

**A CONTENT ANALYSIS OF TEXAS STATE AGENCY  
EMPLOYEE HANDBOOKS**

**BY**  
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This research is dedicated to my Lord and Savior, Jesus Christ,  
Scott, my soul mate, who never questions my desires or capabilities,  
and to my family who provided me with support throughout my education.  
Special thanks to Dr. Patricia Shields for continued guidance and advice.

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## **CHAPTER 1**

### **INTRODUCTION**

An employee handbook is a written compilation of policies and standards of conduct for management of an employer's work forces. One reason employers use employee handbooks is to increase the consistency and uniformity of employee conduct and therefore decrease the chances for litigation based on perceived unfair treatment. Another reason employee handbooks are used is to give the employee an understanding of management's expectations of employees as well as relay the organization's position on policies and procedures.

While the literature regarding employee handbooks contains recommendations and suggestions concerning the content of employee handbooks, the majority of the literature applies to the private sector and focuses on how to avoid employment litigation. This knowledge base can be used to identify specific items so that public administrators can not only look toward this research for legal education but, specifically, as a device in developing employee handbooks as a tool to facilitate communication. Specific items can be identified from the review of the literature so that policy recommendations can be developed that join the administrator and the employee in communicating organizational expectations.

This communication has become increasingly important. Two trends have emerged in employment litigation. These trends are the broadening definition of tort law and the treatment by the courts of employee handbooks as implied contracts. By tradition a tort is a claim that someone caused harm by violating a law or a social policy; however, newer claims created by legislatures include discrimination or harassment based on age, race, sex or

disability. Courts are treating employment litigation related to employee handbooks as tort law. Both of these trends have encouraged employees to file suit on employers for violating terms set forth in employee handbooks. A Department of Justice study of state court civil jury trials in the nation's 75 most populous counties in 1992 found that claims in contract cases which include employment suits accounted for 63 percent of the dollar amount awarded in punitive damages that year. Thus, \$170 million of the \$268 million went to defendants in contract cases. Another study reveals this same trend. Jury Verdict Research found that plaintiffs (employees) recovered damages in approximately 80 percent of defamation cases, 70 percent in sex discrimination and harassment cases, and 58 percent in wrongful discharge cases. The average jury award for the plaintiff was \$602,302 (Novak[b], 1995: 140).

The indirect costs on employers are far more significant economically. The threat of wrongful-termination suits changes the cost of doing business. In effect, firms have responded to increased wrongful-termination liability by treating labor as more expensive. The decline in employment resulting from these indirect costs is roughly equivalent to the effect of a 10 percent wage increase (Novak[b], 1995: 138-141).

The increase in employment litigation exposes the importance and purpose of workplace policies and procedures. Having policies and procedures in the form of a manual or employee handbook serves a variety of purposes. First, employee handbooks can be an excellent defense in equal employment opportunity litigation raising claims of disparate treatment. Second, such a handbook can increase a management's ability to show its good faith attempt to comply with civil rights laws and can give management the ability to prove that non-discriminatory employment policies are

established and communicated to employees. Third, it provides an organization with a well drafted set of disciplinary rules to assist management in defending itself against employee lawsuits for implied agreement and wrongful or abusive discharge. And finally, an employee handbook can be an effective tool for training supervisors and orienting new employees. Without such a manual, inadequate employee/management communications can result in employees not having any concept of organizational policies, not knowing how to communicate, and not understanding the organization's employment procedures or rules.

### **Research Purpose**

With these points considered, this research will establish a tool to assess public sector employee handbooks. The purpose of this Applied Research Project is three fold. Research found in the literature review focuses little on public sector employee handbook contents. Thus, the first purpose of this research is to describe the kinds of information that should be included in public sector employee handbooks. The second purpose is to assess the information contained in public sector employee handbooks. Texas state agency employee handbooks are analyzed to obtain knowledge of such contents. Third, based on this assessment, necessary recommendations are made for the improvement of public sector employee handbooks.

Chapter 2 discusses a brief history of the development of employee handbooks and identifies the different roles employee handbooks play in the workplace. The legal components of employee handbooks are revealed in Chapter 3. These components are integrated in the descriptive categories developed by the literature review. Chapter 4 contains an in-depth discussion of the prescribed components as well as a discussion of the prescribed

physical attributes of employee handbooks. Thus, a practical ideal type for state agency employee handbooks is developed and discussed in this chapter. The methodology and a discussion of the operationalization of the data are addressed in Chapter 5. In Chapter 6, the results of the research are presented. Finally, Chapter 7 summarizes overall results and recommends improvements for public sector employee handbooks.

## **CHAPTER 2**

### **EMPLOYEE HANDBOOKS: HISTORICAL BACKGROUND/ ROLES OF EMPLOYEE HANDBOOKS**

The purpose of this chapter is to provide some historical background information about employee handbooks. Historically, there have been three different roles for employee handbooks in the workplace. The three roles identified in this chapter are the (1) role as a legal document; (2) role as a communication tool; and (3) role as a behavior modification device.

#### **Evolution of employee handbooks**

Employee handbooks are not a new tool in today's workplace. During the 1920s and 1930s, handbooks were merely instruments to inform employees of company information such as sick leave, retirement, and fringe benefit policies. However, in the 1960s and throughout the 1980s, employee handbooks not only included compensatory provisions and company policies but also began specifying the valid reasons for termination, detailed disciplinary procedures as well as procedures for discharging an employee. These policies were often conveyed to employees as written promises using phrases such as "good cause" reasons for termination. When employees found themselves discharged and the procedures were not followed as stated in employee handbooks, employees began filing law suits for wrongful discharge. Many courts viewed this behavior by the employers as a breach in contract (Brady, 1993: 33).

During World War I an industrial or house publication was called a "house organ." The house publication resembled company newsletters and were used to orient employees to new employment. This assisted many fast growing defense industries through difficult times when people were being hired so fast that no one knew their names or what they needed to be told. These house organs or newsletters had no official purpose. Nevertheless, since cost was not a major consideration, the publications often included any idea that could bridge the gap between an over worked management and an inexperienced work force. These publications were viewed as necessary tools for communication. Some publications were personal projects of company officials only beginning to explore the field of human relations in industry. The publications often carried news about what employees were doing as well as what management thought they ought to be doing. However, the trends found in the publications did not survive the Great Depression. In this time of massive economic decline, industry turned to measuring every expense. Because the publication's economic value was limited, these "house organs" no longer had a role in the work place and were discontinued (Heusser, 1953: 131).

During World War II industry was again subjected to many of the orientation problems of the earlier period. The need for a communication device once again emerged in the work place. However, with this reemergence of the house organ came the need to focus on business related issues. The newsletter prior to WWI did not connect well with bottom line business concerns; yet, the publications occasionally communicated key issues between management and employees. Such issues were often company policies. Gradually, firms realized that a separate company publication dealing with company policies should be developed. At this time

the newsletters were revised and formalized during WWII taking the shape of an "industrial publication." It was at this time that employee handbooks as we know them today were born.

The concept that a publication sponsored by an industry should become a part of the industry's operating expense and that it should expect the same close scrutiny as other critical factors in the budget was integrated in the work place. Due to this acceptance, publications that were geared to company business began to prosper. Gradually, editors began to see that their role was one of maintaining an important line of communication between management and employees (Heusser, 1953: 132-133).

There were several initial purposes of the industrial publications which are now referred to as employee handbooks. They were used to acquaint employees with conditions of employment and to portray the company as a good place to work. Other purposes included creating a family feeling among employees and helping them become familiar with their place in the organization, showing employees the advantages of long company service as well as promoting the reduction of accidents and waste. In addition, these preliminary handbooks were used to increase productivity, answer employee questions and provide advance information about plans and policies. The handbooks also provided a clear statement to employees, families and the community that the company was a good corporate citizen and an asset to the locality (Heusser, 1953: 135). The purposes of employee handbooks have led to specific roles of employee handbooks in the workforce. The three roles of employee handbooks are developed in the next section.

## **Roles of employee handbooks**

During the 1960s and throughout the 1980s, employee handbooks began to include different topics thus evolving in its purpose as a communication instrument. Employee handbooks began to address topics such as compensatory provisions, valid reasons for termination and procedures for discharging an employee. These policies were often conveyed to employees as written promises using phrases such as "good cause." The handbooks also specified reasons for termination outlining behaviors to avoid. These statements were an attempt to control employee behavior. The "reasons" documented in employee handbooks soon became part of discharge disputes. Employees began filing law suits for wrongful discharge when discharge procedures were not followed as set forth in employee handbooks. Many courts agreed with the employee arguments. The courts considered the employers' discharge decision as a breach in contract (Brady, 1993: 33). The courts' interpretation gave employee handbooks a new role. Handbooks became a legal document as well as a tool for communicating organizational policies.

## **Role as a legal document**

The courts have increasingly focused attention on employees' rights and responsibilities and employers' legal liability. This attention has only increased employment litigation. Approximately 16,000 employment discrimination suits were filed in federal court in fiscal year 1994. This figure reflects nearly twice as many cases as were filed in 1991 (Novak[b] 1995: 140). One reason for the increased litigation is that state courts, having jurisdiction over virtually all non-labor law, have made it much easier for employees to bring claims against their employers. In fact, courts in 41 of



the 50 states have required new standards of "good faith and fair dealing" or "implied contract" for employers (Edwards 1994: 35).

For this reason, an employee handbook has become more than a way to communicate information. It has become a legal document. The promises made and the rules and penalties imposed through a handbook can become the terms of a binding contract (*The Employee Handbooks*, 1990: 5). The courts have stated that even when employment is at will, a publication like the employee handbook can become a contract (*The Employee Handbooks*, 1990: 15).

Handbooks define and outline an employer's legal responsibilities documenting matters such as the company's equal employment opportunity and sexual harassment policies. Employees are made aware of their rights and benefits when employee handbooks lay the ground rules for employee conduct. It is for this reason that an employer may encounter problems if the handbook policies do not include the most recent laws. Given the legal function of handbooks, employers must continuously update and inform employees of each handbook revision as well as illustrate timeliness with dated pages (Waterman, 1992: 97). Regardless of the employment liability, generally employers choose to utilize employee handbooks as an effective way to educate employees about company policies and management expectations.

### **Role as a communication/information tool**

A consensus in the literature<sup>1</sup> also establishes the need for a communications tool informing employees of requirements and expectations

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<sup>1</sup>See for example, Bergmann, 1994, p. 401; Brady, 1993, p. 33, Waterman, 1992, p. 97;

as well as what the employee can expect from the company (*The Employee Handbook*, 1990: 5). An employee handbook can be an effective tool for training supervisors and orienting new employees. It is a visible sign of management efforts to communicate organizational policies and establish the organization's employment procedures or rules. The communication goal is to assist employees in understanding the relationship between personal advancement and company profitability. In their communication role, handbooks welcome and inform new employees, complement recruitment policies, as well specify operating procedures for all employees (Tavernier, 1973: 50).

