (2013); Martinez (2006); Kondrasuk (2012); Obisi (2011); Wolf (2009); Kavanaugh (2010); Babu (2011)
9. Miscellaneous	
9.1 Employee at will Statement 9.2 Handbook Right to revise 9.2.1 Signed Acknowledgement 9.3 Code of Ethics Statement 9.4 Disclaimer	Short (1997); Garcia (2002); Hoft (2007); Wolf (2009); Crosbie (2008)

*These sub-categories represent critical components that should be included within the handbook.

Chapter 4

Methodology

Chapter Purpose

The purpose of this chapter is to explain the methodology used to assess the *San Marcos Handbook*. First, the purpose and overview of the methods used in the research are explained. Second, the conceptual framework explained in Chapter 2 is operationalized. Third, the critical priorities taken from the framework are also operationalized. The chapter ends with a summary and a bridge to Chapter 4.

Overview

The ultimate purpose of this research is to make recommendations to the City of San Marcos based on an assessment of its *Employee Handbook*. The primary methods used are document analysis and structured interviews. The handbook is a living document and acts as a tool to facilitate communication regarding policies between the City of San Marcos and its employees. Therefore, it is important to analyze.

This research assesses how effective this tool is at communicating policy by taking into account the framework. Interviews allow for a more practical insight into the use of the *Handbook* and how clearly policy is communicated by asking structured questions to people who use the handbook. **Table 4.1** is used to operationalize the conceptual framework in order to assess the *Handbook* and ask interview questions, thus making recommendations to San Marcos.

Table 4.1
Ideal Type of City Employee Handbooks Operationalization Based Upon
Conceptual Framework

Practical Ideal Category	Document Analysis [Present/Not Present]	Quality [Poor, Fair, Excellent]
1. Introductory and Preface Materials: A Good Employee Handbook Should Contain:		
1.1 Date of Employee Handbook Update		
1.2 Table of Contents		
1.3 Welcome Statement		
1.4 Mission Statement		
1.4 Historical Information		
2. Compensation: Administrations: A Good Employee Handbook Should Include:		
2.1 Legislation of EPA*		
2.1.1 Title VII of the Civil Rights Act of 1964*		
2.1.2 The Lily Ledbetter Fair Pay Act of 2009*		
2.2 Pay Plans and Periods		
2.3 Probationary Periods		
2.4 Promotion and Demotion Policies		
2.5 Overtime Policies (Exempt and Non-Exempt)		
2.5.1 Requirements under Fair Labor Standards Act (FLSA)		
2.6 Compensatory Time		
3. Leave Policies: A Good Employee Handbook Should Contain Policies on:		
3.1 Leave Time		
3.1.1 Annual		
3.1.2 Sick		
3.1.2.1 Requirements of Family Medical Leave Act (FMLA)		
3.1.3 Parental/Maternal (Paternal)/Foster Care		
3.1.4 Funeral/Military/Jury Duty		
3.2 Holidays for Agencies		
4. Insurance, Retirement and Benefits: A Good Employee Handbook Should Contain Policies Relating to:		
4.1 Medical Insurance and Dental		
4.1.1 Patient Protection and Affordable Care Act of 2010*		
4.2 Life Insurance		
4.3 Workers Compensation		
4.4 Retirement Eligibility and Membership		
4.5 Disability		
4.6 Social Security and Medicare		
5. EEO and Discrimination: A Good Employee Handbook Should Contain:		
5.1 A Statement of Nondiscrimination		
5.2 Equal Employment Opportunity (EEO) Compliance		

Practical Ideal Category	Document Analysis [Present/Not Present]	Quality [Poor, Fair, Excellent]
5.3 Rights under the Equal Employment Act of 1972 (EEA)*		
5.4 Rights under Americans with Disabilities Act (ADA)*		
5.6 Rights under Age Discrimination Act (AEDA)*		
6. Sexual Harassment/Bullying*: A Good Employee Handbook Should Contain:		
6.1 A Statement Denouncing Sexual Harassment		
6.2 Sexual Harassment Defined		
6.3 A Statement Denouncing Bullying		
6.4 Bullying Defined		
6.5 Complaint Procedure and Investigative Policy process		
6.6 Disciplinary Action Policy		
7. Use of Electronic Media: A Good Employee Handbook Should Contain Policies on and Related to:		
7.1 The Proper Use of Computers/Phones/other Technological Devices (iPhone)		
7.2 The Use of Social Media*		
8. Conditions of Employment: A Good Employee Handbook Should Contain Policies Related to:		
8.1 Employment Practices		
8.1.1 Working Hours and Absenteeism		
8.1.2 Public Employee Unions (Civil Service, etc)		
8.1.3 Conflict of Interest Prohibition		
8.1.4 Appearance and Conduct		
8.1.5 Political Activities		
8.1.6 Outside Employment		
8.1.7 Substance Abuse		
8.2 Grievance Policy		
8.2.1 A statement defining the investigating process		
8.2.2 A statement of due process		
8.2.3 The notification process		
8.2.4 Corrective Actions and Monitoring		
8.3 Performance Appraisal Policy		
8.3.1 Time of Appraisals		
8.3.2 Components		
8.3.3 Employee/Management Acceptance		
8.3.4 Accessibility of Performance Appraisals		
9. Miscellaneous: A Good Employee Handbook Should Contain:		
9.1 An Employee at-will-Statement		
9.2 A Handbook Right-to-Revise with Signed Acknowledgement		

Practical Ideal Category	Document Analysis [Present/Not Present]	Quality [Poor, Fair, Excellent]
9.3 A Code of Ethics Statement		
9.4 A Disclaimer Statement		

**Represent Critical Priorities, please see page 52.*

The far left of **Table 4.1** illustrates the practical ideal components. The document analysis column is coded present and not present in regards to whether the component or subcomponent can be found within the *Handbook*. The column labeled “Quality” is used to assess the *Handbook* on whether it meets certain criteria qualities based on formatting and style.

Method

Document Analysis

The *Employee Handbook* is the only document analyzed and the primary method of assessment because it is a living document that acts as a tool to communicate policy. It is important to see how effective it is at fulfilling its functions. A careful review of the *Handbook*, along with structured interview questions, allows insight into the strengths and weaknesses of *Handbook* used by employees and San Marcos Human Resources staff. This *Handbook* evaluation uses the practical ideal components, as described in Chapter 3 by Shields and Rangarajan (2013). First, the existence of an ideal component is verified. Then the quality of the presentation is evaluated. The strength of document analysis is that it allows for direct evaluation of whether the policy is communicated within the *Handbook*. It also allows for the ability to see a tangible copy of the document in which the employee sees it. The weakness of analyzing the *Handbook* is that it may not reflect the policies implemented by San Marcos and therefore causing an incomplete assessment (Babbie, 2001).

Quality of the document is based upon looking at the actual document and checking for coherency, clarity, and brevity. Coherency examines whether there is organization and flow to the sections of the *Employee Handbook* by checking heading and subheadings. Headings (chapter headings included) and subheadings should easily define the main point of the section (Lunsford, 2010). Writing clarity is assessed based upon paragraph structure, sentence structure, and whether or not definitions are explained (Lunsford, 2010). If paragraphs are too long, information may be hidden within them that may not be clear to the employee. This also applies to long sentences and word choices (slang, colloquialisms, technical language). Definitions are important to clarify what the purpose of the paragraph is about and an entire paragraph should be dedicated to the definition (Lunsford, 2010, p. 118). Quality also consists of assessing whether or not visuals such as tables and charts are used as effectively and efficiently as possible. Through visual judgment, the quality of the *Handbook* looks at:

1. Sentence and paragraph length for brevity, coherence, and clarity
2. Visual elements such as tables and charts and how relative and clear are they with the topic
3. Headings, subheadings and definitions clearly and effectively presented

From these components, the section in the *Handbook* is marked poor, fair, or excellent.

- **Poor** meaning that it did not meet any of the standards on quality.

-**Fair** meaning that it met some expectations but can be improved on quality.

-**Excellent** meaning that it met all standards on quality.

Table 4.2 graphically represents the standards-of-quality used to assess the *Handbook* .

Table 4.2

Quality Standards Used to Assess the San Marcos *Handbook*

	Coherency -Organization and flow	Writing clarity - paragraph structure, sentence structure, definitions are not explained	Visuals -tables and charts are used as effectively and efficiently as possible.
Poor	-Lacks organization (Headings, subheadings) -Section difficult to follow -No transitions between topics	- No paragraph structure per topic -Lacks fully developed sentences. -No definitions	-Tables and charts do not have narrative -Irrelevant to the section
Fair	-Minimal organization -Section difficult to follow at times -Topics do not transition well within the section	-Paragraphs too long or/too short. -Sentences too long/too short -Minimum definitions that are not thoroughly explained	-Table or chart has minimum narrative -Chart is not explained in the narrative within the section
Excellent	-Organized and takes full advantage of headings and subheadings -Section easy to follow -Topics transition from one to another within the section	-Paragraphs are well developed for each topic and reasonable length -Sentences are well developed and of reasonable length -Definitions are fully explained (and may include examples)	-Table or chart is clearly communicated to reflect the narrative of the section

Structured Interviews

One can measure the sufficiency of the information presented in the *Handbook* from the concrete criticisms of the interviewees. Interviews are a good method for this research because it allows insight into the practical use of employee handbooks by actual employees. The strength of using structured interviews is that it backs up the document in a practical sense. It puts the document to a real life test. The weakness of structured interviews is that bias may influence the interviewees' answers as particular questions may not apply (Babbie, 2001). Six participants were chosen for interviews due to their knowledge of City policy, which was based upon their work in dealing with employees as managers or employee issues as Human Resources workers. Interviews were held between June and July and lasted anywhere from 15 minutes to 1 hour. All employees felt that they had a good, working knowledge of agency policy because of their positions as managers and directors, the length of time they had been with the agency, and due to training such as sensitivity training. Those overseeing employees are responsible for implementing policy in their work area. Human Resources workers deal with questions from employees in regards to policy, therefore it was important to interview these staff members. Questions are derived from the conceptual framework and are presented in operationalization of critical priorities in **Tables 4.3-4.11.**²⁷

Using these two methods together, document analysis and structured interviews, the research then becomes a case study. In his work on social research practices, Earl Babbie (2001), describes case studies as “the limitation of attention to a particular instance of something.” This allows this research to draw upon the conceptual framework to study the particular case of *San Marcos's Employee Handbook*.

²⁷ For interview sheet, please see Appendix A

Critical Priorities Found in the Conceptual Framework

To assess the *Handbook* more in-depth, critical priorities are further used to analyze the *Handbook*. Critical priorities are parts of the conceptual framework deemed more important because they are issues that are regulated by local, state, or federal law or are of growing concern in the workforce as discussed in Chapter 2.

These priorities include:

1. Policies on Equal Pay Acts
 - a. Equal Pay Act of 1963
 - b. Title VII of the Civil Rights Act of 1964
 - c. Policies on the Lilly Ledbetter Fair Pay Act of 2009
2. Policies on Medical Insurance
 - a. Patient Protection and Affordable Care Act of 2010
3. Policies on Discrimination
 - a. Equal Employment Act of 1972 (EEA)
 - b. Americans with Disabilities Act (ADA)
 - c. Age Discrimination in Employment Act (ADEA)
4. Policies on Sexual Harassment and Bullying
5. Policies on Social Media

Policies on equal pay, medical insurance, and discrimination are considered critical priorities because most are derived from federal laws that every organization is obligated to enforce and have an impact on the workforce. Policies on sexual harassment, bullying and social media are priorities because they are becoming prevalent social issues and need more attention. Hopefully, this Applied Research Project will lead to further study and discussion on the effects of these policies in the workplace.

The priorities assessed cover policies on equal pay, medical insurance, discrimination, sexual harassment/bullying and social media. **Table 4.3** explains why these priorities are important and whether there is legislative support. The importance of the priorities is explained within the table as well. The *Handbook* is then rated 1-4 based upon whether it meets the criteria set forth by the operationalization of the conceptual framework.

Table 4.3
Operationalization of Critical Priorities Based Upon Conceptual Framework

Priorities*	Legislative Support	Why?
2. Policies on Equal Pay Acts		
2.1 Equal Pay Act of 1963	This law forbids, through <i>SEC. 206. [Section 6]</i> , compensation discrimination based on gender/ sex for similar duties performed.	There has been a long history of discrimination based upon race, religion, color, sex, religion and national origin. There are federal laws and statutes to curb this inequality. Policies that define employee rights in regards to equal pay need to be incorporated into the <i>San Marcos Handbook</i> .
2.1.1 Title VII of the Civil Rights Act of 1964	This law forbids discrimination based on race, color, religion, sex and national origin. Unlawful employment practices covered under section 2000e-2. [Section 703] forbid discrimination in hiring, compensation , conditions of employment or the segregation of employees based on race, color, religion, sex or national origin.	
2.1.2 Policies on the Lilly Ledbetter Fair Pay Act of 2009	This law forbids discrimination in compensation based upon race, color, religion, sex, age, disability or national origin. Section 3(B) of his law ensures that “Under the Act, each discriminatory Paycheck (rather than simply the original decision to discriminate) resets the 180-day limit to file a claim Public Law No. 111-2, 123 Stat. 5 (2009). ” ²⁸	
4.Policies on Medical Insurance		
4.1.1 Patient Protection and Affordable Care Act of 2010	The Affordable Care Act insures that healthcare is more accessible. Employers who offer healthcare to employees have to follow federal guidelines that forbid discrimination based upon preexisting conditions and so forth, limits premium increases, and keeps young people on their parents insurance until age 26. Employers and employees alike should know their rights.	Within the last four years there has been important legislative policy that effects both employee and employer. Changes to healthcare policy need to be incorporated into the <i>San Marcos Handbook</i> .
5. Policies on Discrimination		
5.3 Equal Rights Act of 1972	This Act is an amendment to the Title VII of the Civil Rights Act of 1964 which forbids discrimination in regards to race, color, national origin, sex, and religion. This Act extends the right of the EEOC “to conduct its own enforcement litigation (Legal Information Institute 2013).”	There are federal laws and statutes that combat the historical, systematic discrimination against employees based on race, religion, sex, age, and disability. Policies informing employees of their rights on issues of discrimination need to be incorporated into the <i>San Marcos Handbook</i> .
5.4 ADA	This law forbids, through <i>SEC. 12112. [Section 102]</i> , discrimination based upon disability in regards to the “job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment (EEOC 1990).”	
5.5 ADEA	This law forbids, through <i>SEC. 623. [Section 4]</i> , discrimination by an employer based on age in regards to compensation, discharge, hiring, segregation, or classification.	

²⁸ This Act was in response to the Supreme Court decision in *Ledbetter v. Goodyear Tire & Rubber Co.* (2007), which minimized pay protection in discrimination claims.

Priorities*	Legislative Support	Why?
6.0. Policies on Sexual Harassment and Bullying	<p>Title VII of the Civil Rights Act of 1964 forbids discrimination based upon sex, which has been the basis of sexual harassment policy used by law.</p> <p>There is no legislation in regards to adult workplace bullying.</p>	There are federal laws against sexual harassment in the workplace. Adult workplace bullying does not have a legislative policy but needs more awareness. Sexual harassment and bullying policies need to be communicated through the <i>San Marcos Handbook</i> .
7.0. Policies on Social Media	No legislation	There is more widespread use of Social Media and debate violations of privacy in the workplace in regards to social media. San Marcos policy on social media needs to be incorporated into the <i>Handbook</i> .

Rating Scheme—During the assessment, this category is rated as followed:

- 1 = Unacceptable (Not mentioned within the *Handbook*)
- 2 = Needs Improvement (Mentions the priority but does not have legislative support)
- 3 = Satisfactory (Mentions the priority, legislative support, but lacks further explanation of San Marcos policy)
- 4 = Outstanding Job (Mentions the priority, legislative support, and details San Marcos policy)

Priority 2.1 addresses the Equal Pay Act of 1963 within the *San Marcos Handbook*. The Equal Pay Act is a federal law that guarantees equality in pay among the sexes. Failure to communicate this policy within the handbook can lead to a misunderstanding by employees of discriminatory policies within the organization.

Table 4.4
Operationalization of Priority (2.1): Equal Pay Act of 1963

Priority	Question/Evidence
The Equal Pay Act of 1963 (Section 206) forbids compensation discrimination based on gender or sex for jobs that perform similar duties.	<p>What issues have you seen due to compensation discrimination in which the handbook had to be referenced?</p> <p>How did you rely on the handbook to resolve this issue?</p> <p>Do you feel that the handbook guided you in resolution of the issues?</p> <p>Could it be improved within the area of compensation?</p>

Rating Scheme—During the assessment, this category is rated as followed:

- 1 = Unacceptable (Not mentioned within the *Handbook*)
- 2 = Needs Improvement (Mentions the priority but does not have legislative support)
- 3 = Satisfactory (Mentions the priority, legislative support, but lacks further explanation of San Marcos policy)
- 4 = Outstanding Job (Mentions the priority, legislative support, and details San Marcos policy)

Priority 2.1.2 addresses the Lilly Ledbetter Fair Pay Act within the *San Marcos Handbook*. The Lilly Ledbetter Act is a federal law that is an extension of the Equal Pay Act. Failure to communicate this policy within the handbook can lead to a misunderstanding by employees of discrimination compensatory laws applied by the government.

Table 4.5
Operationalization of Priority (2.1.2): The Lilly Ledbetter Fair Pay Act of 2009

Priority	Question/Evidence
The Lilly Ledbetter Fair Pay Act (Section 3) builds upon the (EPA) and ensures that individuals are compensated for acts of sex discrimination.	<p>How does the handbook reflect this recent legislation?</p> <p>How has the handbook been used to resolve issues on back compensation due to acts on sex discrimination?</p> <p>How can the handbook be improved to reflect the Lilly Ledbetter Act?</p>

Rating Scheme-- During the assessment, this category is rated as followed:

- 1 = Unacceptable (Not mentioned within the *Handbook*)
- 2 = Needs Improvement (Mentions the priority but does not have legislative support)
- 3 = Satisfactory (Mentions the priority, legislative support, but lacks further explanation of San Marcos policy)
- 4 = Outstanding Job (Mentions the priority, legislative support, and details San Marcos policy)

Priority 4.1.1 addresses the Patient Protection and Affordable Care Act of 2010 within the San Marcos handbook. The Affordable Care Act is a federal law that requires the employer and employee to follow certain guidelines. It is a fairly new law that has changed aspects of health care insurance. Failure to communicate this policy can lead to a misunderstanding by the employee of federal law and guidelines.

Table 4.6
Operationalization of Priority (4.1.1): Patient Protection and Affordable Care Act of 2010

Priority	Question/Evidence
The Patient Protection and Affordable Care Act of 2010 has set federal guidelines on healthcare and employer responsibility.	<p>What issues has this agency experienced in which the handbook had to be referenced in regards to this new legislation?</p> <p>How did you rely on the handbook to answer questions in regards to the Affordable Care Act?</p> <p>Do you feel the handbook resolved employee questions on the new guidelines of the Act?</p> <p>What questions have you received that you feel the handbook did not answer in regards to this legislation?</p> <p>How do you feel the handbook section on the Affordable Care Act can be improved?</p>

Rating Scheme-- During the assessment, this category is rated as followed

- 1 = Unacceptable (Not mentioned within the *Handbook*)
- 2 = Needs Improvement (Mentions the priority but does not have legislative support)
- 3 = Satisfactory (Mentions the priority, legislative support, but lacks further explanation of San Marcos policy)
- 4 = Outstanding Job (Mentions the priority, legislative support, and details San Marcos policy)

Priority 5.3 addresses the Equal Employment Act within the *San Marcos Handbook*. The Equal Employment Act is a federal law that forbids discrimination in the workplace. Failure to communicate this policy within the handbook can lead to a misunderstanding by the employee of the organization's discrimination policy.

Table 4.7
Operationalization of Priority (5.3): EEA

Priority	Question/Evidence
The Equal Employment Act forbids discrimination (race, color, gender, sex, religion, national origin) in hiring, firing, compensation, and promotion in the workplace.	What discrimination complaints have you seen/received in which the handbook had to be referenced? How was the handbook referenced throughout the complaint and investigation process? How helpful was the handbook in resolving the issue? Could the handbook be improved in communicating San Marcos's discrimination policy?

Rating Scheme-- During the assessment, this category is rated as followed

- 1 = Unacceptable (Not mentioned within the *Handbook*)
- 2 = Needs Improvement (Mentions the priority but does not have legislative support)
- 3 = Satisfactory (Mentions the priority, legislative support, but lacks further explanation of San Marcos policy)
- 4 = Outstanding Job (Mentions the priority, legislative support, and details San Marcos policy)

Priority 5.4 addresses the Americans with Disabilities Act within the *San Marcos Handbook*. The Americans with Disabilities Act is a federal law that forbids discrimination against those with federal mandated disabilities. This law also requires that workplaces also make accommodations to those with disabilities. Failure to communicate this policy can lead to a misunderstanding by employees on organizational policy on employees with disabilities.

Table 4.8
Operationalization of Priority (5.4): ADA

Priority	Question/Evidence
The Americans with Disabilities Act (Section 102) forbids discrimination against those with disabilities in application process, firing, compensation, and promotion in the workplace.	<p>What issues regarding the ADA have you seen in which the handbook was used as a reference?</p> <p>Was the handbook helpful in resolving the issue?</p> <p>How well does the handbook explained the rights and responsibilities of both the agency and the employee?</p> <p>Could the section on the ADA be improved?</p>

Rating Scheme-- During the assessment, this category is rated as followed

- 1 = Unacceptable (Not mentioned within the *Handbook*)
- 2 = Needs Improvement (Mentions the priority but does not have legislative support)
- 3 = Satisfactory (Mentions the priority, legislative support, but lacks further explanation of San Marcos policy)
- 4 = Outstanding Job (Mentions the priority, legislative support, and details San Marcos policy)

Priority 5.5 addresses the Age Discrimination in Employment Act within the *San Marcos Handbook*. The Age Discrimination in Employment Act is a federal law that addresses age discrimination in the workplace. Failure to communicate this law within the handbook can lead to a misunderstanding by employees of the organization's policy on age discrimination.

Table 4.9
Operationalization of Priority (5.5): ADEA

Priority	Question/Evidence
The Age Discrimination in Employment Act (Section 623) forbids discrimination based upon age in hiring, firing, compensation, and promotion.	<p>What issues have you seen dealing with age discrimination in which the handbook had to be referenced?</p> <p>How did the handbook help resolve the issue?</p> <p>How can the handbook be improved within the area of the ADEA?</p>

Rating Scheme-- During the assessment, this category is rated as followed

- 1 = Unacceptable (Not mentioned within the *Handbook*)
- 2 = Needs Improvement (Mentions the priority but does not have legislative support)
- 3 = Satisfactory (Mentions the priority, legislative support, but lacks further explanation of San Marcos policy)
- 4 = Outstanding Job (Mentions the priority, legislative support, and details San Marcos policy)

Priority 6.0 addresses policies on sexual harassment and bullying within the *San Marcos Handbook*. Sexual harassment is governed by Title VII of the Civil Rights Act-a federal law. Bullying, as explained in Chapter 2 can violate many laws. It is imperative for an organization to communicate any sexual harassment and bullying policies it has to employees. The failure of an agency to communicate its policy can lead to a misunderstanding by employees and further to ethical and legal implications.