There are several purposes for communicating workplace policies and benefits in the form of a policy manual or employee handbook. First, written and distributed policies related to equal employment can be an excellent defense in equal employment opportunity litigation raising claims of disparate treatment. Such policies also increase management's ability to show good faith attempt to comply with civil rights laws. Second, written and distributed policies increase management's ability to prove that non-discriminatory employment policies are established and communicated to employees. Third, these policies can provide an organization with a set of disciplinary rules which assist management in defending itself against employee lawsuits for implied agreement and wrongful or abusive discharge. And finally, employee handbook policies provide an effective tool for training supervisors and orienting new employees. Without such a manual, inadequate employee/management communication which can lead to

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*The Employee Handbook*, 1990, p. 267; Brown, 1986, p. 227; Thomas, 1987, p. 26; Posner, 1989, p. 84;

management as well as employees misunderstanding organizational policies. Furthermore, by providing the employee with information regarding company policies and management expectations, the employee handbook can act as a device to control or modify employee behavior.

### **Role as a behavioral modification device**

A consensus exists in the literature regarding the positive effect that communicating company policies and procedures can have on employee behavior.<sup>2</sup> These authors maintain that communicating company expectations to employees provides added confidence in company policies and procedures as well as increases overall job satisfaction. Employee information publications also allow organizational policies and procedures to have a greater effect on employee productivity and encourage employee loyalty (Heneman, 1958: 13-27). The handbook can also contribute to good morale (Novak, 1984: 490; Pavone, 1987: 26). Overall, there is a wide agreement in the literature of the need for guidelines on employee behavior and relationships within an organization (Pratt & Bennett, 1989: 7).

Heneman (1958) maintains that a company's policies indicate accepted courses or objectives for employees. In providing policies and procedures to an employee in the form of an employee handbook, a company or organization defines purposes and states the goals to be sought and attained. These policies state the employer's goals and intentions with respect to employee relationships. In addition, handbook policies reflect the employer's thinking with regard to the direction the organization is heading and explains

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<sup>2</sup>See for example, Bergmann, 1994, p. 398; Aldrich, 1984, p. 172; Gordon, 1984, p. 759; Grote, 1984, p. 770; Perry, J., 1996, pp. 371 & 405; Lane, 1994, p. 31; Roberts, 1995, p. 35; McAfee, 1981, p. 34; Strickland, 1995, p. 495; Khojasteh, 1993, p. 398;

the employees' role in moving into that direction. These policies then become "guideposts for day to day activities underlying and explaining programs and policies." Furthermore, policy statements establish the basic long range aims of the company and allows management to function as "navigators" charting their course in accordance with these policy statements. The statements of company policies collectively become the "compass" used in determining the directions of company activities and individual employee activities. (Heneman, 1958: 2-4).

Because employee handbooks have different roles in the workplace, it is necessary to expound on the more important of these roles with regard to employment litigation. Because of increasing employment litigation surrounding employee handbooks, the role of the legal document has brought much attention to organizational management. Chapter 3 identifies the legal components to be included in employee handbooks.

## **CHAPTER 3**

### **LEGAL COMPONENTS**

The purpose of this chapter is to identify the legal components of employee handbooks as well as provide a brief discussion of each statute. Each statute is presented in relation to the descriptive category developed in Chapter 4. The legislation presented here is not all inclusive. However, the statutes identified represent the most major legal components to be included in public sector employee handbooks.

The fundamental goal of labor laws is to ensure the rights of employees as well as to ensure that employees are treated with dignity and respect. The statutes identified in this chapter include Title VII of the Civil Rights Act of 1964; Equal Employment Act of 1972; the Equal Pay Act; the Americans with Disabilities Act; Family and Medical Leave Act; and the Fair Labor Standards Act.

**Figure 3.1** illustrates the statutes to be included in an employee handbook. Also illustrated in the figure is the association between each statute and the employee handbook policy component. The policy components are identified in Chapter 4.

#### **Equal Employment Opportunity**

**Title VII of the Civil Rights Act of 1964** declares it illegal for employers to fail or refuse to hire, discharge, or otherwise discriminate against any individual with respect "to his or her compensation, terms, conditions or privileges of employment" because of gender (Lee, 1997: 59). Gender was added late in the bill's drafting, with race, color, religion and national origin being higher priorities at the time. The law was a major

outgrowth of the racial unrest of the 1960s. This law not only protects against discrimination by employers, but also protects against union discrimination (such as union barring women as members or refusing to refer women to employers).

In administering the law, the Equal Employment Opportunity Commission has prescribed procedures to be followed in filing complaints. The commission expects most complaints to be filed first with approved state and local fair employment practices (FEP) agencies. Only after administrative avenues for redress are exhausted may someone file a case in a federal court (Lee, 1997: 61).

There are several statutes related to compensation. These statutes often have an effect on an employee's compensation package. The employee handbook can be utilized to address such statutes.

## **Compensation**

The principal federal anti-discrimination statutes affecting compensation include The Equal Pay Act, Title VII of the Civil Rights Act of 1964; The Age Discrimination in Employment Act; The Americans with Disabilities Act; and federal affirmative action laws. The Family and Medical Leave Act (FMLA) is not a discrimination law; however, the FMLA does contain certain provisions concerning compensation practices with which employers should be familiar.

**The Equal Pay Act of 1963 (EPA)** is an amendment to the Fair Labor Standards Act (FLSA), the federal wage and hour law. The EPA prohibits discrimination based on gender with respect to the payment of wages for substantially equal work performed under similar working conditions in the same establishment and requiring equal skill, effort, and responsibility.

Although the EPA prohibits sex-based wage discrimination, it does not make it unlawful for employees of one sex to be paid more than workers of the opposite sex based on merit, seniority, quality, or quantity of production, or based on "any other factor other than sex."

**Title VII of the Civil Rights Act of 1964** prohibits an employer from discriminating against employees on the basis of their race, color, religion, sex, or national origin. Employers are subject to this law if they engage in interstate commerce and have 15 or more employees. Title VII covers all terms, conditions, or privileges of employment. Discrimination in compensation, including bonus payments, against any of the protected classes covered by Title VII is also prohibited.

Two general theories of discrimination under Title VII that apply to compensation issues are (1) disparate treatment (i.e. treating an employee in one class differently from an employee of another class based on race, sex, etc.) and (2) disparate impact (i.e. policies and practices that, although lawful, have an adverse effect against a protected group).<sup>3</sup>

**The Age Discrimination in Employment Act of 1967 (ADEA)** prohibits age discrimination against employees who are 40 years of age and older in all aspects of employment, including compensation. The ADEA also prohibits discrimination because of age against one person in the protected age group in favor of another person also within that same age group. The ADEA applies to employers engaged in interstate commerce with 20 or more employees.

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<sup>3</sup>For example, an employer's bonus program could adversely affect women or minorities. Although the same criteria are applied when considering employees for a bonus, such protected group members receive lower bonuses in comparison to males or nonminority group members which the employer cannot justify on the basis of business necessity.

The general rule is that the ADEA prohibits mandatory retirement at any age. One limited exception allows for the mandatory retirement of individuals who are bona fide executives or in high policy-making positions and are at least 65 years of age, have held their position for two years immediately preceding retirement, and are entitled to retirement income of at least \$44,000 exclusive of social security. This exception, however, has been very narrowly construed by the courts.<sup>4</sup> In addition, there are also exceptions under ADEA when an employee's age can be a factor in a personnel decision. The courts have held that when there is a bona fide occupational qualifications (BFOQ) reasonably necessary to the normal operations of a particular business, the employer may consider age.<sup>5</sup>

**The Americans with Disabilities Act of 1990 (ADA)**<sup>6</sup> prohibits employers from discriminating against qualified persons with disabilities in all aspects of employment, including compensation. Thus, employees with disabilities cannot be paid lower wages than other employees performing similar work. However, the ADA does permit an employer to reduce an employee's salary if, as an accommodation to the employee, he or she is transferred to a different position and the salary for such position is lower than the salary in the employee's former position. This circumstance must be applied to non-disabled employees as well (Nobile, 1996; 38-41).

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<sup>4</sup>See for example, *Whittlesey v. Union Carbide Corp.*, 742 F.2d 724 (2d Cir. 1984)-exemption not applicable to position of Chief Labor Counsel in the company's law department.

<sup>5</sup>An example of BFOQ is the mandatory retirement age of 60 for pilots of passenger aircrafts. The airline industry has justified passenger safety reasons why it is a BFOQ to have pilots under the age of 60 flying aircrafts.

<sup>6</sup>The ADA is generally addressed with an employer's equal opportunity policy or addressed in a section designated for general information about the law.



**The Fair Labor Standards Act 1938 (FLSA)**, also known as the Wage-Hour Law, requires employers to pay non-exempt employees 1.5 times their regular rate of pay for hours worked in excess of 40 in any work week. There are so-called "white-collar exemptions" to the law's overtime-pay requirements. These apply to employees in executive, administrative and professional categories who meet a set of standards established by the Wage-Hour Division, which administers the law.

In recent years, employers have become increasingly frustrated over two particular areas of the FLSA. The first area is the inflexible requirement that non-exempt employees receive time-and-a half pay for any hours worked over 40 in a week. The second area is the Wage Hour Division's rule that employers cannot dock exempt employees' pay for less than a full day's absence. Legislative proposals addressing these two areas were proposed in Congress in 1996 but did not receive final action before Congress adjourned. These areas of concern are certain to be reintroduced at future congressional sessions (Lissy, 1997: 19-20).

**The Family and Medical Leave Act of 1993 (FMLA)** is designed to entail eligible employees to take up to 12 weeks of unpaid, job-protected leave for the birth of a child or placement of a child for adoption or foster care. The act also applies to purposes of caring for a child, spouse, or parent who has serious health condition as well as the employee's own serious health condition.

The FMLA differs from the ADA with respect to transferring employees to a vacant position as an accommodation. For example, an employer may transfer an employee who has not exhausted the FMLA entitlement to a lower-paying position to accommodate an intermittent leave schedule worked pursuant into the FMLA's provisions. But during the

FMLA leave period, the employer must pay that employee the same salary as in his or her former position. The FMLA coordinates with the Fair Labor Standards Act. The FMLA regulations specifically provide that an employer may reduce an "exempt" employee's pay if the employee works a reduced work schedule under the FMLA without jeopardizing that employee's exemption status under the FLSA (Nobile, 1996; 42).

Sexual harassment complaints have become an increasing problem for employers. An employee handbook can educate management and employees on potential litigation surrounding this issue.

### **Sexual harassment**

The last several years have seen a rapid evolution in the law of sexual harassment and the public awareness of this type of legal action. The primary anti-discrimination statute is **Title VII of the Civil Rights Act of 1964**. The Congressional debate on the statute focused largely on the subject of race discrimination. The sex discrimination proscription was included at the eleventh hour to garner broader support for the legislation. Nothing in the statute specifically addressed the subject of sexual harassment.