Table 4.10
Operationalization of Priority (6.0): Policies Sexual Harassment and Bullying

Priority	Question/Evidence
Sexual harassment is defined by Title VII of the Civil Rights Act of 1964 .	<p>What instances have arisen within the agency that relied upon the handbook to during the complaint or investigation process?</p> <p>How helpful was the handbook?</p> <p>Could it be improved within the area of sexual harassment?</p>
There is no legislation that forbids adult workplace bullying , but the issue has become a growing concern.	<p>How do you feel the handbook addresses bullying?</p> <p>What bullying issues have you seen in which the handbook had to be referenced?</p> <p>What section do you use to address issues of bullying?</p>

Rating Scheme-- During the assessment, this category is rated as followed

- 1 = Unacceptable (Not mentioned within the *Handbook*)
- 2 = Needs Improvement (Mentions the priority but does not have legislative support)
- 3 = Satisfactory (Mentions the priority, legislative support, but lacks further explanation of San Marcos policy)
- 4 = Outstanding Job (Mentions the priority, legislative support, and details San Marcos policy)

Priority 7.0 addresses policies on social media within the *San Marcos Handbook*. There is no federal legislation on social media and any policy regarding social media is at the discretion of the organization. Because every organization has a different social media policy, it is imperative that the policy is communicated to employees clearly and thoroughly. Failure to communicate organizational policy on social media can lead to employee misunderstandings.

Table 4.11
Operationalization of Priority (7.0): Policies on Social Media

Priority	Question/Evidence
There is currently no legislation that governs social media use in the workplace but there is growing debate on the role that it plays.	<p>What issues have you seen in which the handbook had to be referenced?</p> <p>How did the handbook help resolve issues regarding social media?</p> <p>How effective is the handbook at communicating San Marcos's policy on social media use?</p> <p>Where can the handbook be improved to reflect San Marcos's policy on social media use?</p>

Rating Scheme-- During the assessment, this category is rated as followed

- 1 = Unacceptable (Not mentioned within the *Handbook*)
- 2 = Needs Improvement (Mentions the priority but does not have legislative support)
- 3 = Satisfactory (Mentions the priority, legislative support, but lacks further explanation of San Marcos policy)
- 4 = Outstanding Job (Mentions the priority, legislative support, and details San Marcos policy)

Human Subjects Protection

The primary method of analysis for this research was by examining the employee handbook. Interviews of City employees were used to gain practical insight into the living document. Therefore, human subjects are not being harmed or compromised in any manner; all

responses to the interview questions are confidential and this research has the Institutional Review Board approval.²⁹

Summary

This chapter covers the methodology used in this applied research paper to assess the *City of San Marcos's Employee Handbook*. First, the purpose and overview of the methods used in the research were explained. Second, the conceptual framework explained in Chapter 3 was operationalized in **Table 4.1**. Third, the critical priorities taken from the framework are also operationalized in **Tables 4.3-4.11**.

The next chapter covers the results and recommendations for the *City of San Marcos Employee Handbook* based on the literature presented in this chapter.

²⁹ See Appendix E for Human Subjects Protection approval by the Institutional Review Board.

Chapter 5

Results

The *San Marcos Employee Handbook* is assessed using the ideal handbook model developed in chapter three. The content of the *Handbook* is compared with criteria drawn from the ideal model and refined in the methodology chapter. The *Handbook* was assessed using document analysis and interviews with key City of San Marcos personnel.

This chapter will now discuss each category in-depth followed by a graph used to assess each component.

Practical Ideal Category 1: Introductory and Preface Materials

The introductory and preface materials were assessed using five categories. *The San Marcos Employee Handbook* scored relatively poorly for this category. The *Handbook* had neither the date of revision (1.1) nor historical information (1.5), nor a welcome statement (1.3). In addition, it did not include the City of San Marcos's Mission (1.4) Statement although it did include the five employee goals:

1. To promote quality public service;
2. To provide equal employment opportunity for all persons;
3. To conduct operations with due regard for the safety and health of City employees and the public;
4. To ensure a fair and equitable classification and compensation plan; and
5. To promote pride and high morale among City employees.

Fortunately, the introductory materials did include a table of contents, which is well documented and begin on page 2 of the *Handbook*. There is no date-of-revision, welcome statement or historical information. The City's mission statement is not clearly addressed. Addressed on page 1 are the City's five employee goals (City of San Marcos ND, p. 1):

Though important for the employee to know, these are not the City's mission and should not be substituted as such. The employee does not know the background of the agency in which he or she belongs. Most importantly, they are not welcomed to the agency in which their work will benefit.

When an employee refers to this handbook, he or she does not know if the information is up-to-date because the date-of-revision is not documented. The Table of Contents is documented well and begins on page 2 of the document, though the numbering does not start until the first chapter. From assessing the document, this research concludes this section of the *Handbook* needs improvement. The results of the assessment of the *Handbook* are summarized below in **Table 5.1.**

Table 5.1
Results and Recommendations Based Upon Document Analysis: **Practical Ideal Category 1**

Practical Ideal Category	Document Analysis [Present/Not Present]	Quality [Poor, Fair, Excellent]	Assessed
1. Introductory and Preface Materials: A Good Employee Handbook Should Contain:			
1.1 Date of Employee Handbook Update	Not Present	POOR	There is no date of revision located anywhere in the <i>Handbook</i> .
1.2 Table of Contents	Present	EXCELLENT	Very thorough Table of Contents in the beginning of the <i>Handbook</i>
1.3 Welcome Statement	Not Present	POOR	There is not a Welcome Statement that welcomes the employee to the agency
1.4 Mission Statement	Present	FAIR	There is not a mission statement for the City but employee goals. These goals are not the mission of the City
1.5 Historical Information	Not Present	POOR	There is no historical information detailing the City of San Marcos,
Overall		2 = Needs Improvement	This section needs further work in the areas of: Date of revision, Welcome Statement, Mission Statement, and Historical Information.

Practical Ideal Category 2: Compensation

The compensation policies in the *Handbook* were assessed using nine categories. The *San Marcos Employee Handbook* scored relatively satisfactory for this category. The *Handbook* did an excellent job of including components such as probationary periods (2.4), promotion and demotion policies (2.5), overtime (2.6), Fair Labor and Standards Act (2.6.1) and compensatory time (2.7). Overall, the section needs improvement because the *Handbook* has not been updated to include legislation such as Title VII (2.2.1) and the Lilly Ledbetter Act(2.2.2); and, areas such as legislation on the Equal Pay Act (2.2) and explanations on pay plans and periods (2.3) does not present information in a clear and thorough manner.

. The *Handbook* does cover a vast amount of information in regards to compensation. The *Handbook* includes five pages dealing with issues surrounding compensation under the subheadings of “Compensation for New Employees”

- Merit Pay Program
- Performance Appraisal
- Promotion of (Non-Civil Service) Employee
- Temporary Promotions
- Lateral Transfer of Employee
- Demotion of Employee
- Reclassification
- Maximum Rate of Pay
- Time Sheet
- Methods of Payment
- Overtime Pay
- Compensatory Time off in Lieu of Overtime Pay
- Personal Leave Time for Exempt Employees
- Longevity Bonus
- Call Out Duty
- Termination Pay
- Payment for Vacation Leave with Twenty Years Continuous Service
- Deceased Employee Benefits

In some ways, it adheres closely to the ideal model. For example, promotion and demotion policies along with overtime for exempt and non-exempt employees are included. On the other hand, two major federal laws, Title VII of the Civil Rights Act and the Lilly Ledbetter Fair Pay Act are not included within the *Handbook*. The premise of the Equal Pay Act is only referenced in one sentence on page 5 by disclosing that, “Each employee is paid in accordance with responsibilities and performance.” Each employee is thus paid based upon his or her skill and not gender.

An issue with the section also lies under the ideal model subcategory pay plans and periods, which are covered in the *Handbook* under the section on page seven labeled “Methods of Payment.” The statement “Methods of Payment” can be misconstrued as solely meaning how an employee will receive his or her check.

All other components of this category are communicated excellently with headings and subheadings that follow with paragraphs dedicated to in-depth detail on the topic.

Table 5.2 overviews the practical ideal category covering compensation.

Table 5.2
Results and Recommendations Based Upon Document Analysis: **Practical Ideal Category 2**

Practical Ideal Category	Document Analysis [Present/Not Present]	Quality [Poor, Fair, Excellent]	Assessed
2. Compensation: Administrations: A Good Employee Handbook Should Include:			
2.2 Legislation of Equal Pay Act	PRESENT	POOR	The section on Page 1 that details the organization's equal opportunity policies is not thorough. There are no definitions and only includes one sentence.
2.2.1 Title VII of the Civil Rights Act of 1964	NOT PRESENT	POOR	There is no reference to Title VII within the <i>Handbook</i> .
2.2.2 The Lilly Ledbetter Fair Pay Act of 2009	NOT PRESENT	POOR	There is no reference to the Lilly Ledbetter Fair Pay Act.
2.3 Pay Plans and Periods	PRESENT	FAIR	Pay plans and periods are covered though under the section labeled 'Methods of Payments' which could be mistaken for how checks are distributed (direct deposit, paper-check, etc).
2.4 Probationary Periods	PRESENT	EXCELLENT	
2.5 Promotion and Demotion Policies	PRESENT	EXCELLENT	
2.6 Overtime Policies (Exempt and Non-Exempt)	PRESENT	EXCELLENT	
2.6.1 Requirements under Fair Labor Standards Act (FLSA)	PRESENT	EXCELLENT	
2.7 Compensatory Time	PRESENT	EXCELLENT	
Overall		Needs improvement	This section needs further work by including current and up-to-date reference to legislation and presenting pay plans and periods information in a clear and concise manner.

*See page the following **Table 5.3** for further discussion of priority items listed in red.

This section presents three critical pieces of legislation that deal with equal compensation: the Equal Pay Act of 1963; Title VII of the Civil Rights Act of 1963; and, the Lilly Ledbetter Fair Pay Act of 2009.

There is only one sentence in Chapter 1, as previously discussed, that covers the City's policy on non-discrimination (p. 1). There are no references to equal pay or the Equal Pay Act of 1963 or Title VII of the Civil Rights Act of 1963. The *Handbook* has not been updated to include the Lilly Ledbetter Act of 2009.

Interviews with City personnel concluded that none of the interviewees have ever had to reference the *Handbook* to deal with issues regarding discriminatory pay based on sex or gender.

Table 5.3 overviews this critical area.

Table 5.3
Critical Category 2.

Priorities	Legislative Support	Rating	Assessed
2. Policies on Equal Pay Acts			
2.1 Equal Pay Act of 1963	This law forbids, by <i>Section 206</i> compensation discrimination based on gender/ sex for similar duties performed.	Needs Improvement	-There is only a minor reference to the agency's nondiscrimination policy and there is nothing in regards to discrimination in compensation.
2.1.1 Title VII of the Civil Rights Act of 1964	This law forbids discrimination based on race, color, religion, sex and national origin. Unlawful employment practices covered under Section <i>703</i> forbid discrimination in hiring, compensation , conditions of employment or the segregation of employees based on race, color, religion, sex or national origin.	Unacceptable	-There is no reference to Title VII and only minor reference to the agencies nondiscrimination policies.
2.1.2 Policies on the Lilly Ledbetter Fair Pay Act of 2009	This law forbids discrimination in compensation based upon race, color, religion, sex, age, disability or national origin. Section 3(B) of his law ensures that "Under the Act, each discriminatory Paycheck (rather than simply the original decision to discriminate) resets the 180-day limit to file a claim Public Law No. 111-2, 123 Stat. 5 (2009) ." ³⁰	Unacceptable	-The <i>Handbook</i> has not been updated to include the Lilly Ledbetter Fair Pay Act of 2009.

Practical Ideal Category 3: Leaves Policies

The ideal handbook model was used to assess the *San Marcos Handbook*. The *Handbook* model contains seven categories in which the *Handbook* scored relatively well. Analyzing the *Handbook*, one can conclude that this section fared well but leaves room for improvement but overall scored satisfactory. All components of the category are included

³⁰ This Act was in response to the Supreme Court decision in *Ledbetter v. Goodyear Tire & Rubber Co.* (2007) which minimized pay protection in discrimination claims.

within the *Handbook* book though policies reflecting leave time in general (3.1), annual leave (3.2.1), and parental leave (3.2.3)—under maternal and paternal leave--show room for improvement. Fortunately, sick leave (3.2), FMLA (3.2.2.1), jury/military/funeral leave (3.2.4), and holiday agencies (3.3) were all communicated thoroughly.

The issue of “annual leave” is not covered within the *Handbook*, but is categorized as “Leaves in General” on page 10. This then further allows the concept of leave to be broken down throughout the chapter and summarized within an un-labeled table on page 19 that overviews the accrual of vacation time.

Leave for exempt employees and non-exempt employees are covered in different sections. Leave directed to exempt and non-exempt employees are covered under the chapter on Compensation. Leave for non-exempt employees is discussed under the section explaining “overtime pay” which is important because only non-exempt employees are eligible for overtime (City of San Marcos ND, p. 7). A section directed towards exempt employees and leave time follows on page 8. The confusion is due to the fact that leave time for “all regular full time employees” starts on page 10 in the Chapter regarding “Leaves” (City of San Marcos ND, p. 10)

Leave policy geared towards working parents is in the section geared towards the FMLA in which a copy of the Act is included. There are no subheadings that differentiate this form of leave from other forms of leave covered by FMLA. The act expresses that employees are guaranteed up to 12 weeks of unpaid leave per year under certain conditions. The *Employee Handbook* appropriately expresses these conditions (City of San Marcos ND, p. 12). The handbook communicates agency policy that employees are eligible for leave after a child’s birth.

Holidays, military leave, bereavement, sick leave, and jury duty are all explained in detail within Chapter 4 under sections dedicated to the topics.

Table 5.4 overviews the practical ideal category covering leave policies.

Table 5.4
Results and Recommendations Based Upon Document Analysis: **Practical Ideal Category 3**

Practical Ideal Category	Document Analysis [Present/Not Present]	Quality [Poor, Fair, Excellent]	Assessed
3. Leave Policies: A Good Employee Handbook Should Contain Policies on:			
3.1 Leave Time	PRESENT	FAIR	Leave time for non-exempt employees is covered under compensation pay and not under the section for leave policies which draws confusion.
3.2.1 Annual Leave	PRESENT	FAIR	The section on leave policies does not contain a subheading on annual leave. Annual leave seems to be grouped with 'Leaves in General' which should detail vacation time accrued.
3.2.2 Sick	PRESENT	EXCELLENT	
3.2.2.1 Requirements of Family Medical Leave Act (FMLA)	PRESENT	EXCELLENT	
3.2.3 Parental/Maternal (Paternal)/Foster Care	PRESENT	FAIR	The section that contains Parental/Maternal (Paternal)/Foster Care is hidden within the FMLA section. It lacks specific subheadings as other forms of leave include within the section.
3.2.4 Funeral/Military/Jury Duty	PRESENT	EXCELLENT	
3.3 Holidays for Agencies	PRESENT	EXCELLENT	
Overall		Satisfactory	This section has some confusion in the areas of annual leave, and paternal and maternal leave. Overall this section does a satisfactory job of presenting the agency's policy on leave.

Practical Ideal Category 4: Insurance, Retirement, and Benefits

Insurance, retirement, and benefits are considered part of the compensation package for an employee. The ideal handbook model allowed this research to measure insurance, retirement and benefits as its own component using seven subcategories. Overall the *Handbook* scored relatively poor and shows room for improvement.

Four of the seven sub-categories Patient Protection and Affordable Care Act of 2010 (4.1), life insurance (4.2), disability (4.5), and social security and Medicare (4.6) were not present within the *Handbook* in which are covered in Chapter 5, titled “Benefits” (City of San Marcos ND, p. 21-22).

The topics of medical and dental insurance (4.1) strictly refers the employee to Human Resources on with no further explanation on the topic (City of San Marcos ND, p. 21). Though there is reference to Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), there is no reference to the Affordable Care Act.³¹

Retirement (4.4) for the City of San Marcos is governed under the rules and regulations of the Texas Municipal Retirement System which is mentioned within the chapter. The section explains who is eligible for benefits and the requirements that they must meet.

Worker’s compensation, explained to the employee that the agency’s policies are “defined by [the] Texas Worker’s Compensation Laws (City of San Marcos ND, p. 22)” It further explains the requirements and steps an employee must take to file a worker’s compensation claim.

³¹ COBRA allows for employees to continue an employer’s insurance under certain requirements if they are no longer provided coverage by the employer.

Table 5.5 overviews the practical ideal category on insurance, retirement, and benefits.

Table 5.5
Results and Recommendations Based Upon Document Analysis: **Practical Ideal Category 4**

Practical Ideal Category	Document Analysis [Present/Not Present]	Quality [Poor, Fair, Excellent]	Assessed
4. Insurance, Retirement and Benefits: A Good Employee Handbook Should Contain Policies Relating to:			
4.1 Medical Insurance and Dental	PRESENT	FAIR	There is a referral to the Human Resources department on the topic of medical and dental insurance. There should be an overview or summary within the <i>Handbook</i> with referral to the department for further inquiry.
4.1.1 Patient Protection and Affordable Care Act of 2010	NOT PRESENT	POOR	The <i>Handbook</i> has not been updated to include the Patient Protection and Affordable Care Act.
4.2 Life Insurance	NOT PRESENT	POOR	Not included within the <i>Handbook</i>
4.3 Workers Compensation	PRESENT	EXCELLENT	
4.4 Retirement Eligibility and Membership	PRESENT	EXCELLENT	
4.5 Disability	NOT PRESENT	POOR	Not included within the <i>Handbook</i> .
4.6 Social Security and Medicare	NOT PRESENT	POOR	This <i>Handbook</i> contains no reference to Social Security or Medicare.
Overall		Needs Improvement	The <i>Handbook</i> does not include reference to current legislation that effects both employers and employees. It also does not present information on disability, Social Security and Medicare.

*See page the following **Table 5.6** for further discussion of priority items listed in red.

Based upon the ideal handbook model, it is important to include reference to healthcare provisions. Changes in current legislation regarding the Patient Protection and Affordable Care Act of 2010 are not reflected in the *Handbook*. The *Handbook* has not been updated to include reference to this critical piece of legislation.

Interviews with Human Resources staff confirms that there are policies in place to accommodate this act. Benefit plans are given to employees in a separate document other than the *Handbook*. These benefit policies include healthcare plans. Human Resources personnel are kept abreast of legislative changes in healthcare and inform employees of changes during open enrollment. During open enrollment, employees are able to ask any questions they may have about their benefits plan.

Table 5.6
Critical Category 4.

Priorities	Legislative Support	Rating	Assessed
4.Policies on Medical Insurance			
4.1.1 Patient Protection and Affordable Care Act of 2010	The Affordable Care Act insures that healthcare is more accessible. Employers who offer healthcare to employees have to follow federal guidelines that forbid discrimination based upon preexisting conditions and so forth, limits premium increases, and keeps young people on their parents insurance until age 26. Employers and employees alike should know their rights.	Unacceptable	-The <i>Handbook</i> has not been updated to include the Patient Protection and Affordable Care Act of 2010.

Practical Ideal Category 5: EEO and Discrimination

The ideal handbook model consists five categories pertaining equal employment opportunity and discrimination which are used to rate the *Handbook*. The *San Marcos Handbook* overall scored relatively poorly. Of the five sub-categories, only two--Statement of Nondiscrimination (5.1) and a reference to equal employment opportunity compliance (5.2)--are present within the *Handbook*. This leaves room for improvement (p.1). Federal laws protecting against discrimination, as represented in the ideal handbook model, are not referenced in the *Handbook* including: EEA (5.3), ADA (5.4), and ADEA (5.5).

There is a brief statement saying that the organization does not discriminate but fails to define what it considers discrimination. Under the section labeled “Equal Employment

Opportunity and Affirmative Action” there is a statement that the City of San Marcos is committed “to develop and support results oriented programs and procedure designed to assist in providing equal opportunity employment (City of San Marcos ND, p. 1).” This is the only statement within the handbook that communicates the agency’s policy of non-discrimination and equal opportunity.

Table 5.7 overviews the practical category covering equal employment and discrimination.

Table 5.7
Results and Recommendations Based Upon Document Analysis: **Practical Ideal**
Category 5

Practical Ideal Category	Document Analysis [Present/Not Present]	Quality [Poor, Fair, Excellent]	Assessed
5. EEO and Discrimination: A Good Employee Handbook Should Contain:			
5.1 A Statement of Nondiscrimination	PRESENT	POOR	-There is a brief statement informing employees that the agency does not discriminate and that it is an equal employment opportunity organization.
5.2 Equal Employment Opportunity (EEO) Compliance	PRESENT	FAIR	-There is a brief statement that details EEO compliance.
5.3 Rights under the Equal Employment Act of 1972 (EEA)	NOT PRESENT	POOR	-There is no reference to The Equal Employment Act of 1972.
5.4 Rights under Americans with Disabilities Act (ADA)	NOT PRESENT	POOR	-There is no reference to the Americans with Disabilities Act.
5.5 Rights under Age Discrimination Act (ADEA)	NOT PRESENT	POOR	-There is no reference to the Age Discrimination in Employment Act.
Overall		Needs Improvement	The <i>Handbook</i> lacks any reference to laws forbidding discrimination. Though the <i>Handbook</i> mentions that it does not discriminate, it gives no reference local, state, or federal law

*See page the following **Table 5.8** for further discussion of priority items listed in red.

As shown in Table 5.7, legislative policies regarding discrimination are not present within the *Handbook*. There is minor reference to the City being an equal employment opportunity agency, but nothing stating its compliance with federal law. There is no reference to the Equal Employment Act, the Americans with Disabilities Act, or the Age Discrimination in Employment Act.

Interviews with City staff confirmed that age discrimination is an issue that has not been brought to the forefront of the agency. Any grievance that the employee has with discrimination is settled through the Agency's complaint process and hotline services and therefore, the staff interviewed has never had to reference the *Handbook* on discrimination issues.

Table 5.8 overviews the critical category pertaining to discrimination.

Table 5.8
Critical Category 5.

Priorities	Legislative Support	Rating	Assessed
5. Policies on Discrimination			
5.3 EEA	This Act is an amendment to the Title VII of the Civil Rights Act of 1964 which forbids discrimination in regards to race, color, national origin, sex, and religion. This Act extends the right of the EEOC “to conduct its own enforcement litigation (Legal Information Institute 2013).”	Unacceptable	The <i>Handbook</i> does not reference or contain policy in regards to the Equal Employment act and only makes minor reference to its nondiscrimination policy.
5.4 ADA	This law forbids, through <i>Section 102</i> , discrimination based upon disability in regards to the “job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment (EEOC 1990).”	Unacceptable	-The <i>Handbook</i> does not reference or contain information on policy in regards to the Americans with Disabilities Act.
5.5 ADEA	This law forbids, through <i>SEC. 623. [Section 4]</i> , discrimination by an employer based on age in regards to compensation, discharge, hiring, segregation, or classification.	Unacceptable	-The <i>Handbook</i> does not reference or contain information on policy in regards to the Age Discrimination in Employment Act.

Practical Ideal Category 6: Sexual Harassment and Bullying

The ideal handbook model consists of six components that should be included when pertaining to sexual harassment and bullying. Overall, the *Handbook* was satisfactory. All components, except a definition of bullying (6.4), were presented. Though components such as a denouncement of bullying (6.3) and statement assuring protection from retribution under disciplinary policies (6.6), the *Handbook* does exceptionally well presenting information on sexual harassment (6.1 & 6.2).

The section explains what consists of sexual harassment within the agency by stating that “sexually –oriented speech or conduct that is unwelcomed and offensive to the recipient (City of

San Marcos ND, p. 47).” Sexual harassment is strongly denounced with reference to its violation of law and can be prosecuted. The grievance process is laid out within the section as well.

There is reference to other forms of harassment that are illegal and not acceptable, which implies bullying, but does not specifically say bullying (p. 47). There is further explanation as to disciplinary action that it will be pursued the same as sexual harassment.