It was not until the end of the 1970s that the courts first began holding that sexual harassment was a form of sex discrimination encompassed by Title VII. The Equal Employment Opportunity Commission defined the conduct that constitutes sexual harassment in 1980.

The last several years have seen a rapid evolution in the law of sexual harassment and the public awareness of this type of legal action. From the televised confirmation hearing of Supreme Court Justice Clarence Thomas, which were marked by the sexual harassment allegations of Professor Anita Hill, to the Navy's Tailhook scandal, sexual harassment allegations have

increasingly make news (Ginsburg, 1996: 16). The increase in this type of litigation reveals the importance for employers to communicate the sexual harassment policy to employees.

**Figure 3.1** illustrates the legal components that should be included in an employee handbook. Also reflected is the employee handbook policy component in relation to each statute. The policy components are discussed in Chapter IV.

**Figure 3.1**

**LEGAL COMPONENTS OF EMPLOYEE HANDBOOKS**

Equal Employment Opportunity	<u>Title VII of the Civil Rights Act of 1964-</u> prohibits employer discrimination against employees on the basis of their race color, religion, sex, or national origin <u>Equal Employment Act of 1972</u>  <u>Americans with Disability Act of 1990-</u> prohibits employer discrimination against qualified persons with disabilities
Compensation	<u>Equal Pay Act of 1963-</u> prohibits gender discrimination relating to payment of wages for equal work <u>Title VII off the Civil Rights Act of 1964</u> <u>Age Discrimination in Employment Act-</u> prohibits discrimination against qualified persons with disabilities in all aspects of employment <u>Americans With Disabilities Act of 1990</u> <u>Fair Labor Standards Act of 1938-</u> requires payment to non-exempt employees 1.5 times their rate of pay for hours worked in excess of 40 hrs a week <u>Family and Medical Leave Act of 1993-</u> allows employees up to 12 weeks of unpaid leave for specific circumstances
Sexual Harassment	<u>Title VII of the Civil Rights Act of 1964</u>

## **CHAPTER 4**

### **COMPONENTS OF EMPLOYEE HANDBOOKS**

#### **Intent of the literature review**

The purpose of this section is to develop a conceptual tool to assess employee handbooks. The remainder of the review examines necessary elements to be included in employee handbooks. This chapter identifies what experts believe belongs in employee handbooks and the reasons and rationale behind this belief. Special emphasis is placed on components particularly applicable to the public sector.

The literature review includes definitions of each policy or component, a statement of the importance of each policy and a statement regarding the reason the policy should be included in an employee handbook. Finally, effects on employee behavior as well as policy implementation issues are addressed.

#### **Conceptual framework**

##### **Practical Ideal Type**

The conceptual framework has a dual purpose. Since the literature is devoid of studies that describe the typical contents of employee handbooks, descriptive categories have been developed from the literature review to identify what should be included in employee handbooks. Texas state agency employee handbooks are used to identify the status of public sector employee handbooks. An analysis of the handbooks reveals whether the employee handbook meets the "should criterion" developed by the literature review.

Specific items are identified in the review of the literature as elements or recommended components of employee handbooks. These items have

been classified into nine categories. Identifiable characteristics from these nine categories provide benchmarks for employee handbook policies to be viewed as a standard or a point of reference. The elements making up this standard are "not rigidly fixed due to the ability to envision an *ideal* more than one way "(Shields, *Pragmatism as Philosophy of Science: A Tool for Public Administration*, 1996: 30).

The basic components of all public sector employee handbooks consist of an absenteeism policy; compensation; disclaimers; a discipline policy; an equal employment opportunity policy; a sexual harassment policy; a grievance procedure policy; and a performance appraisal policy. A miscellaneous component includes employee handbook elements that are specified by experts to be included in employee handbooks but are not congruent with the previously established components.<sup>7</sup>

Each employee handbook component is identified as a descriptive category. These categories are revealed in **Figure 4.1**.

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<sup>7</sup>Components are recommended by the following authors: Waterman, 1992, p. 97; Brown, 1986, p. 227; Brady, 1993, p. 33; Sculnick, 1988, p. 32; Rossman, p. 1992; pp. 21-22;

## **FIGURE 4.1 DESCRIPTIVE CATEGORIES**

### **ABSENTEEISM**

- Explanation of policy
- Monitoring procedures
- Management counseling
- Follow up procedure
- Statement regarding corrective measures

### **COMPENSATION**

#### *Direct Payments*

- The Equal Pay Act of 1963 (EPA)
- The Age Discrimination Act of 1967 (ADEA)
- Americans with Disabilities Act of 1990 (ADA)
- The Fair Labor Standards Act of 1938 (FLSA)
- The Family and Medical Leave Act of 1993 (FMLA)

#### *Benefits*

- Retirement Systems
- Health care plan
- Workers' Compensation
- Holidays
- Overtime and compensatory time
- Leave
- Vacation

### **HANDBOOK DISCLAIMERS**

- Employment-at-will statement
- Signed acknowledgment statement
- Right to revise/update statement

### **DISCIPLINE**

- Clear statement of misbehavior or rule violations
- Process of violation analysis
- Investigative procedure
- Documented discussion

## **FIGURE 4.1 (CONT.)**

### **EQUAL EMPLOYMENT OPPORTUNITY**

- A statement of nondiscrimination
- Equal Employment Act of 1972
- Acknowledgment of Title VII
- Selection process on placement, promotion, job assign.
- Available training for career development
- Accessibility of performance appraisals

### **SEXUAL HARASSMENT**

- Strong denouncement statement
- Definition of sexual harassment
- Definition of various forms of sexual harassment
- Complaint procedure
- Investigative process
- Disciplinary action
- Training/education available
- Right to Complain under Title VII

### **GRIEVANCE PROCEDURE**

- Investigation process
- Acknowledgment of due process
- Statement regarding procedural fairness and objectivity
- Notification process
- Management response procedure
- Statement specifying corrective action
- Monitoring process

### **PERFORMANCE APPRAISAL**

- Time of appraisals
- Responsible party for administering the appraisal
- Components
- Employee/managerial acceptance

### **MISCELLANEOUS**

- Table of Contents
- Historical Information
- Welcome Statement
- Code of Ethics
- Goodwill Statement



In developing a tool to assess employee handbooks, it is important to specify the experts' rationale and reasoning as to the importance of each component. This section serves two purposes. First, each prescribed component of employee handbooks are discussed in detail. Second, the prescribed physical attribute for employee handbooks are presented.

The discussion of each employee handbook component includes the definition of each policy, a statement of the importance of each policy and a statement regarding the reason the policy should be included in an employee handbook. Finally, effects on employee behavior as well as policy implementation issues are addressed. To summarize each component, the descriptive category is presented in table form at the end of each discussion.

The last section of this chapter identifies the prescribed physical attributes of employee handbooks. The physical attributes addressed in this research include the format and design of employee handbooks as well as the writing style of each handbook. A table is also presented to summarize these findings.

### **Absenteeism<sup>8</sup>**

Absence is the failure to report for work and to remain at work as scheduled. It includes late arrivals and early departures as well as absences for an entire day. It does not include authorized absences for holidays, vacation, approved leaves of absence or other absences for which approval has been given under the terms of those policies (*Employee Handbook*, 1990: 249).

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<sup>8</sup>Research for absenteeism is comprised of the following sources: *The Employee Handbook*, 1990; McConnell, 1995; Buschak, et al, 1996; De Cenzo & Holoviak, 1990; Bergmann, 1994; and Hesser, 1991.

Absenteeism policy has become increasingly important in the work place due to the increase in costs and the decrease in productivity.

"Employee absenteeism, specifically the abuse of sick time benefits is a problem that costs American business billions of dollars each year" (McConnell, 1995: 82).

To alleviate or reduce absenteeism, McConnell (1995) maintains the importance of reinforcing attendance requirements during employment orientation. He further states that in order for an attendance policy to be effective, all new employees are to be educated of the policy and be supplied with written attendance policies in the organization's employee handbook or personnel policy manual. Additionally, it is suggested that the policy be periodically disclosed to the general employment staff. Documentation of actual attendance, acceptable as well as unacceptable is a valuable element which should be mentioned in every performance evaluation as well as reviewed with all employees at staff meetings annually or semiannually. Employees who are aware of the attendance policies and know that their employers are aware and interested in the policy will be more likely to comply with the policy (McConnell, 1995: 82-83).

Absenteeism has a direct effect on employee behavior in the work place. Because it puts an unfair burden on the majority of employees who show up for work, it can contribute to poor employee morale, personnel conflicts, unsatisfactory compensation and benefit programs, unrealistic job expectations, inadequate training and unsafe or a stressful workplace environment (Buschak, Craven, et al. 1996: 28). In general, better attendance is synonymous with better quality, lower costs and greater productivity (Buschak, et al, 1996: 26).

Controlling absenteeism in the workplace begins with a sound absenteeism policy that is incorporated into an employee handbook. According to Buschak, et al (1996) the policy should specify a five-step plan. The first step is to make the employee aware of the organization's absenteeism policy by providing a thorough explanation about the policy. This can be done through a written policy in the employee handbook. The second step in absenteeism policy is to implement a process in which a supervisor can monitor the employees' response to the information. For example, employers often document lateness, early departures and absenteeism. Documentation of employee explanations to the violations of the policy is required in this process. Thirdly, supervisors should counsel employees that are not complying with the absenteeism policy. When supervisors meet with employees who have an attendance problem, they must reiterate the organization's expectations and state the observed behavior. Notifying the employee of expectations and violations as opposed to taking immediate disciplinary action can be effective in controlling or modifying employee behavior. The forth step identified by Buschak et al. is the follow up procedure. This enables the supervisor to ensure an employee is in compliance with the policy. Corrective action is the final step if compliance is not met by the employee (Buschak, Craven, et al. 1996: 29).

In summary, the following items deal with absenteeism and should be included in employee handbooks. (See **Table 4.1**).

**TABLE 4.1 ABSENTEEISM POLICY**

Explanation of policy
Monitoring procedures
Management counseling
Follow up procedure
Statement regarding corrective measures

The next component identified by experts as a necessary inclusion to employee handbooks is the benefits package.

### **Compensation<sup>9</sup>**

There are two types of components within compensation. There are those that relate to the direct compensation paid to employees, and there are those that are altered as a way to attract and retain employees. Elements of employee compensation include wages, salaries, and bonuses. There are laws that employers must acknowledge in the provision of these elements in compensation. Benefits are also elements of employee compensation. However, benefits are presented to employees in various forms, generally in the form of packages. Examples of benefits include insurance, retirement, workers' compensation, holidays, overtime and compensatory time as well as leave.