Chapter 11 covers the complaint process that the agency adheres to (p. 51-52). There is no statement that reassures the employee will be safe from retribution. Chapter 10 outlines the discipline process (p. 49-50). This process is described in six steps: oral warning, written reprimand, disciplinary probation, involuntary demotion, suspension, and discharge.

Table 5.9 overviews the practical category covering sexual harassment and bullying.

Table 5.9
Results and Recommendations Based Upon Document Analysis: **Practical Ideal Category 6**

Practical Ideal Category	Document Analysis [Present/Not Present]	Quality [Poor, Fair, Excellent]	Assessed
6. Sexual Harassment/Bullying: A Good Employee Handbook Should Contain:			
6.1 A Statement Denouncing Sexual Harassment	PRESENT	EXCELLENT	
6.2 Sexual Harassment Defined	PRESENT	EXCELLENT	
6.3 A Statement Denouncing Bullying	PRESENT	FAIR	-Though there is a section within harassment that denounces “other” forms of harassment, bullying is never specifically mentioned.
6.4 Bullying Defined	NOT PRESENT	POOR	-There is a partial statement denouncing bullying, but bullying is not defined.
6.5 Complaint Procedure and Investigative Policy process	PRESENT	EXCELLENT	
6.6 Disciplinary Action Policy	PRESENT	FAIR	- There is no statement about the agency protecting employees from retribution against those who report harassment
Overall		Satisfactory	The section is fairly well presented but lacks in explaining bullying specifically.

*See page the following **Table 5.10** for further discussion of priority items listed in red.

Table 5.9 overviewed the area of harassment (sexual/bullying). Policies regarding sexual harassment are governed by Title VII of the Civil Rights Act of 1964. There is currently no legislation governing bullying, but as discussed in Chapter 3, bullying can violate other laws.

The *Handbook* did an outstanding job of covering sexual harassment in Chapter 8 (47). There is a strong statement explaining and denouncing sexual harassment. There is no statement explicitly stating that that bullying is not tolerated even though it is implied in Section 8.11 on “Other Harassment.”

After interviewing Human Resources personnel, it became clear that sexual harassment is not tolerated in the agency. Bullying or any form of harassment goes through the same complaint and discipline process as sexual harassment. Only one interviewee has confronted the issue of bullying, in which she stated occurs typically during the employee exit interviews. The employee was not sure why this is the case, but advised that it would be important to include a reference to bullying in the *Handbook* so that employees will know that the agency is not tolerant of this behavior.

Table 5.10 overviews the critical category of policies on sexual harassment and bullying.

Table 5.10
Critical Category 6.0

Priorities	Legislative Support	Rating scheme	Assessed
6.0. Policies on Sexual Harassment and Bullying	<p>Title VII of the Civil Rights Act of 1964 forbids discrimination based upon sex, which has been the basis of sexual harassment policy used by law.</p> <p>There is no legislation in regards to adult workplace bullying.</p>	Satisfactory	<p>-The <i>Handbook</i> does a very good job of laying out its policy in regards to sexual harassment including agency responsibility to protect any individual from retaliation, the complaint process, and consequences.</p> <p>-The <i>Handbook</i> lacks in bringing up the issue of adult workplace bullying and only notes that “other” forms of harassment will not be accepted.</p>

Practical Ideal Category 7: Electronic and Social Media

The ideal handbook model has updated the category containing electronic media since the research of Short (1997)—who previously did not include any information on electronic media-- and Garcia (2002) to now include social media (7.2). Overall, electronic media were presented well within the *Handbook*. It lacks a reference to social media policy or a reference to where they may obtain further information on social media policies.

Electronic media are covered in detail in Chapter 7 which details employee conduct. The use of agency computers, phones, and other technological devices is well communicated in Section 7.81 (38).

There is not a section on social media within the *Handbook* that communicates San Marcos's policy. **Table 5.11** overviews the practical category covering electronic use and social media.

Table 5.11
Results and Recommendations Based Upon Document Analysis: **Practical Ideal Category 7**

Practical Ideal Category	Document Analysis [Present/Not Present]	Quality [Poor, Fair, Excellent]	Assessed
7 Use of Electronic Media and Social Media: A Good Employee Handbook Should Contain Policies on and Related to:			
7.1 The Proper Use of Computers/Phones/other Technological Devices (iPhone	PRESENT	EXCELLENT	
7.2 The Use of Social Media	NOT PRESENT	POOR	There is nothing within the <i>Handbook</i> that notes San Marcos's policy on social media use by employees
Overall		Satisfactory	The <i>Handbook</i> did an outstanding job of presenting electronic media policy. From interviews obtained from City staff, the research would like to note that the City does not have an official social media policy. But unfortunately, there needs to be reference to social media use during duty..

*See page the following **Table 5.12** for further discussion of priority items listed in red.

Table 5.12 overviewed the ideal handbook category of electronic and social media. The critical priority regarding social media, which currently does not adhere to any federal legislation, is it within the *Handbook*. From interviews of City staff, in particularly Human Resources personnel, it is important to note the City currently does not have a comprehensive social media policy but feels most behaviors related to social media are covered by the "Employee Code-of-Conduct."

Table 5.12 overviews the critical category regarding social media.

Table 5.12
Critical Category 7.0

Priorities	Legislative Support	Rating	Assessed
7.0. Policies on Social Media	No legislation	Unacceptable	-The <i>Handbook</i> does not reference or contain information on its social media policy.

Practical Ideal Category 8: Conditions of Employment

The ideal handbook model describes eighteen components. These components are important to communicate to an employee their responsibilities to maintain employment. The *San Marcos Employee Handbook* did relatively well with only five components showing room for improvement including: public employee unions (8.1.2), conflict-of-interest prohibition (8.1.3), and performance appraisals (8.3.3 & 8.3.4).

There is no specific section on public employee unions, but there are references to unionized employees throughout the *Handbook*: “In areas where Section 4.30 is in conflict [with] the Civil Service Law, Chapter 143 of the Texas-Local Government Code, State law will govern civil service employees” (p.16). This statement does not give the employee any insight into what department may be able to assist them in finding answers.

Conflict-of-Interests are covered in Chapter 7 under “Rules and Conduct” in Section 7.05 on “Personal Conduct” (p.25). The section is combined with the City’s statement of ethics. There is not a specific section detailing conflict-of-interest. Nonetheless, policies dealing with financial interest, accepting gifts, nepotism, and the participation in any activity that conflicts with an employee’s job duties are covered under this section.

Performance appraisals are included in Chapter 7 as well, though the *Handbook* fails to describe how employees will be appraised such as through exams, interviews, or a combination

of both. There is no section explaining how one can appeal or access the results. It does in detail list the purpose of the appraisals, which include (p.5):

1. Coach and counsel the employee regarding job performance;
2. Serve as input for merit increases;
3. Identify development needs and employee/employer goals; and
4. There is a short statement informing employees that performance appraisals are administered by the Human Resources Department.

Table 5.13 overviews the practical ideal category covering conditions of employment.

Table 5.13
Results and Recommendations Based Upon Document Analysis: Practical Ideal Category 8

Practical Ideal Category	Document Analysis [Present/Not Present]	Quality [Poor, Fair, Excellent]	Assessed
8 Conditions of Employment: A Good Employee Handbook Should Contain Policies Related to:			
8.1 Employment Practices	PRESENT	EXCELLENT	
8.1.1 Working Hours and Absenteeism	PRESENT	EXCELLENT	
8.1.2 Public Employee Unions (Civil Service, etc)	PRESENT	FAIR	-Including a specific section dedicated to the governance of unions within the organization is not present. Being that the City resides over civil service employees, policy should be clearly communicated within its own section.
8.1.3 Conflict-of-Interest Prohibition	PRESENT	FAIR	Conflict-of-Interests is included in Chapter 7 detailing “Rules and Conduct (p. 25).”
8.1.4 Appearance and Conduct	PRESENT	EXCELLENT	
8.1.5 Political Activities	PRESENT	EXCELLENT	
8.1.6 Outside Employment	PRESENT	EXCELLENT	
8.1.7 Substance Abuse	PRESENT	EXCELLENT	
8.2 Grievance Policy	PRESENT	EXCELLENT	
8.2.1 A statement defining the investigating process	PRESENT	EXCELLENT	
8.2.2 A statement of due process	PRESENT	EXCELLENT	
8.2.3 The notification process	PRESENT	EXCELLENT	
8.2.4 Corrective Actions and Monitoring	PRESENT	EXCELLENT	
8.3 Performance Appraisal Policy	PRESENT	EXCELLENT	
8.3.1 Time of Appraisals	PRESENT	EXCELLENT	
8.3.2 Components (Methods)	PRESENT	FAIR	-Though the <i>Handbook</i> details the reasons for the appraisal and what is graded, it fails to detail whether exams, interviews, and so forth are a part of the appraisal process

Practical Ideal Category		Document Analysis [Present/Not Present]	Quality [Poor, Fair, Excellent]	Assessed
8.3.3	Employee/Management Acceptance	NOT PRESENT	POOR	-There is no section detailing the process in which an employee can appeal their results of an appraisal.
8.3.4	Accessibility of Performance Appraisals	NOT PRESENT	POOR	-The <i>Handbook</i> fails to detail whether the employee has access to their performance appraisals.
Overall			Satisfactory	The assessment shows the <i>Handbook's</i> need of improvement in the areas of employee unions, conflict-of-interest, and performance appraisals.

Practical Ideal Category 9: Miscellaneous

The ideal handbook model presents four components that do not fall in any other category, and therefore labeled “Miscellaneous.” Of these four categories, three were not present within the *San Marcos Employee Handbook* including an at-will statement (9.1), a right-to-revise statement with acknowledgment (9.2), and a disclaimer statement (9.4). On the other hand, the *Handbook* does an exemplary job of presenting the City’s code-of-ethics (9.3).

Not present is the employee-at-will statement, right-to-revise state, nor a disclaimer statement. There is an excellent statement explaining that the City abides by a set of standards that ensure that it works efficiently and effectively. Chapter 7 on “Rules and Conduct” contains the Code-of-Ethics which is states that, “As a public service organization, City employees are held to a high standard of ethical conduct” (p. 25). It is further explained that the City’s ethical standards are set and overseen by the City Ethics Review Commission.

Table 5.14 overviews the practical ideal category covering miscellaneous information such as disclaimers, code-of-ethics, employee-at-will statement, and right-to-revise statements.

Table 5.14
Results and Recommendations Based Upon Document Analysis: **Practical Ideal Category 9**

Practical Ideal Category	Document Analysis [Present/Not Present]	Quality [Poor, Fair, Excellent]	Assessed
9 Miscellaneous: A Good Employee Handbook Should Contain:			
9.1 An Employee at-will Statement	NOT PRESENT	POOR	There is no employee “at-will” statement.
9.2 A Handbook Right-to-Revise with Signed Acknowledgement	NOT PRESENT	POOR	There is no generalized statement on the organization’s right-to-revise the handbook at will.
9.3 A Code-of-Ethics Statement	PRESENT	EXCELLENT	
9.4 A Disclaimer Statement	NOT PRESENT	POOR	There is no disclaimer present that states whether the <i>Handbook</i> is a contract between the employer and the employee.
Overall		Needs Improvement	Overall, this section does not include three of the four major components therefore, leaving room for improvement.

Summary

This chapter presented the results based on the assessment of the *Handbook* using the ideal handbook model. The next chapter compares the findings to those of Short (1997) and Garcia (2002) and furthermore, make recommendations to the City of San Marcos on how to improve their handbook

Chapter 6

Conclusion and Recommendations

This chapter draws a conclusion from the results and recommends further changes to the *Handbook*. First, the chapter draws a comparison between current research and that of Short and Garcia. Furthermore, the chapter concludes with recommendations for further research.

The author would like to note the important role of employee handbooks in employee-employer relations. Handbooks are tools used to communicate an agency's policy, as well as the rights and responsibilities of the employer and employee. It is important to keep in mind that the handbook may be one of many tools of communication used by an agency. The City of San Marcos uses other means of communication as well. This includes a New Employee Orientation (NEO), in which employees receive the *Handbook*, among other documents such as medical and dental benefit guides, electronic media guidelines, and are introduced to key Human Resources staff who can further assist their needs (City of San Marcos NEO, 2013).^{32 33 34}

Comparing Short (1997), Garcia (2002), Brown (2013) Models

There are notable differences between the research presented here and that of Rebecca Short and Neftali Garcia. These researchers assessed multiple state agency handbooks based upon work count per section and presentation of the content.

This research is built upon the ideal handbook model first presented by Short (1997) and expanded by Garcia (2002) with updated literature and sub-categories previously not explored. Furthermore, it adapts the previous model to a case study of the *City of San Marcos Employee Handbook*, a local government, thus proving the adaptability of the ideal model to a particular case. This in return, produces an ideal employee handbook model for local governments.

³² It is required for an employee to attend the New Employee Orientation within their first month of employment as expressed by the current Assistant Director of Human Resources, Stephanie Reyes.

³³ See Appendix C for a list of New Employee Orientation Reference Materials for the year 2013

³⁴ See Appendix D for a view of selected PowerPoint slides related to the *Handbook* presented during the NEO. These slides

Table 6.1 overviews the results of the current research model with the previous research model.

Table 6.1

Comparison of Short's (1997), Garcia's (2002), and Brown's (2013) Ideal Handbook Models

Short (1997)	Garcia (2002)	Brown (2013)
<ol style="list-style-type: none"> 1. Rebecca Short created the first practical ideal handbook model. 2. Short assessed 25 Texas state agency handbooks. 	<ol style="list-style-type: none"> 1. Neftali Garcia expanded Short's model by including in the areas: Introductory and Preface Materials, Leave, Benefits, and Conditions of Employment. 2. Garcia assessed 20 Texas state agency handbooks. 	<ol style="list-style-type: none"> 1. This research expanded Short and Garcia's research by adding topics such as: Paternal Leave, Bullying, Social Media, the Lilly Ledbetter Act (2009) and the Patient Protection Act (2010). 2. This research only assessed the City of San Marcos employee handbook.

*For a comparison, see Appendix B.

Recommendations

The assessment of the *City of San Marcos Employee Handbook* using the practical ideal handbook model—based on the conceptual framework presented in Chapter 3—yielded the following recommendations as given by **Table 6.2**.

Table 6.2 gives a snapshot of recommendations based upon the ideal handbook model , which can help better improve the handbook so that it can better serve as a tool to the agency.

Table 6.2Recommendations for Improvement of the *City of San Marcos Employee Handbook*

Component	Explanation and Recommendations
Introductory and Preface Materials <ul style="list-style-type: none"> • Date of employee handbook update • Welcome Statement • Mission Statement • Historical Information 	<ol style="list-style-type: none"> 1. Because the <i>Handbook</i> does not have a date-of-revision, a simple statement of “Rev mm/yy” (stating the month and year) on the cover page is necessary. 2. Welcoming an employee to the agency is important. A welcome statement should be included that welcomes the employee to the agency. A great example is the opening letter in the City of San Francisco’s Employee Handbook. In this letter, the HR Director welcomes the employee to the team and explains that the department is there for their assistance (City of San Francisco 2008, p. i). 3. The mission of the agency is very important. City governments like that of Stephenville, TX have incorporated the mission statement into the first page after the cover of the employee handbook. Stephenville’s mission statement simply says, “...to progressively provide cost effective programs and services that encourage the highest quality of life to our citizens (Stephenville 2005, 2).” Therefore it is recommended that the City of San Marcos incorporate its mission into the employee handbook. 4. The <i>Handbook</i> lacks any reference to the background of the agency, which is important. It is recommended that San Marcos incorporate its history as a city and an agency into the employee handbook.
Compensation <ul style="list-style-type: none"> • Legislation of the Equal Pay Act • Title VII of the Civil Rights Act of 1964 • The Lilly Ledbetter Fair Pay Act of 2009 • Pay Plans and Periods 	<ol style="list-style-type: none"> 1. The <i>Handbook</i> does not contain a reference to the Equal Pay Act. It is recommended that legislation regarding EPA be referenced. A great example of this is within the City of Abilene Handbook, which simply states, “It is our policy to comply with state and federal wage laws” (City of Abilene 2012, 7). 2. The <i>Handbook</i> does not contain reference to Title VII of the Civil Rights Act. It is important that legislation governing compensation be referenced within the <i>Handbook</i>. 3. The <i>Handbook</i> has not been updated since the passing of the Lilly Ledbetter Act into law. It is recommended that it be incorporated within the <i>Handbook</i>. Since this law is an extension of the Equal Pay Act, referencing these two acts together is recommended. 4. Pay plans and periods are covered in the <i>Handbook</i>. It is recommended that the term “Method of Payment” be considered for methods in which employees receive their paychecks and that “Pay Periods” be reserved for explaining the frequency of pay. This gives the section more clarity.
Leave Policies <ul style="list-style-type: none"> • Leave Time • Annual • Parental/Maternal (Paternal)/Foster Care 	<ol style="list-style-type: none"> 1. Leave time is not covered in one generalized section. Some forms of leave, for example, for exempt employees is covered under compensation. For simplicity, it is recommended that leave be referenced in one section. A table representing different forms of leave and differentiating between exempt and non-exempt employees could be valuable. 2. Leave policies regarding annual leave are made in a ‘blanket’ statement describing “Leave in General” yet vacation time is covered in a different section of the same chapter. It is recommended that these sections be combined for simplicity. 3. In order to communicate parental/maternal (paternal)/foster care leave

	<p>better, it is recommended that it include a subheading and its own section that transitions it into FMLA policy. The policy seems to be listed in a manner that ‘lumps’ it all together with other forms of leave covered by FMLA.</p>
<p>Insurance, Retirement, and Benefits</p> <ul style="list-style-type: none"> • Medical and Dental Insurance • Patient Protection and Affordable Care Act of 2010 • Life Insurance • Disability • Social Security and Medicare 	<ol style="list-style-type: none"> 1. There is a brief paragraph directing employees to Human Resources in regards to Medical and Dental Insurance. It is recommended that a summary or overview of what medical and dental plans cover be incorporated within the <i>Handbook</i>. The City of Abilene has an example of a brief statement that summarizes general policy. It states that, “Regular full-time employees are eligible to receive group medical, dental and vision insurance and retirement benefits as outlined below. Part-time employees receive retirement benefits and may elect the dental, personal accident insurance (PAI), and participate in the flexible spending account. Part-time employees are not eligible to receive group medical insurance.” and further where information can be referenced and who can assist with further questions (2012, p. E-1). 2. The <i>Handbook</i> has not been updated to contain information on the Patient Protection and Affordable Care Act. It is recommended that reference to federal and state laws be incorporated within the <i>Handbook</i>. 3. The <i>Handbook</i> does not reference life insurance. It is recommended that the agency’s life insurance policy be referenced within the <i>Handbook</i>. 4. A reference informing employees about where to direct their concerns if they become disabled on the job and the agency’s benefits policy are not in the <i>Handbook</i>. It is recommended that this subject be discussed in the <i>Handbook</i>. 5. Social security and Medicare are taxes withheld from employee paychecks and governed by federal law and therefore should be referenced within the <i>Handbook</i>. Older employees, particularly those close to retirement, should be directed in the <i>Handbook</i> to who can best answer their inquiries. The <i>San Francisco Employee Handbook</i> does a great job of giving an example of how to reference this within a <i>Handbook</i> with, “Generally, all employees except uniformed members of the Police and Fire Departments are enrolled in the Federal Social Security System and are subject to Social Security tax deductions from paychecks. However, employees who are not covered by the Retirement System and who defer specified minimum amounts under the City’s Deferred Compensation Program will not be covered under the Old Age and Survivors Disability Insurance portion of Social Security and will not have to pay that particular portion of the tax (p. 29).”
<p>EEO and Discrimination</p> <ul style="list-style-type: none"> • Statement of nondiscrimination • Equal Employment Opportunity Compliance • Equal Employment Act of 1972 • Americans with Disabilities Act • Age Discrimination in Employment Act 	<ol style="list-style-type: none"> 1. There is one sentence informing employees that the agency does not discriminate and that is an equal opportunity agency. The agency’s definition of discrimination should be in the <i>Handbook</i> for clarification. 2. The <i>Handbook</i> does not make reference to any federal laws regarding discrimination including EEA, ADA, and ADEA. It is recommended that the <i>Handbook</i> contain a statement that the agency adheres to all federal and state.

<p>Sexual Harassment and Bullying</p> <ul style="list-style-type: none"> • Statement denouncing bullying • Bullying defined • Disciplinary Action Policy 	<ol style="list-style-type: none"> 1. There is not a statement denouncing bullying in particular, but “other” forms of harassment. It is recommended that “other” forms of harassment be references specifically within the <i>Handbook</i>. Abilene gives a good example of this. In the Abilene handbook, the City defines harassment with a subheading and says, “Harassment is defined as verbal or physical conduct that has the intent or effect of unreasonably interfering with an individual's or group’s work performance or that creates an intimidating, hostile, or offensive work environment (p. H-1).” Below this definition it gives another subheading, “Examples,” and then commences to give examples of what it describes as harassment. This approach is recommended for the City of San Marcos. 2. There should be a well expressed non-retaliation assurance policy.
<p>Use of Electronic and Social Media</p> <ul style="list-style-type: none"> • Social Media 	<ol style="list-style-type: none"> 1. The <i>Handbook</i> does not cover City policy on social media though employees do sign a form when hired detailing rules and regulations of technology uses while employed. This can be construed as social media if an employee’s uses company equipment while on duty. This should be in the <i>Handbook</i> as a quick reference for employees.
<p>Conditions of Employment</p> <ul style="list-style-type: none"> • Public Employee Unions • Conflict-of-Interest • Components (Methods) of Performance Appraisals • Employee/Management Acceptance • Accessibility of Performance Appraisals 	<ol style="list-style-type: none"> 1. Unionized employees are referenced throughout the <i>Handbook</i> but it is recommended that there be a specific section dedicated to these employees. This section should detail how to go about resolving issues and who to inquire about questions for issues governed by union policy. The Pensacola handbook has a special section dedicated to Civil Service employees. It makes a broad statement that, “The Civil Service Board is responsible for supervising the Civil Service System including employment, qualifications, promotions, discipline, and discharge procedures for classified service employees. The Board may adopt rules and regulations in this regard, so long as they do not conflict with the terms and provisions of the Civil Service Act (p. 7).” It further goes on to explain different aspects of the rights and responsibilities of Civil Service Employees, including promotion, demotion, leave and so forth. 2. The <i>San Marcos Employee Handbook</i> does not specify conflict of interests. These issues are located in the section on personal conduct. It is recommended that a special section be dedicated to Conflict-of-Interest issues since they are governed by the City’s Ethics Commission Board. 3. The <i>Employee Handbook</i> does not explain the methods in which employee performance will be evaluated. The way in which an employee is evaluated should be noted within the <i>Handbook</i>. The Abilene handbook does a great job of expressing this. In the chapter labeled “Performance Review,” the City notes how an employee is evaluated, which include (P-3): <ol style="list-style-type: none"> a. comments about performance noted in a daily journal b. memos and notes to the files c. commendations d. disciplinary or corrective-action forms It is recommended that San Marcos incorporate this into their handbook. 4. Information on the ability an employee to appeal his/her or the process is not noted within the <i>Handbook</i>. It is important that this aspect of evaluations be incorporated within the <i>Handbook</i>. 5. There is a brief statement that performance appraisals are conducted by Human Resources. There is not a reference as to how the employee can access their evaluations. It is recommended that this be added to the <i>Handbook</i> as well.