To ensure that employers design and administer compensation programs that are nondiscriminatory in nature, employers must be aware of statutes that prohibit employment-related discrimination. These laws include the Equal Pay Act; the Americans with Disabilities Act; Family and Medical Leave Act; and the Fair Labor Standards Act. In general, these laws prohibit

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<sup>9</sup>Nobile, 1996; "Guide to employee handbooks, 1994; De Cenzo & Holoviak, 1990; Bergman, 1994; Aldrich, 1984; and Hesser, 1991.

employers from discriminating against protected classes of workers with respect to hiring, termination, and other terms and conditions of employment. Compensation is a term and condition of employment that is also covered by these laws (Nobile, 1996: 38). Thus, these elements of compensation are critical attributes of employee handbooks ("Guide to employee handbooks," 1994: 97).<sup>10</sup>

Benefits on the other hand are methods to attract and retain employees (De Cenzo & Holoviak, 1990: 207-208). Benefits are generally offered to employees regardless of their performance levels. Benefits are "membership based" or provided to employees to some degree without regard to productivity (De Cenzo & Holoviak, 1990: 2). Historically, benefits were first introduced as "fringe benefits." In 1929, fringe benefits made up only 3 percent of total compensation. Employee benefits as a labor cost have increased significantly over the past 60 years. Several reasons for this growth include societal pressures, favorable tax treatment, and employer self interest. In addition, employees have an increased desire for leisure and economic protection. Union pressure has also played a factor in the growth of employee benefits (Bergmann, 1994: 397).

There are several reasons why benefits are important. Benefits are designed to help the employee prepare for retirement, cover medical expenses, take time off for vacation, etc. Receiving benefits is a primary concern for the general public and is the primary reason why some employees even work. Employers can utilize benefits as a "vehicle to reward employees who have demonstrated outstanding achievements in the performance of their jobs."(Aldrich, 1984: 172).

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<sup>10</sup>These statutes are discussed in detail in Chapter II

It is advantageous for an organization to communicate benefit policies in an employee handbook. If some employees don't know what benefits they receive or know the yearly cost of such benefits, they may become dissatisfied with the employment. This may in turn lead to organizational unnecessary changes in benefit packages due to inaccurate employee attitudes (Bergmann, 1994: 405).

Benefit packages are also perceived as an important way to influence employee behavior (Bergmann, 1994: 403). De Cenzo and Holoviak maintain that although the impact on motivation is slight, there is evidence that the absence of adequate compensation in the form of benefits can contribute to employee dissatisfaction as well as increased absenteeism and turnover (De Cenzo & Holoviak, 1990: 2). Furthermore, Bergmann maintains that benefits influence an employees' initial attraction to and willingness to remain with the organization. He states that benefits play a key role in influencing positive job behavior<sup>11</sup> (Bergmann, 1994: 398). De Cenzo and Holoviak (1990: 5) sum up this notion of organizational advantage. They maintain that if an organization expects to get the 'best,' then it should provide the grounds for retaining the 'best.' In return, the authors conclude that organizational performance will improve.

Benefit packages will vary according by agency or organization. Size and mission as well as type of occupation are all factors that may influence a benefits package. For example, one can expect the benefits package for state university employees to differ substantially.<sup>12</sup> For this reason, an employee

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<sup>11</sup>Bergmann states that compensation systems serve to attract, retain, and *motivate* valuable employees.

<sup>12</sup>For example, a public university position as a grounds supervisor will differ from that of an administrator or professor. Whereas as the professor's benefit package may ensure

handbook should not describe in detail any specific characteristics of a benefit package.<sup>13</sup> The handbook's purpose is to describe the legalities surrounding compensation and describe different benefit plans available as an employee. The employee handbook can be a resource to direct an employee to a specific benefit plan or plan summary (Hesser, 1991: 47).

Significant changes can be found in employee benefit packages in the past several years. Statutes surrounding the issue of compensation must be included when designing a benefits package. The Family and Medical Leave Act and the Americans with Disabilities Act are two laws that have significantly changed benefits packages over the last few years. Aspects of these laws have implications for employee benefits; hence, agencies should incorporate material regarding relevant statutes in employee handbooks.<sup>14</sup>

Other elements of employee compensation include worker's compensation. This element is state mandated and provides compensation for employees and their families for death or permanent or total disability resulting from job related efforts (De Cenzo & Holoviak, 1990: 11). Additional elements to be included in an employee handbook are an organization's retirement system, health care plan, holidays, overtime and compensatory time policy as well as various leave policies (Hesser, 1990: 47).<sup>15</sup>

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paid time off during school breaks due to the university being closed; a grounds supervisor's benefit package may not include this period as paid time off.

<sup>13</sup>Examples are insurance plans and vacation packages.

<sup>14</sup>An example of a benefit available under the Family and Medical Leave Act is a (12) week leave period in order to care for a sick spouse.

<sup>15</sup>For example, several leave policies include sick leave, bereavement leave, jury duty leave, medical leave, military leave, and personal leave.

In summary, the following items deal with compensation and should be included in the employee handbook. (See **Table 4.2**).

**TABLE 4.2 COMPENSATION**

<i>Direct Payments</i>
The Equal Pay Act of 1963 (EPA)
The Age Discrimination Act of 1967 (ADEA)
Americans with Disabilities Act of 1990 (ADA)
The Fair Labor Standards Act of 1938 (FLSA)
The Family and Medical Leave Act of 1993 (FMLA)
<i>Benefits</i>
Retirement System
Health care plan
Workers' Compensation
Holidays
Overtime and compensatory time
Leave
Vacation

The next component identified by experts as a necessary inclusion to employee handbooks is handbook disclaimers.

### **Handbook disclaimers<sup>16</sup>**

The **at-will rule** has prevailed in employment law for at least the last century. The rule is traced to a treatise written by Horace Gray Wood in 1877:

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<sup>16</sup>Befort, 1991/1992; Martucci, 1997; Sculnick, 1988; and Waterman, 1992.



With us the rule is inflexible, that a general or indefinite hiring is prima facie a hiring at-will, and if the servant seeks to make out a yearly hiring, the burden is upon him to establish it by proof...[It] is an indefinite hiring and is determinable at the will of either party.

This rule, later given the name Wood's rule, quickly became the law throughout the United States. The **employment-at-will doctrine** is based on a "theoretical equality of rights." In essence, both the employer and employee have the right to terminate the employment relationship at any time and for any reason (Befort, 1991/1992: 329).

Courts as well as other legislative bodies have created exceptions in response to the harshness of the employment-at-will rule that permits employers to discharge their employees regardless of rationale or length of service. One of the most commonly accepted limitations of the at-will rule is the implied contract exception. Employee handbooks are at times considered an implied contract (Befort, 1991/1992: 327). However, a number of the courts, have suggested that employers can avoid unwanted contractual liability by using disclaimers. Disclaimers enable employers to retain the benefits of using an employee manual or handbook and at the same time forgo the legal obligations.

There is a growing discrepancy between the theory and practice of disclaimers.<sup>17</sup> In theory, court rulings portray disclaimers as a method to dispel employee expectations and negate the contractual nature of employee handbooks. In practice, however, many courts have gone to great lengths to

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<sup>17</sup>Employers use disclaimers in order to avoid employees interpreting the employee handbook as a contract; however, presedence reveals the tendency for the courts to disregard the employers attempt to avoid entering into a contractual relationship with employees.

avoid giving disclaimers legal standing. There is a pattern emerging. Courts seem reluctant to allow a disclaimer to shield handbook promises from enforcement without an examination of the overall circumstances in a given case (Befort, 1991/1992: 328). Thus, cases brought before court regarding handbook disclaimers have taken on a "case-by-case" ruling. There is no consensus regarding the legal theory supporting the handbook exception to employment-at-will (Befort, 1991/1992: 340).

In addressing the individual cases, courts usually analyze the facts to decide if the language contained in the handbook is specific enough to constitute an specific employment related promise or offer. The courts also analyze whether the promising statement was communicated to the employee by issuance of the handbook or other forms of communication. Finally, the courts often assess whether the employee accepted the promising statement by the employer prior to retaining employment with the organization (Martucci, 1997: 87).

The doctrine of employment at-will has been eroded in many states because courts have imposed limitations on an employer's right to discharge an at-will employee (Sculnick, 1988: 31). Regardless, the literature widely recommends the use of employee handbook disclaimers enhancing the employer's ability to protect themselves.<sup>18</sup> At the same time, employers are urged to take note of current developments in handbook-related employment litigation.

Martucci (1997: 92) and Sculnick (1988: 32) state specific requirements for a disclaimer. A statement must be included establishing the

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<sup>18</sup>See for example Brown, 1986, 227; Bottorff, 1987, p. 32; Sculnick, 1988, p. 31; Panaro, 1988, p. 81; Snyder, 1991, p. 57; Cooper, 1990, p. 17; Coombe, 1986, p. 6.

employment-at-will relationship. Another statement must establish that nothing in the document is intended to create a guarantee of continued employment. A disclaimer specifically states that the handbook is not a contract and that the employer has the right to change the provisions of the handbook or other documents at any time.

Additional forms of disclaimers include a distributed statement by the employer requiring the employee to sign in acknowledgment that the employee handbook provisions have been received, read, and understood. The employer may want to distribute a statement regarding the employer's right to revise the policies at any time excluding the at-will provision (Waterman, 1992: 99).

In summary, the following items address handbook disclaimers and should be included in the employee handbook. (See **Table 4.3**).

**TABLE 4.3 HANDBOOK DISCLAIMERS**

Employment-at-will statement
Signed acknowledgement statement
Right to revise/update statement

Experts identify discipline as another component to be included in employee handbooks. The next section contains a discussion of this component.

## **Discipline<sup>19</sup>**

Discipline is an employee sanction that occurs when employers encounter problems with employee work performance, attendance and personal conduct. Employees failing to conform to proper standards often find themselves confronted with organizational procedures designed to return them to "acceptable" behavior or performance (*The Employee Handbook*, 1990: 261). These disciplinary procedures should be found in employee handbooks.

As a result of the growing body of laws and court actions intended to protect employees from discriminatory or arbitrary treatment, organizations are finding it increasingly necessary to examine their system of rules and penalties to see if they are defensible. Organizations have begun to evaluate and improve these disciplinary systems to avoid losing grievance actions and arbitration proceedings as well as law suits (McAfee, 1981: 19).

McAfee maintains that the inclusion of discipline policies in employee handbooks is essential because such policies clarify what constitutes acceptable and unacceptable behavior. These written rules, in effect, become a part of an employee's job description which is reinforced by a system of potential sanction. Furthermore, written rules serve to guide employee behavior (McAfee, 1981: 35).

An organization's disciplinary system serves two primary functions with regard to employee behavior. First, the system can be utilized as a motivational device and, by design, can provide stimuli that minimizes undesired employee behavior (McAfee, 1981: 34). Second, disciplinary systems serve as management control mechanisms intended to identify and

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<sup>19</sup>*The Employee Handbook*, 1990; McAfee, 1981; and Grote, 1984.

correct dysfunctional behavior as well as bring employee behavior back within acceptable bounds (McAfee, 1981: 35).

Grote (1984) states that several key steps must exist in the implementation process of disciplinary system. The first step in the process is identifying and developing a clear and defensible statement of the exact misbehavior or rule violation associated with each disciplinary action. During the second step, the supervisor analyzes the problem. The analyses incorporates two questions. First, what is the impact of the problem on the organization, its clients, the employee's co-workers and the supervisor? Second, what consequences will there be if there is no change in the behavior? This analysis is intended to help specify the level of the offense. The third step in the process of discipline involves an investigation to reveal whether misconduct or a rule violation in fact exists and if so, the impact and consequences of this misconduct. (Grote, 1984: 772).

The fourth step involves a discussion with the employee to gain the employee's agreement that a misconduct exists (Grote, 1984: 775). It is important for management to document the specific discussion with the employee, the date of the conversation, the specific rule violated as well as information such as references to previous conversations about the problem. A statement of specific changes expected should be included in the documentation. Grote further states that the documentation should include a restatement of the employee's agreement, significant comments or statements, and a statement by management indicating that any reoccurrence of disciplinary problems will be followed by additional disciplinary action. A statement regarding management's confidence in the employee's abilities concludes the documentation process.

The final step in the disciplinary process is management's follow up procedure. The employee's current behavior and work performance is documented to assess improvement or noncompliance (Grote, 1984: 781).

McAfee (1981) further adds that the design of a disciplinary action system will be most effective if employees from all levels of the organization have a chance to participate in its development. The assumption is that if employees accept the system, its chances of success are greater. Employees as well as supervisors must feel the system is fundamentally equitable and sound. And finally, disciplinary system should contain an appeals or grievance process (McAfee, 1981: 30).

In summary, the following items depict disciplinary policy and should be included in the employee handbook. (See **Table 4.4**).

**TABLE 4.4 DISCIPLINARY POLICY**

Clear statement of misbehavior or rule violations
Process of violation analysis
Investigative procedure
Documented discussion
Follow up procedure

In further developing a tool to assess employee handbook contents, equal employment opportunity is identified in the literature as a necessary component as well.

## **Equal employment opportunity<sup>20</sup>**

The basic purpose of employment laws is to correct the social injustices inflicted upon particular groups such as minorities. This policy is an attempt for management to eliminate employment practices that lead to the discrimination of employees on the basis of sex, religion, race, color, national origin, age, and handicap status.

The nature of equal employment opportunity derives from the Civil Rights Act of 1964 (Title VII) which was amended by the Equal Employment Opportunity Act of 1972. This act forbids discrimination in areas of employer-employee relations including: hiring, terms or conditions of employment, union membership and representation, and the provision of referral services (Singer, 1990: 32).

It is in the company's best interest to develop and use its human resources to their full potential and to select the best qualified person for every job. The purpose of including this policy within an employee handbook ensures that the company comply with the law. Employers are required to include a statement of no discrimination against a person, employee or job applicant on the basis of race, color, religion, sex, age, national origin, handicap or any other factor that does not pertain to the individual's ability to do the job in a relevant policy document. An employee handbook is a typical document for these statements.

In addition to the policy statement, details of the implementation process for the Equal Opportunity law should be spelled out. These include procedures for recruiting, promotion, and job assignment. The employee handbook should also identify any training available for promotions. To

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<sup>20</sup>Singer, 1990 and *The Employee Handbook*, 1990.

enhance the credibility of equal employment policy, an employee handbook should make reference to the accessibility of an employee's performance reviews as well as the availability for training, promotion, and career development (*The Employee Handbook*, 1990: 278).

In summary, the following items illustrate elements of an equal employment policy to be included in the employee handbook.  
(See Table 4.5).

**TABLE 4.5 EQUAL EMPLOYMENT OPPORTUNITY**

A statement of nondiscrimination
Equal Employment Act of 1972
Acknowledgment of Title VII
Selection process on placement, promotion, training
Available training for career development
Accessibility of performance appraisals

The next component identified by experts as a necessary inclusion in employee handbooks is sexual harassment.

### **Sexual harassment<sup>21</sup>**

Sexual harassment is in violation of Title VII of the Civil Rights Act of 1964, which includes a prohibition of discrimination in employment on the basis of sex. James (1981: 402) defines sexual harassment as that of "unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of sexual nature". The explicit definition of sexual harassment contains four elements. First, sexual harassment is almost always receptive. Second, sexual harassment is usually one-sided. Third, the victim

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<sup>21</sup>James, 1981; Ginsburg, 1996; and Strickland, 1995.



usually attempts in some ways to indicate that the offender's behavior is unwelcome. And last, the victim usually cannot stop the abuse (James, 1981: 403).

The courts have expanded the sexual harassment prohibition to include conduct of a non-sexual nature. This behavior involves intimidating physical conduct or non-sexual verbal abuse that would not have occurred but for the sex of the victim. Thus, an employer that allows a manager to engage in belligerent or bellicose behavior towards an individual risks liability under a sexual harassment theory (Ginsburg, 1996: 17).

There are different forms of sexual harassment. Preventing sexual harassment may depend on the employer's ability to identify the different types and specify preventive measure that deal with the problems each type presents (Strickland, 1995: 497). The different types include unwanted sexual advances, creating a hostile environment, consensual relationships that have dissipated over time, employee harassment on non-employees, female harassing male co-workers, same-sex harassment, unwanted physical contact and quid pro quo (Strickland, 1995: 496).

Sexual harassment has become an increasing problem in the work place. An October 10-11, 1991, a *Newsweek* poll found that 21 percent of women claimed that they had been harassed at work and 42 percent knew the victim of sexual harassment at work. Thirteen percent of the women polled had filed or knew someone who had filed a formal complaint of sexual harassment. Another poll conducted by the *New York Times* on Oct. 9, 1991, found that four out of ten women claimed they had been the object of unwanted sexual advances or remarks from male supervisors in the workplace. Surveys indicate that somewhere between forty and seventy

percent of women have experienced some form of sexual harassment (Strickland, 1995: 494).

There are several reasons to include sexual harassment policy in an employee handbook. First, basic guidelines of sexual harassment are essential in understanding employer liability. The guidelines are broad and include employer responsibility for acts they are often unaware of, acts of non-employees, persons affected indirectly by sexual harassment, and prevention awareness. Second, the burden of proof frequently rests with the employer. Awareness, prevention programs and immediate corrective action are clearly the best and at times the only defense against legal charges (James, 1981: 402). And third, the clarification of company policy enhances communication between workers. When limits are identified People are educated about intent and more assertive about their treatment preferences (James, 1981: 405). Furthermore, employee behavior is effected by sexual harassment in the work place. Often, worker morale and productivity decline while absenteeism increases (Strickland, 1995: 495). Sensitizing management and employees to sexual harassment and the protection of victims can contribute to improved working conditions and subsequently to improved productivity (James, 1981: 405).

A sexual harassment policy incorporates several different elements. These include preventative measures of sexual harassment which are a clear definition of the various types of sexual harassment. The definition of sexual harassment should track the EEOC language. A second element is the procedure for reporting the harassment. The procedure should enable the victim to circumvent completely the harasser when filing the complaint. The third element is a description of the way the complaint will be investigated, which emphasizes the prompt response the organization will make to the

complaint. The investigative discussion should include a statement guaranteeing that no retaliatory action will be taken against a person who complains of harassment or who participates in the investigation. A fourth element is the a description of the potential penalties for violating the organization's harassment policies, which should include all discipline available to the organization. Other elements involve sound training and education on sexual harassment and documentation of each intervention (Ginsburg, 1996: 17-18).

The definition of sexual harassment includes Equal Employment Opportunity Commission guidelines and case law so that the various types of sexual harassment are revealed to employees. Comprehensive training sessions are implemented for current employees to ensure familiarity with the policy as well as acquainting new arrivals with the policy. A strong denouncement of sexual harassment provides a confirmation to all employees that it will not be tolerated by the employer. Sexual harassment violations are to be associated with immediate disciplinary remedies.

A statement of an employee's legal right to complain about sexual harassment under Title VII of the Civil Rights Act of 1964 provides an employee with immediate options for retaliation against such violations. Employee education on how to recognize and confront sexual harassment can be achieved by conducting workshops, whether they be optional or required. The workshops are administered to promote openness and frank discussion. Strickland maintains that action by management must be taken on all past and present complaints and immediate action by management should follow any complaint. To alleviate potential problems with sexual harassment, an organization can implement a policy restricting dating in the workplace (Strickland, 1995: 504).

Below is a summary of the elements of sexual harassment policy as stated in the review of the literature. (See **Table 4.6**).

**TABLE 4.6 SEXUAL HARASSMENT POLICY**

Strong denouncement statement
Definition of sexual harassment
Definition of various forms of sexual harassment
Complaint procedure
Investigative process
Disciplinary action
Training/education available
Right to Complain under Title VII

Another component that must be considered when developing a tool to assess employee handbooks is the grievance procedure.

### **Grievance Procedure<sup>22</sup>**

Grievances stem from dissatisfaction, disappointment, or apprehension experienced by employees over job situations such as not getting an expected or desired pay increase (Gordon, 1984: 758). Grievances are defined as employee complaints or concerns about alleged violations of a contract provision which is submitted for resolution through a formally established procedure (Singer, 1990: 439). Because employee handbooks are increasingly being viewed by the courts as implied contracts, grievance policies and procedures are a critical component of an employee handbook.

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<sup>22</sup>Singer, 1990; Gordon, 1984; James, 1981; Mesch, 1995; Madson & Knudson-Fields, 1987; Baroni, 1986; and Pell, 1993.

Grievance procedures can have an effect on employee behavior. The procedures can affect the level of productivity which can have an effect on morale. Thus, the ultimate result in a sound grievance system is better employee morale, which leads to better productivity (Gordon, 1984: 758). Employees who are aware of grievance procedures are more likely to trust the company's policies. Furthermore, organizations that encourage employees to be assertive and open with management will eliminate most grievance cases before the cases reach management (James, 1981: 407).

There are several reasons a grievance policy should be included in an employee handbook. First, federal and state regulations, especially those laws dealing with equal employment opportunity, have put pressure on organizations to establish visible and effective procedures for settling employee complaints (Gordon, 1984: 758). Second, most complaints stem from inequities, as perceived by the complaining employee. These inequities are often related to the application of employment policies and practices, prolonged inattention or inaction on matters brought to the supervisor's attention by employees, unannounced or unexplained changes, lingering resentment, low morale, and conflicting opinions and personality clashes (Gordon, 1984: 759). A third reason for including grievance procedures in an employee handbook is to inform supervisors of organizational expectations in handling employee grievances. If supervisors are familiar with the criteria that will be used in judging supervisory actions in a grievance appeal, it is likely that the overall process will be handled with diligence and fairness (Gordon, 1984: 765).