<p>Miscellaneous</p> <ul style="list-style-type: none"> • Employee “at-will” statement • Right-to-Revise with signed acknowledgements • Disclaimer statement 	<ol style="list-style-type: none"> 1. The <i>Handbook</i> does not contain a reference to employer discretion in dismissing an employee. There should be some reference to Texas’ at-will policy. The Stephenville handbook gives a good example of how to reference this in a handbook, “Employment with the City of Stephenville is for no fixed or definite term. All employment by the City has been and continues to be at-will, except for those positions that may have a written contract approved by the City Council. That means that both the employee and/or the City have the right to terminate employment at any time, with or without notice, and with or without cause. (p. 1).” It is recommended that the City of San Marcos include a statement as such. 2. The <i>San Marcos Employee Handbook</i> does not include a statement informing employees that the <i>Handbook</i> can be revised at anytime. This is important so that employees will be assured that the <i>Handbook</i> is up-to-date. 3. A disclaimer statement informing the employee of whether the handbook constitutes a contract is important. The <i>City of San Marcos Handbook</i> does not include a disclaimer. It is recommended that it do so. A good example of a handbook disclaimer is, “This Employee Handbook does not constitute a contract of employment. Nothing in this handbook is intended to alter the continuing at-will status of employment with the City” is an example of an excellent disclaimer in which it is fully disclosed that the handbook is not a contract between the employee and the agency (City of Stephenville 2005, p. 1).”
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Opportunities for Further Research

Just as this research is derived from the model originally done by Short in 1997 and extended by Garcia in 2002, it can and should serve as a stepping-stone for future research in the area of personnel management. This research took a practical ideal model to assess multiple state agency handbooks and applied it to a single case. In the future, it would be interesting to see this apply to private businesses and firms. The author would like to note, that because the *City of San Marcos Employee Handbook* was the focal point of the case study presented, the assessment in this research is only applicable to the City of San Marcos, therefore limiting external validity (Shields & Rangarajan, 2013, p. 167). However, the practical ideal model presented in Chapter 3 is a great evaluation tool that can be duplicated--and enhanced- -to fit any agency’s needs.³⁵

³⁵ Shields & Rangarajan (2013) explain in their *Playbook* that, “the findings of a practical ideal type that uses a case study methodology have limited external validity,” meaning that, “the findings or assessment is applicable only to the case at hand”(p. 167). In this case, the author was only interested in assessing the case of *the San Marcos Employee Handbook*.

This research enhanced the previous model to include social media and bullying. The 21st Century has given way to a new generation that is connected to social networking sites by phones, computers, and other electronic gadgets on a daily basis. Social media have become part of this generation's existence. How employers develop social media policy and incorporate it in the handbook in response to the rise of the new "Facebook Generation" will be interesting for future research. Bullying, on the other hand, is an "insidious form of workplace aggression" that is often "subtle, long term and unnoticed" (O'Farrell & Nordstrom, 2013, p. 15). Bullying has various impacts on both employees and organizations that not only affect the physical and psychological wellbeing of those exposed to it; but, bullying creates a work environment that makes achieving the agency's goals difficult (O'Farrell & Nordstrom, 2013). As these issues and their impact on workplace environments gather more attention from the public and lawmakers, it will be interesting to see how agencies begin to incorporate policies into their handbooks concerning these areas and employer-employee relations as a whole.

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APPENDIX A

Employee Handbook: City of San Marcos Employee Interview

1. What would you say your level of understanding of agency policies, rules, and procedures is?
2. **The Equal Pay Act of 1963 (Section 206)** forbids compensation discrimination based on gender or sex for jobs that perform similar duties. What issues have you seen due to compensation discrimination in which the handbook had to be referenced?
 - a. How did you rely on the handbook to resolve this issue?
 - b. Do you feel that the handbook guided you in resolution of the issues?
 - c. Could it be improved within the area of compensation?
3. **The Lilly Ledbetter Fair Pay Act (Section 3)** builds upon the (EPA) and ensures that individuals are compensated for acts of sex discrimination. How does the handbook reflect this recent legislation?
 - a. How has the handbook been used to resolve issues on back compensation due to sex discrimination?
 - b. How can the handbook be improved to reflect the Lilly Ledbetter Act?
4. **The Patient Protection and Affordable Care Act of 2010** has set federal guidelines on healthcare and employer responsibility. What issues has this agency experienced in which the handbook had to be referenced in regards to this new legislation? Typically within in the benefits plan and not within the employee handbook policies.
 - a. How did you rely on the handbook to answer questions in regards to the Affordable Care Act?
 - b. Do you feel the handbook resolved employee questions on the new guidelines of the Act?
 - c. What questions have you received that you feel the handbook did not answer in regards to this legislation?
 - d. How do you feel the handbook section on the Affordable Care Act can be improved?
5. **The Equal Employment Act** forbids discrimination (race, color, gender, sex, religion, national origin) in hiring, firing, compensation, and promotion in the workplace. What discrimination complaints have you seen/received in which the handbook had to be referenced?
 - a. How was the handbook referenced throughout the complaint and investigation process?
 - b. How helpful was the handbook in resolving the issue?
 - c. Could the handbook be improved in communicating San Marcos's discrimination policy?
6. **The Americans with Disabilities Act (Section 102)** forbids discrimination against those with disabilities in application process, firing, compensation, and promotion in the workplace. What issues regarding the ADA have you seen in which the handbook was used as a reference?
 - a. Was the handbook helpful in resolving the issue?
 - b. How well does the handbook explained the rights and responsibilities of both the agency and the employee?
 - c. Could the section on the ADA be improved?

7. The **Age Discrimination in Employment Act (Section 623)** forbids discrimination based upon age in hiring, firing, compensation, and promotion. What issues have you seen dealing with age discrimination in which the handbook had to be referenced?
 - a. How did the handbook help resolve the issue?
 - b. How can the handbook be improved within the area of the ADEA?
8. **Sexual harassment** is defined by **Title VII of the Civil Rights Act of 1964**. What instances have arisen within the agency that relied upon the handbook during the complaint or investigation process?
 - a. How helpful was the handbook?
 - b. Could it be improved within the area of sexual harassment?
9. There is no legislation that supports **adult workplace bullying**, but the issue has become a growing concern. How do you feel the handbook addresses bullying?
 - a. What bullying issues have you seen in which the handbook had to be referenced?
 - b. What section of the handbook do you use to address issues of bullying?
 - c. Do you feel that the handbook was effective in communicating the agency's policies to resolve the issue?
 - d. Could the handbook be improved on the issue of adult workplace bullying?
10. There is currently no legislation that governs **social media** use in the workplace but there is growing debate on the role that it plays. What issues have you seen in which the handbook had to be referenced?
 - a. How did the handbook help resolve issues regarding social media?
 - b. How effective is the handbook at communicating San Marcos's policy on social media use?
 - c. Where can the handbook be improved to reflect San Marcos's policy on social media use?
11. Overall, in what ways do you think would help employees better understand the policies and procedures of the City of San Marcos? Examples include training sessions, policy briefs, newsletters, online, handbook, etc.

APPENDIX B

Comparison of Short's (1997) and Garcia's (2002) Assessment of State Agency Handbooks with Brown's Assessment of the City of San Marcos Handbook

Ideal Category	Short (1997)	Garcia (2002)	Brown (2013)
1 Introductory and Preface Materials			
1.1 Date of Employee Handbook Update	Not Included (Measured dated pages)	Included	Included
1.2 Table of Contents	Included	Not Included	Included
1.3 Welcome Statement	Included	Included	Included
1.4 Mission Statement	Not Included	Included	Included
1.5 Historical Information	Included	Included	Included
2. Compensation*			
2.1 Legislation of EPA	Included	Included	Included
2.1.1 Title VII of the Civil Rights Act of 1964	Included	Included	Included
2.1.2 The Lily Ledbetter Fair Pay Act of 2009	Not Included	Not Included	Included
2.2 Pay Plans and Periods	Included	Included	Included
2.3 Probationary Periods	Not Included	Included	Included
2.4 Promotion and Demotion Policies	Not Included	Included	Included
2.5 Overtime Policies (Exempt and Non-Exempt)	Included	Included	Included
2.5.1 Requirements under Fair Labor Standards Act (FLSA)	Included	Included	Included
2.6 Compensatory Time	Included	Included	Included
3 Leave Policies			
3.1 Leave Time			
3.1.1 Annual	Included	Included	Included
3.1.2 Sick	Included	Included	Included
3.1.2.1 Requirements of Family Medical Leave Act (FMLA)	Included	Included	Included
3.1.3 Parental/Maternal (Paternal)/Foster Care	Not Included	Included	Included
3.1.4 Funeral/Military/Jury Duty	Not Included	Included	Included
3.2 Holidays for Agencies	Included	Included	Included

4 Insurance, Retirement and Benefits			
4.1 Medical Insurance and Dental	Included	Included	Included
4.1.1 Patient Protection and Affordable Care Act of 2010	Not Included	Not Included	Included
4.2 Life Insurance	Not Included	Included	Included
4.3 Workers Compensation	Included	Included	Included
4.4 Retirement Eligibility and Membership	Included	Included	Included
4.5 Disability	Not Included	Included	Included
4.6 Social Security and Medicare	Not Included	Not Included	Included
5 EEO and Discrimination			
5.1 A Statement of Nondiscrimination	Included	Included	Included
5.2 Equal Employment Opportunity (EEO) Compliance	Included	Included	Included
5.3 Rights under the Equal Employment Act of 1972 (EEA)	Included	Included	Included
5.4 Rights under Americans with Disabilities Act (ADA)	Included	Included	Included
5.5 Rights under Age Discrimination Act (AEDA)	Included	Included	Included
6 Sexual Harassment/Bullying			
6.1 A Statement Denouncing Sexual Harassment	Included	Included	Included
6.2 Sexual Harassment Defined	Included	Included	Included
6.3 A Statement Denouncing Bullying	Not Included	Not Included	Included
6.4 Bullying Defined	Not Included	Not Included	Included
6.5 Complaint Procedure and Investigative Policy process	Included	Included	Included
6.6 Disciplinary Action Policy	Included	Included	Included
7 Use of Electronic and Social Media			
7.1 The Proper Use of Computers/Phones/other Technological Devices (iPhone)	Not Included	Included	Included
7.2 The Use of Social Media	Not Included	Not Included	Included
8 Conditions of Employment			
8.1 Employment Practices			
8.1.1 Working Hours and Absenteeism	Included	Included	Included
8.1.2 Public Employee Unions (Civil Service, etc)	Not Included	Included	Included
8.1.3 Conflict of Interest Prohibition	Not Included	Included	Included

8.1.4	Appearance and Conduct	Not Included	Included	Included
8.1.5	Political Activities	Not Included	Included	Included
8.1.6	Outside Employment	Not Included	Included	Included
8.1.7	Substance Abuse	Not Included	Included	Included
8.2 Grievance Policy**				
8.2.1	A statement defining the investigating process	Included	Included	Included
8.2.2	A statement of due process	Included	Included	Included
8.2.3	The notification process	Included	Included	Included
8.2.4	Corrective Actions and Monitoring	Included	Included	Included
8.3 Performance Appraisal Policy				
8.3.1	Time of Appraisals	Included	Included	Included
8.3.2	Components	Included	Included	Included
8.3.3	Employee/Management Acceptance	Included	Included	Included
8.3.4	Accessibility of Performance Appraisals	Not Included	Included	Included
9 Miscellaneous				
9.1	An Employee at-will-Statement	Included	Included	Included
9.2	A Handbook Right-to-Revise with Signed Acknowledgement	Included	Included	Included
9.3	A Code of Ethics Statement	Included	Included	Included
9.4	A Disclaimer Statement	Included	Included	Included

*Garcia measured Position Classification under Compensation-Neither Short or Brown measured this.