It is essential that an organization's policies and procedures for filing and handling grievance procedures be conveyed and interpreted to all employees. Such policies and procedures are to be designed to promote

understanding and communication among management, union, and individual employees (Gordon, 1984: 767). It is important for the employer to question the process in which the complaints and grievances are handled and the effect this process has on profit and productivity. In essence, management's mission is to minimize the costs of avoidable complaints and grievances (Gordon, 1984: 757).

Several elements are identified as important when implementing a grievance or complaint system. These include an investigation emphasizing due process, a statement addressing procedural objectivity and fairness, a notification process to be utilized by employees, an organization's timely response to employee grievances, corrective action associated with the grievance procedure and a monitoring process to ensure that an employer's decision is carried out.

When investigating grievances, management must consider due process. The investigation should ensure that the grievance be based solely on the merits of the employee's complaint and the merits of the management's defense. The expectation that employers should promote equality of treatment for employees appears to be a stronger norm in the public sector versus the private sector. In addition, the grievance process for public employees has much more of a stringent due process procedure and faces more political pressures than those found in private organizations (Mesch: 1995: 23).

Also, a notification process must be implemented so that employers have documentation and proper notification of an employee's written grievance. The notification process also enables to formalize the complaint procedure for employees to ensure accuracy and accountability. This

notification process should include relevant parties, the employee's alleged problem, and the date of the written grievance. (Gordon, 763).

In addition, the grievance policy should state the organization's expectancy of the time allowed for management to establish a written position regarding the complaint. This includes time limits during any informal investigation that may simply entail discussing the problem with the employee (Gordon, 758). Timeliness is a key concern since many complaints are related to prolonged inattention or inaction on matters brought to the supervisor's attention by employees. Finally, fairness and objectivity should be an ongoing concern and goal for management when establishing a position. This goal should be clearly stated in the handbook (Gordon, 759).

Madson & Knudson-Fields (1987: 18-22) Baroni (1986: 22-25) as well as Pell (1993: 29-30) also address necessary elements of the grievance policy. First, the authors reemphasize the need for due process in gaining the facts surrounding the grievance. The authors stress the need for management to listen to the complainant and rephrase the complaint to ensure understanding of the employee's position. Secondly, after gaining the facts in the investigation process, management must take action. This process involves a carefully reviewing the facts and making a written decision. The written decision should be to the point. If the employee has been wronged, the corrective steps should be indicated. If management decides that the grievance is without merit, the written decision and the facts surrounding the grievance should be passed to the next level of management. Management should keep all documentation. Documentation serves to protect a manager's position and facilitate future processing of the grievance.

Baroni (1986: 26) specifies the monitoring process as a final element in the grievance procedure. This process should ensure that the decision is

carried out. Written details of the grievance and corrective action should be given to both the personnel department and the employee's first-line supervisor. This type of deliberate and special treatment of the decision serves to enhance its enforceability. Subordinate supervisors tend to place more emphasis on clearly issued personal statements than memoranda decisions. Employees should be observed by management to detect changes in attitudes or actions. By doing so, a manager may be able to determine whether he or she has remedied the problem and prevented other grievances from occurring out of the same source of discontentment.

In summary, the following items should be considered in an organization's grievance procedures. (See **Table 4.7**).

**TABLE 4.7 GRIEVANCE PROCEDURE**

Investigation process
Acknowledgment of due process
Statement regarding procedural fairness/objectivity
Notification process
Management response procedure
Statement specifying corrective action
Monitoring process

The following is a discussion of the final policy component described in this tool to assess employee handbooks. This policy component is performance appraisal.



## **Performance Appraisal<sup>23</sup>**

A performance appraisal is a formal process of providing workers with diagnostic feedback about their job performance. Conducting performance appraisals is one of the most important supervisory tasks because little learning or improvement of employee behavior occurs unless individuals are provided with feedback about their performance. Providing knowledge of how effectively the employee performs his or her job is crucial to fostering positive behaviors and eliminating inappropriate action. The principal rationale for using performance appraisal is to maximize productivity by identifying and capitalizing on the strengths of employees.

Performance appraisals serve many different functions. They can be used to determine appropriate salary increases and bonuses for workers based on performance as well as promotions or transfers depending on the demonstration of employees strengths and weaknesses. They can determine which employees to lay off or dismiss based on demonstrated work performance. Training needs can be assessed by evaluating the weaknesses of employees. It can also promote effective communication within organizations throughout the interchange of dialogue between superiors and subordinates (Singer, 1990: 204).

Although performance appraisals can be used to accomplish many objectives, the essential objective of any performance management system is the continuous improvement of employee performance. The system cannot achieve multiple objectives that are contradictory. Each aspect of the system is to be examined for its contribution to the primary objective of performance

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<sup>23</sup>Singer, 1990; Lane, 1994; Aldrich, 1984; Khojasteh, 1993; Perry, 1996; Roberts, 1995; Roberts, 1992; and *The Employee Handbook*, 1990.

improvement. Such an examination is based on evidence rather than assumptions about motivation of employees in the public service. The system's goal is to aid not frustrate or anger employees in achieving work-force effectiveness (Lane, 1994: 37).

Performance appraisals have a direct impact on employee work behavior. Roberts states that an individual employee performance improvement is the key to increasing overall organization productivity (1995, 34). Benefits and money do not by themselves motivate employees. It is the overall job content, a sense of recognition and achievement, and opportunities that motivate people (Aldrich, 1984: 172). Reward contingent upon performance is more effective in motivating employees to continually perform in a desired fashion. Rewards contingent upon performance has not been widely used by the public sector (Khojasteh, 1993: 392). However, private and public sector managers are both equally motivated by the intrinsic reward factors of achievement and advancement. The intrinsic reward factor of recognition was ranked as the second most important factor for public sector managers (Khojasteh, 1993: 398).

Perry (1996) asserts that individuals will be motivated to perform well when they find their work meaningful and believe that they have responsibility for the outcomes of their assigned tasks (371). However, the performance is dependent on the structure of the performance appraisal system

Performance appraisal systems help the supervisor evaluate performance in an objective, consistent, and uniform manner based on performance and qualifications. It encourages better communication with employee and supervisors. It also serves to communicate career development as well as potential and possible advancement opportunities. (*The proving*

organizational performance (Roberts, 1995: 19). Developmentally oriented appraisal systems are believed to produce effective information for identifying employee strengths and weaknesses and pinpointing training needs (Roberts, 1995: 18). Performance appraisals can be conceptualized as management tools designed to increase the municipality's managerial capacity (Roberts, 1992: 20).

Specific elements can be identified in a performance appraisal system. These elements include goal setting, rating form and performance standard, feedback, employee acceptance, managerial acceptance, appraisal fairness, information validity, specifications in performance standard, and personnel decision (promotions) based on performance (Roberts, 1992: 28).

A statement indicating when performance appraisals will be given and who will be administering the appraisals gives the employee an incentive to maintain productivity. Management is responsible for reviewing the administration of the performance review and ensuring its clarity and equity. The goal of the performance appraisal is to give the employee a clear picture of where they stand in terms of company performance standards as well as provide opportunity for feedback. Employees should be given the right to review, correct inaccuracies, and make a written statement or comment concerning all aspects of the appraisal process ( *The Employee Handbook*, 1990: 267).

When the employees participate in the appraisal process, the quality and quantity of performance information increases leading to more accurate and valid ratings (Roberts, 1995: 19). Participation can enhance the perception that the decision represents a calculated, rational judgment. Goal setting and feedback are the other formal means for interjecting employee voice into the appraisal process. This enhances perceptions of performance

appraisal fairness (Roberts, 1992: 20). Performance appraisal systems that exhibit higher levels of participation, goal setting and feedback should be positively associated with higher levels of employee and rater acceptance, which is critical to effective personnel decision making. If employees and raters do not accept the system, the system will be ineffective regardless of the effect of its technical soundness. Lack of acceptance translates into resistance and reduction in user motivation, transforming the process into an exercise in paper shuffling (Roberts, 1995: 22).

In summary, the following items relate to the performance appraisal process. (See **Table 4.8**).

**TABLE 4.8 PERFORMANCE APPRAISAL**

Time of appraisals
Responsible party for administering the appraisal
Components
Employee/managerial acceptance

The final section of this chapter identifies elements of the miscellaneous category. This section discusses the physical attributes of the employee handbook as well as elements that are not congruent with the previously mentioned components.

### **Miscellaneous<sup>24</sup>**

Brock & Cabbell (1989:11) state the importance of utilizing the employee handbook as a reference tool for organizational policies and procedures. A table of contents provides the ability for employees to refer to

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<sup>24</sup>Brock & Cabbell, 1989; Feldman, 1965; and Helfgott, 1991.

policies and procedures set forth by an employer. Upon completing the employee handbook, the table of contents should appear as the checklist of all components listed in the handbook.

Feldman (1965: 27) and Helfgott (1991: 6) stress the importance of historical information to acquaint an employee with the organization. A brief history of the organization can explain the organization's importance to public service. The historical information can identify the growth of the organization over the years. Generally, this information is both important and interesting to the employees. Mentioning people important to the development of the organization better acquaints employees with the workplace environment.

Another method that can be used to set the tone for new employees is a welcome statement at the beginning of the handbook. This brief statement demonstrates awareness of employee needs and expresses commitment to provide a positive work environment. This statement can also assure new employees that they are important to the agency (Helfgott, 1991: 6).

Because serving the public can be seen as a matter of trust provided by the public, organizational conduct requires integrity and compassion. Agencies should set forth written standards of conduct or codes of ethics employees are expected to uphold. These codes or standards should be included in the agency's employee handbook so that an employee is introduced to agency expectation at the beginning of the employment period. State, provincial, and national codes and standards of the professions can provide useful guidance (Helfgott, 1991: 7).

A final element in this category is the statement of good will. The employee handbook should indicate an employee's value to the organization. A statement of goodwill at the end of the handbook reflects an organization's

concern for a safe working environment. An example of such a statement is as follows:

We have done a good job in the past in this area and thanks to our mutual concern for safety, we know our efforts toward a safe working environment will continue to be positive (Brock & Cabbell: 1989: 26)

This statement is generally stated at the end of the handbook as a final message to employees (Brock & Cabbell: 1989: 26).

In summary, the elements for the miscellaneous category are listed below in **Table 4.9**.

**TABLE 4.9 MISCELLANEOUS**

Table of contents
Historical information
Welcome statement
Code of ethics
Goodwill statement

The nine categories discussed above complete the prescribed components of public sector employee handbooks. The literature supporting this prescription identifies the nine descriptive categories as necessary components of employee handbooks. However, these categories are a standard or a point of reference. Once again, the components comprising this practical ideal type are not rigidly fixed due to the ability to envision an ideal more than one way.

In addition to the concrete content issues of employee handbooks, there is a prescription for the way in which the content is to be presented in employee handbooks. The final section identifies these attributes.

## **Physical attributes**

### **Format and design**

There is an agreement among experts regarding physical attributes of employee handbooks.<sup>25</sup> The prescribed format and design of handbooks center around the fact that employee handbooks tend to be out of date shortly after their issuance. This is due largely to changing employment litigation as well as changing organizational policies and procedures.

Because employee handbooks must be kept current, a loose-leaf ring book is recommended (Feldmann, 1965: 10), (Watermann, 1992: 97). A spiral binder can be utilized as well making it just as efficient to remove the spiral for updating purposes (Helfgott, 1991: 4). These formats are the most efficient way for maintaining employee handbooks so that revisions can be made without reprinting the entire document. Also, organizations will be encouraged to revise employee handbooks due to the ease of updating the content. In addition, this flexible format makes it easy for multi-state employers to customize handbooks by state, since laws governing certain aspects of employment may vary (Watermann, 1992: 97).

The design of the employee handbook is also important. Often, it is the design that ensures the content is readable. The content of the employee handbook should be displayed with subheadings and bullets. Plenty of white space as well as illustrations make the handbook readable and interesting (Brock & Cabbell, 1989, p.24).

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<sup>25</sup>See for example, Waterman, 1992, p. 97; Helfgott, 1991, p. 4; Brock & Cabbell, 1989, p. 24; and Feldmann, 1965, p. 10.

### **Dated pages**

Each page in the manual should be dated to reflect its timeliness. An employee handbook should be updated on a yearly basis to reflect the current year. This is to ensure that the policies and procedures take into account current employment litigation (Watermann, 1992: 98).

### **Removable acknowledge statement**

Furthermore, the employee handbook should have a separate tear-off employee acknowledgment page. This acknowledge statement signed by the employee can be filed in an employee's personnel folder (Watermann, 1992: 98). This statement reemphasizes an employer's position on employment-at-will and documents an employee's acknowledgment that the employee handbook is not a contract.

### **Writing style**

A major complaint from human resource managers is that employees don't read important information distributed to them. Often this is because the material is not easy to read (Brock & Cabbell, 1989: 24).

There are several key factors relating to writing style. First, the language should be kept clear and simple. Although the handbook may function as a legal document, legal jargon should be avoided whenever possible. Second, policy statements should be direct using natural, everyday terms for policy clarity. Third, sentences and paragraphs should be kept short. And finally, the active verb form should be used. The active verb form is more direct and vigorous than the passive verb form (Helfgott, 1991: 5-6).



In summary, the standard of physical attributes of employee handbooks are listed in **Table 4.10**.

**TABLE 4.10 STANDARD USED FOR  
PHYSICAL ATTRIBUTES**

Format and design
Dated pages
Removable acknowledge statement
Writing style

The prescribed components and physical attributes have been presented. The method for analyzing Texas state agency employee handbooks utilizing these prescriptions is discussed in Chapter 5.

## CHAPTER 5

### METHODOLOGY

#### Content Analysis

The research purposes were carried out using content analysis of existing Texas state agency employee handbooks. Because employee handbooks are examples of documents produced by state agencies, content analysis is used to describe the kinds of information found therein.

Babbie defines content analysis as a method of collecting social data through carefully specifying and counting social artifacts such as books, songs, speeches, and paintings (Babbie, 1979: 202). Babbie also describes content analysis as a researcher's examination of a class of social artifacts, typically written documents (1995: 306). Weber (1985) further identifies content analysis as a "research methodology that utilizes a set of procedures to make valid references from text" (1985: 9).

Content analysis can serve many different purposes. Some of the purposes of content analysis are stated by Weber (1985) in *Basic Content Analysis*. These purposes are listed below in Table 5.1.

**TABLE 5.1 PURPOSES OF CONTENT ANALYSIS**

Compare media or levels of communication
Code open-ended questions in surveys
Describe attitudinal/behavioral responses to communications
Reveal the focus of individual, groups, institutions, or societies
Reflect cultural patterns of groups, institutions, or societies
Describe trends in communication content

This Applied Research Project is congruent with Weber's final purpose. This study focuses on Texas state agency employee handbooks which are documents containing communication content.

As with any research method, there are strengths and weaknesses associated with content analysis. **Table 5.2** lists these strengths and weaknesses identified by Babbie (1979: 252-53).

**TABLE 5.2 CHARACTERISTICS OF  
CONTENT ANALYSIS**

<b>Strengths</b>
Economic in terms of time and money
Safety regarding research repetition
Permits historical studies & comparisons
Unobtrusive
<b>Weaknesses</b>
Limited to recorded communications
Potential problems with validity

Content analysis is used in the study of communications to answer the classic question of communications research: "Who says what, to whom, how, and with what effect?" and can answer the more recently added question, "why?" (Babbie, 1979: 234). Because employee handbooks are a form of communication, it is appropriate to use this method to understand what organizational policies and procedures are being communicated to public sector employees and the extent at which the policies and procedures being communicated.

## **Population**

The study population comprises Texas state agencies which represent 50 percent of the Texas state agency workforce. The total number of full-time equivalent (FTE) employee for Texas state agencies is 156,453 FTE employees. The population for this study included 25 Texas state agencies with a total of 78,077 FTE employees. See **Appendix A** for a complete list of the population of this study as well as the respective number of full time employees.

## **Operationalization**

Babbie indicates that as a mode of observation, content analysis is "essentially an operation of coding in which the communications are coded or classified in terms of the conceptual framework." Thus, the conceptual framework must be refined, and specific methods must be developed for observing. The methods for observing must directly relate to the framework (Babbie, 1979: 239).

These specific methods for observation in relation to the conceptual framework surround the issue of coding. Two coding procedures are utilized in collecting the data. The first coding procedure incorporates manifest content which deals with concrete issues developed in the literature review. This coding method has the advantage of reliability by reporting precisely what is included in the handbook and to what extent a specific item is included (Babbie, 1979: 240).

The second coding procedure addresses the aesthetic content associated with employee handbooks. This coding procedure identifies aesthetic aspects associated with employee handbook. A judgment is made on each physical attribute identified in the literature review. This judgment is

based on the quality of the employee handbook appearance. Examples of the aesthetic content are writing style and handbook format.<sup>26</sup> **Appendix C** identifies examples of writing style to illustrate judgment made on each employee handbook. This coding method can raise issues surrounding reliability and specificity (Babbie, 1979: 240).

The analysis of the handbooks took place after the review of the literature. A typical analysis for purposes of coding the manifest content of an employee handbook took approximately 1 hour and 45 minutes. The analysis for assessing aesthetic content took approximately 35 minutes per handbook. An assistant was utilized to code the manifest content. Inter-rater reliability was addressed. Each rater coded three of the same employee handbooks to ensure accuracy in the coding method. The employee handbooks were coded during a one week period with questions and uncertainties presented to the researcher for resolution.

The purpose in coding the content of each unit of analysis (employee handbook) is to first determine whether a policy exists within the employee handbook and, if so, to assess each policy as it relates to the practical ideal type. Secondly, coding the aesthetic content of each employee handbook identifies to what extent, if any, the handbooks compare to the prescribed physical attributes. The two separate coding procedures are discussed below.

### **Coding Procedure 1**

To describe the policy content of each employee handbook, two columns illustrated in **Appendix B** provide a space for recording the

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<sup>26</sup>Assessment of employee handbook physical attributes will be based on judgement. Refer to Babbie's discussion on latent content for similarities in coding aesthetic content (Babbie, 1979, p. 240).

necessary information. Each column represents a variable to be assigned a value. The variable "included" relates to whether the policy exists in the handbook. This variable is assigned a value of "yes" or "no." The variable "degree" includes data collected as ratio level representing the total number of words addressing the specific item.

Each descriptive category contains prescribed elements. These elements make up each policy or procedure identified in the Texas state agency employee handbooks. The following chart reveals the descriptive categories and the elements associated with each category. The operationalization is congruent with the tables in the results chapter.

**Figure 5.1** illustrates the elements assessed in each descriptive category.

**FIGURE 5.1 CODING PROCEDURE I**  
**MANIFEST CODING**

Descriptive Category	Elements
Absenteeism	<p>E1 a statement of the absenteeism policy educating employees on the organization's expectations relating to absences as well as tardiness</p> <p>E2 a monitoring system where absenteeism is both supervised and documented by management to include documentation of employee response to the policy</p> <p>E3 a counseling program administered by management for employees not complying with the policy</p> <p>E4 a follow up procedure administered by management to ensure compliance</p> <p>E5 a statement of corrective measures if compliance is not being met by the employee</p>
<p>Compensation</p> <p>Direct Payments</p> <p>Benefits</p>	<p>E1 a reference to the Equal Pay Act of 1963</p> <p>E2 a reference to the Age Discrimination Act of 1967</p> <p>E3 a reference to the Americans with Disabilities Act of 1990</p> <p>E4 a reference to the Fair Labor Standards Act of 1938</p> <p>E5 a reference to the Family Medical Leave Act of 1993</p> <p>E6 an explanation of the retirement system</p> <p>E7 an explanation of the employee workers' compensation</p> <p>E8 a list of holidays provided by the employer</p> <p>E9 an explanation of overtime and compensatory time</p> <p>E10 an explanation of the various leave policies</p> <p>E11 an explanation of the vacation accrual</p>

Handbook Disclaimers	<p>E1 a definition and explanation of employment-at-will</p> <p>E2 an explanation of the organization's expectation for employee to sign an acknowledgment statement specifying that the employee handbook is not a contract</p> <p>E3 an explanation stating that the organization has the right to revise and/or update any and all content in the handbook</p>
Discipline	<p>E1 a clear and defensible statement of what constitutes misbehavior or rule violations</p> <p>E2 a process of violation analysis describing what constitutes misbehavior or rule violations and how the violations will be evaluated. This process involves ascertaining the impact of the employee's co-workers and the supervisors.</p> <p>E3 an investigative procedure to reveal whether misconduct or rule violation in fact exists, and if so, the impact and consequences of this misconduct</p> <p>E4 a documentation procedure between management and the employee to gain an agreement of the violation or misconduct</p> <p>E5 a follow up procedure to gain knowledge of the status of the employee's current behavior</p>
Equal Employment Opportunity	<p>E1 a statement of nondiscrimination</p> <p>E2 a reference to the Equal Employment Act of 1972</p> <p>E3 a statement regarding recruitment procedures</p> <p>E4 a statement of procedures for the selection process on placement, promotion, and training</p> <p>E5 a reference to available training for career development</p> <p>E6 a statement specifying the accessibility to employees of performance appraisals</p>



Sexual Harassment	<p>E1 a statement of strong denouncement and no tolerance by the employer</p> <p>E2 a definition of sexual harassment</p> <p>E3 a reference to the various forms of sexual harassment</p> <p>E4 an explanation of an employer's complaint procedure</p> <p>E5 an explanation of an employer's investigative process</p> <p>E6 a statement associating violations of sexual harassment policy with immediate disciplinary action</p> <p>E7 a reference to available education or training seminars or workshops be it mandatory or optional</p> <p>E8 a statement identifying an employee's right to complain under Title VII</p>
Grievance Procedure	<p>E1 an explanation of the employer's investigative process</p> <p>E2 a statement regarding due process</p> <p>E3 a statement regarding procedural objectivity and fairness</p> <p>E4 an explanation of the notification process employees utilize to inform management of grievances</p> <p>E6 an explanation of the monitoring process implemented by management to assess behavioral changes</p>
Performance Appraisal	<p>E1 indication of the time schedules for documenting performance</p> <p>E2 acknowledgment of individual(s) in charge of administering the appraisal</p> <p>E3 a statement of the appraisal components</p> <p>E4 a statement regarding employee/managerial acceptance</p>
Miscellaneous	<p>E1 a table of contents specifying topic and page numbers of each topic</p> <p>E2 a section addressing historical information about the organization</p> <p>E3 a welcome statement for new employees</p> <p>E4 a detailed outline of a code of ethic</p> <p>E5 a statement regarding employee value</p>

## Coding Procedure 2

A separate coding procedure is used to determine the aesthetic content of each Texas state agency employee handbook. Again, this coding method requires making judgments about the physical attributes of the employee handbook. In the first column, each employee handbook is assigned an ID number. A list of the Texas state agencies along with respective ID numbers are illustrated in **Appendix A**. The second column identifies whether the employee handbook contains dated pages as per the prescribed standard. This column reveals the effort of the agency to keep the employee handbook content as current as possible. This column is labeled "**dated pages**" and is assigned a value of "yes" or "no" with "no" representing a value of 0 and "yes" representing a value of 1.