**Garcia measured Alternate Dispute Resolution under Grievance Procedures-Neither Short or Brown measured this.

APPENDIX C

New Employee Orientation Reference Materials for the City of San Marcos (2013)

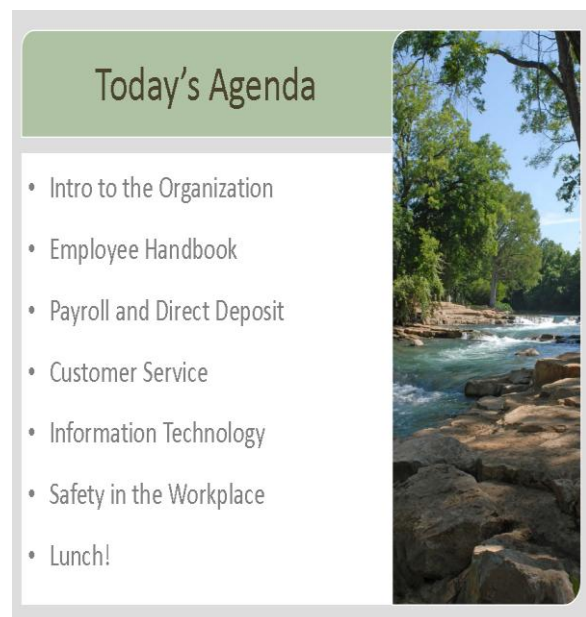
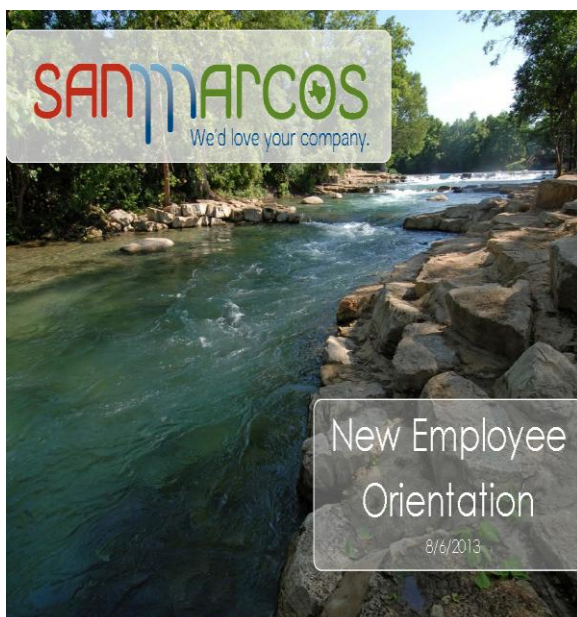
The employee handbook is only one of many documents that is given to employees during orientation. This is a complete list of reference materials the City supplies new employees. One should note that this list is for the year 2013 and can change depending on policy changes within the agency.

1. City of San Marcos Employee Handbook
2. PowerPoint Presentation for orientation note-taking
3. 2013 Medical Plan Book
4. 2013 Dental Plan Book
5. Life Summary
6. Long-Term Disability Summary
7. Long-Term Disability Book
8. Life Insurance Book
9. Texas Municipal League Website Guide
10. Non-Preferred Drug List (most current)
11. Restat Specialty Drug List
12. Clinical Prior Authorization Drug List
13. Family & Medical Leave Act Information
14. Information Technology (Electronic Media) Information

APPENDIX E

Selected PowerPoint Slides: New Employee Orientation, San Marcos, TX

New Employee Orientation (NEO) 2013



(NEO) 2013 cont.

The Organization

- Employee Newsletter
- Goals of Organization
- Structure of the Organization

City of San Marcos Strategic Initiatives Organizational Goals

- ✓ Sound Finances
- ✓ Customer Friendly Processes
- ✓ Big Picture Infrastructure
- ✓ Maintain & Protect San Marcos River
- ✓ Community Wellness / Strengthen the Middle Class

(NEO) 2013 cont.

Current Organization

City of San Marcos Activity Center & Library

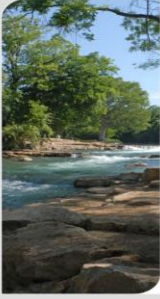
- Books/Magazines
- Music
- Workshops
- Free Tax Aid
- Free Computer Classes

- Kids Events
- Yoga Classes
- Small Activity Classroom
- Book Discussion Group

- Basketball Courts
- Aerobics Studio
- Indoor Pool
- Racquet Ball
- Meeting Rooms


- Weight Training Machines
- Childcare Room
- Small Activity Room
- Walking Corridor

(NEO) 2013 cont.



Performance Appraisals (non-civil service)


- Six Month Introductory Period
 - Introductory Evaluation
- Evaluation Each April 1st
(excluding those in intro periods)
- Purpose
 - Assess Performance
 - Developmental Needs
 - Goal Setting
 - Serve as Input for Merit Increase



Payroll


- Timesheet for non-exempt
- Biweekly Payroll Cycle
 - Saturday to Friday
 - Friday Payday, every 2 weeks
 - If payday falls on a holiday, it's issued the day before
- Always check your paystub!
 - Verify hours are correct
 - Leave is tracked properly
 - If an issue, alert supervisor and payroll

(NEO) 2013 cont.



Methods of Payment

- Physical Check
 - Every other Friday
- Direct Deposit
 - Funds are deposited directly to your bank account
 - No more waiting in line at the bank
 - Multiple Bank Accounts
 - Sign-up and it will begin after second paycheck





Exempt vs. Non-Exempt Positions

Non-Exempt	Exempt
—Eligible for overtime pay for hours worked over 40 in a work week	—Not eligible for overtime pay



Overtime

- Hours worked over 40 will be paid and time & a half
 - Pay for time
 - Comp time

(NEO) 2013 cont.

Longevity Bonus	Outside Employment	Call Out Duty <small>*Non-exempt employees only</small>
<ul style="list-style-type: none">• Reward for continuous service• \$4/month per year of service• Begins after 12 months of employment• Paid in November• Max out at 25 years• Part time is prorated	<p>Employees are required to obtain authorization for other employment outside the city.</p> <p><small>* Please see section 7.50 of the Employee Handbook for other restrictions</small></p>	 <ul style="list-style-type: none">• Required to report on 'call out' basis• Paid time and one-half for hours worked• Minimum of 2 hours (sequential calls during work are ONE period)
		


(NEO) 2013 cont.

Holiday FAQ	Vacation
<p>What happens if the holiday falls on a weekend?</p> <ul style="list-style-type: none">– Saturday celebrated on Friday– Sunday celebrated on Monday <p>What happens if I'm required to work a holiday?</p> <ul style="list-style-type: none">– You will get paid at your normal rate and earn one day of holiday leave. If unused by Sept 30 it will be converted to vacation time <p>What is a floating holiday?</p> <ul style="list-style-type: none">– An extra holiday to use on your day of choice. Each October, employees that have completed their introductory period receive 8 hours to be used within the year.	 <p>Vacation time provides employees with an opportunity to rest, relax & refresh which benefits both employees and The City. All employees are encouraged to take their earned vacations.</p> <p>Accrual</p> <ul style="list-style-type: none">• Prorated each pay period• Hire through 9 years – 15 Days/year• 10+ Years – 20 Days/year <p>Use</p> <ul style="list-style-type: none">• Schedule in advance• Use is limited to 35 days a year• Eligible for use after into period 



(NEO) 2013 cont.



<p>Bereavement Leave</p>	<p>Personal Leave <small>(Exempt Employees Only)</small></p> <ul style="list-style-type: none"> Awarded 24 hrs at hire, can be used immediately Earn prorated amount at completion of intro period October 1st receive 48 hrs "Use it or lose it" if not used by Sept. 30 so use before your vacation time! <p>Up to three days (24 hrs) of leave in case of death in the immediate family. Please check Employee Handbook for entire list.</p>	<p>Sick Leave</p> <ul style="list-style-type: none"> Unable to work due to personal or immediate family member's illness Part-time accrues prorated hours Full-time accrues 15 days/year <p>  </p> <p>  </p> <ul style="list-style-type: none"> Able to use immediately Communicate with supervisor within 1 hr of start time May require doctor's note See handbook for wellness incentive program
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(NEO) 2013 cont.



<p>Family Medical Leave Act (FMLA)</p> <ul style="list-style-type: none"> Qualifications <ul style="list-style-type: none"> Care for child after birth, adoption or adoption placement/foster care Employee is unable to perform job due to serious health condition Care of spouse, child or parent that has a serious health condition Eligible after 12 months of employment and 1,250 hours worked Medical certification is required Up to 12 weeks of unpaid leave <ul style="list-style-type: none"> You must exhaust all your saved vacation, sick and personal leave 		<p>Medical Leave of Absence</p> <ul style="list-style-type: none"> Eligibility: Exhausted FLMA or Non-FMLA General <ul style="list-style-type: none"> Leaves of 5 days or more Doctor certification required Subject to fitness requirements Return to work at end of approved leave, or subject to disciplinary action
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(NEO) 2013 cont.

Attendance	Harassment
 <p>Absence</p> <ul style="list-style-type: none">—When you know you need to be absent you must request at least 24 hrs in advance—If unscheduled, you must notify supervisor as directed within one hour of report time—Excessive absenteeism, tardiness or failure to report could result in disciplinary action	 <p>The City of San Marcos has no tolerance for harassment of any kind. This behavior is illegal, disrespectful and destroys morale of employees. You are expected to be aware of your actions and treat others with respect.</p>

Harassment	Harassment
 <p>What does harassment look like?</p> <ul style="list-style-type: none">• Any form of sexually-orientated speech or conduct<ul style="list-style-type: none">—Includes jokes, crude comments and non-verbal messages such as looks or gestures—Sexual suggestions or pressure that are unwanted—Unwelcome physical contact• Any other form of speech or conduct that is intended to, or has the effect of abusing an employee<ul style="list-style-type: none">— Such actions destroy employee morale and create uncomfortable work environments for those around them	 <p>What do I do if I believe I've been harassed or witnessed harassment?</p> <ul style="list-style-type: none">• Tell the person you find it offensive and it needs to stop• Present your complaint to your supervisor, department head or HR• Supervisors should alert HR to all harassment issues• Be aware you can not be retaliated against for making a claim against harassment

(NEO) 2013 cont.

	Complaint Process		Signature
	<ul style="list-style-type: none">• What is a “complaint”• Complaints NOT involving suspension, demotion or discharge• Complaints involving suspension, demotion or discharge		<p>What your signature means</p> <ul style="list-style-type: none">— READ EVERYTHING YOU SIGN— Your signature is your word— Falsification of documents or failure to follow policies and procedures is serious and subject to termination<ul style="list-style-type: none">• P-forms, benefit forms, credit cards, time sheets, work orders, W-4, P-cards

APPENDIX E

8/5/13

Exemption Request EXP2013N7440 - Approval

Exemption Request EXP2013N7440 - Approval

AVPR IRB [ospirb@txstate.edu]

Sent: Friday, April 26, 2013 4:43 PM

To: Brown, Shanna N

DO NOT REPLY TO THIS MESSAGE. This email message is generated by the IRB online application program.

Based on the information in IRB Exemption Request EXP2013N7440 which you submitted on 04/25/13 12:57:06, your project is exempt from full or expedited review by the Texas State Institutional Review Board.

If you have questions, please submit an IRB Inquiry form:

http://www.txstate.edu/research/irb/irb_inquiry.html

Comments:

Your request for exemption is approved. However, the correct category for your exemption is Category 2.

The project, as described in your application, is exempt from IRB review.

Good Luck with your research

B Northcut

Director, Research Integrity & Compliance

Office of the Associate Vice President for Research

Texas State University-San Marcos

512-245-2314

=====

Institutional Review Board

Office of Research Compliance

Texas State University-San Marcos

(ph) 512/245-2314 / (fax) 512/245-3847 / ospirb@txstate.edu / JCK 489

<https://bobcatmail.txstate.edu/owa/?ae=Item&t=IPM.Note&id=RgAAAABkaPgI6mmgS79M%2f8RX3eCRBwBKvDEvKUZMS58cwbndaZr2AISZcjYRAAAJzqEV...> 1/2

8/5/13

Exemption Request EXP2013N7440 - Approval

601 University Drive, San Marcos, TX 78666

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