Based on the prescribed standard, employee handbooks should be revised or updated on an annual basis. Thus, it is relevant to assess whether the date of public sector employee handbooks is current. For purposes of this research, current employee handbook publications or revisions are those dated 1996 or 1997. The third column labeled "**date**" identifies whether the employee handbook publication or revision is current. The values assigned to this column are again "yes" or "no" with "no" representing a value of 0 and "yes" representing a value of 1.

The fourth column labeled "**acknowledgment sheet**" is assigned a value of "yes" or "no" as well. The values assigned to this column are the same as the two previously discussed columns, with "no" representing a value of 0 and "yes" representing a value of 1. This column identifies whether the employee handbook contains a detachable acknowledgment statement requiring employees to document in writing that he or she has read the

employee handbook. Often, employers can use this type of disclaimer as a source of defense in employment litigation.

The fifth and sixth column, "**format/design**" and "**writing style**," are both based on a Likert scale. Babbie defines a scale as "a composite measure constructed on the basis of an intensity structure among items composing the measure." The Likert format provides a researcher with results that are a "straightforward method of index construction."

(1979: 409). Ordinal response categories measuring the columns labeled "format and design" as well as "writing style" include *poor*, *fair*, *good* and *excellent*. With these four response categories, scores of 1 to 4 are assigned to each unit of analysis with 1 representing the lowest degree of appeal and 4 representing the highest degree of appeal.

Writing style was assessed on four factors. First, the use of clear and simple language was assessed. The second assessment determined whether or not the handbook contained legal jargon. Third, sentences and paragraphs were evaluated for short, concise structure. And finally, the handbook's use of the action verb form was determined. **Appendix C** is an example illustrating each ordinal response category.

The format and design of an employee handbook should allow for easy readability and revisions. The prescribed format is a loose-leaf ring book or a spiral binder. Other methods for easy revision and updates to the handbook fit within the prescribed format. The prescribed design utilizes bullets and subheadings and allows plenty of white space on each page. Thus, format and design was rated on both easy readability and revision.

Values were assigned to each employee handbook ranging from 1 to 4 with 1 representing *poor* and 4 representing *excellent*. Employee handbooks receiving scores of 1 generally were in bound booklet form displaying little



## CHAPTER 6

### RESULTS

The purpose of this chapter is to organize the results of the data which were gathered. Data representing each descriptive category is presented in table form along with a summary revealing the results from the first coding procedure utilized to assess manifest content. An additional table illustrates the data from the second coding procedure in which aesthetic content was analyzed. These results depict the status of 25 Texas state agency employee handbooks as they relate to the prescribed ideal type presented in this research.

**TABLE 6.1 ABSENTEEISM RESULTS**

Elements	Yes	No	Average Word
statement of the policy	9	16	78
monitoring system	2	23	49
counseling program	1	24	20
follow up procedure	0	25	0
statement of corrective measures	3	22	35

#### **Absenteeism**

An absenteeism policy is virtually non existent in Texas state agency employee handbooks (See **Table 6.1**). Although the data reveal approximately one-third of the handbooks specified organizational expectations with regard to absenteeism, few agencies had any kind of enforcement policy to back this expectation. More astonishing is the lack of concern for following up on absences or tardiness.

**TABLE 6.2 COMPENSATION RESULTS**

Elements	Yes	No	Average Word
<i>Direct Payments</i>			
Equal Pay Act of 1963	1	24	25
Age Discrimination Act of 1967	1	24	475
Americans with Disabilities Act of 1990	11	14	320
Fair Labor Standards Act of 1938	21	4	303
Family Medical Leave Act of 1993	21	4	511
<i>Benefits</i>			
retirement system	19	6	230
health care plan	8	17	179
workmans' compensation	23	2	185
holidays	24	1	188
overtime and compensatory time	23	2	549
leave	25	0	3200
vacation	11	14	170

## Compensation

An organization's compensation system is a key factor in an employee's motivation and satisfaction.<sup>27</sup> Thus, this section is a key component in an employee handbook. The data in **Table 6.2** reveal that the compensation section is the largest section of the employee handbook.

The state agency handbooks thoroughly address information directly related to permissible time granted to employees for beneficial purposes, such as holidays and leave as well as overtime and compensatory time. The leave policy and overtime policy is in all cases comprehensive and comprise approximately three-fourths of the compensation section.

The state agency employee handbooks do not adequately address issues surrounding potential discrimination in an organization's compensation

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<sup>27</sup>See section on Compensation in Chapter 4 for detailed discussion.

system. Overall, the 25 employee handbooks in this study fail to address all of the prescribed elements of compensation but cover the majority of the issues set forth in the prescribed ideal type.

**TABLE 6.3 HANDBOOK DISCLAIMER RESULTS**

Elements	Yes	No	Average Word
employment-at-will	16	9	108
acknowledgment statement	8	17	115
right to revise/update	12	13	43

### **Handbook disclaimers**

Disclaimers specifically state that the employee handbook is not a contract and that each employee is terminable at the will of the employer. This component provides a protection for employers faced with various forms of employment litigation.

Disclaimers are not consistently utilized in the 25 Texas state agency handbooks. While the majority of the handbooks specify an employment-at-will statement, the majority do not address the right of the employer to revise or update the information. Furthermore, a significant number of state agencies do not include a written acknowledgment within the employee handbook. One can only infer that this documentation is not required by the agencies. The results in **Table 6.3** indicate that Texas state agencies are not taking aggressive action with regard to recent employment litigation surrounding employee handbooks.

**TABLE 6.4 DISCIPLINE PROCEDURE RESULTS**

Elements	Yes	No	Average Word
misbehavior or rule violations	15	10	202
process of violation analysis	9	16	124
investigation procedure	7	18	124
documentation procedure	14	11	145
follow up procedure	5	20	171

### **Discipline**

The discipline procedure reveals agency expectation with regard to employee misconduct and identifies ramification of such behavior. The employee handbook can be utilized to present this information to the employee and allows for easy revision in changes that occur in the policy.

The data in **Table 6.4** reveal that the majority of the 25 Texas state agency handbooks explicitly identify what the agency considers a rule violation or misconduct. However, few employee handbooks take aggressive measures to investigate employee misconduct or even to follow up on misconduct or rule violations. Requirement of adequate documentation by management regarding violations is included in the handbooks which meets expectation for public sector agencies.

The public sector employee handbooks lack the requirement for management to assess the violation and analyze the impact on the agency, the agency's clients or customers as well as the employee's co-workers. A significant amount of the agencies do not require a follow up procedure to assess improvement in employee behavior once a violation has occurred. Thus, it can be stated that although state agencies identify expectations in employee behavior, most often agencies do not take aggressive action to ensure compliance with organizational policies.



**TABLE 6.5****EQUAL EMPLOYMENT OPPORTUNITY RESULTS**

Elements	Yes	No	Average Word
statement of nondiscrimination	22	3	110
Equal Opportunity Act of 1972	2	23	17
Title VII of the Civil Rights Act of 1964	3	22	17
selection process	7	18	934
training	2	23	113
assessibility of performance appraisals	0	25	0

**Equal Employment Opportunity**

Including an equal opportunity policy in the employee handbook ensures the agency is in compliance with the law. Employers are required to include a statement of no discrimination against a person, employee or job applicant on the basis of race, color, religion sex, age, or national origin. A significant number of the handbooks contained this legal requirement (See **Table 6.5**). However, the handbooks fail to enhance the credibility of the equal employment policy allocating only a brief paragraph. The majority of the 25 state agency employee handbooks do not place emphasis on nondiscrimination and reveal little, if any, evidence promoting fairness and equality in promotion and training.

**TABLE 6.6 SEXUAL HARASSMENT RESULTS**

Elements	Yes	No	Average Word
denouncement	14	11	53
definition	15	10	63
various forms	11	14	108
complaint procedure	14	11	118
investigative procedure	10	15	115
disciplinary action	11	14	37
education and/or training	0	25	0
right to complain under Title VII	5	20	59

### **Sexual Harassment**

**Table 6.6** reveals that approximately half of the 25 employee handbooks include preventative measures of sexual harassment which is a clear statement of denouncement or intolerance. The majority of the handbooks specify what the agency considers sexual harassment, a statement of intolerance as well as actions to be taken when faced with sexual harassment. However, the majority of the handbooks fail to reinforce discouragement of sexual harassment by associating the activity with an aggressive investigation procedure or disciplinary action. Furthermore, none of the handbooks specify available education or training with regard to sexual harassment. Thus, none of the agencies reinforce the importance of a well informed staff which is a direct mechanism to avoid such dilemmas.

Overall, the data in **Table 6.6** reveal agencies are not displaying awareness that prevention programs and immediate corrective action are the best and at times the only defense against legal charges. In addition, by failing to address the employee's right to complain about sexual harassment under Title VII of the Civil Rights Act of 1964, the handbooks fail to provide employees with options for retaliation against such violations. Clearly, with

the majority of the 25 Texas state agency employee handbooks do not take into account the increasing problem of sexual harassment in the workplace.

**TABLE 6.7 GRIEVANCE PROCEDURE RESULTS**

Elements	Yes	No	Average Words
investigative process	10	15	253
due process	12	13	61
objectivity and fairness	10	15	35
notification process	17	8	199
management response procedure	13	12	108
corrective actions	8	17	93
monitoring process	2	23	153

### **Grievance Procedure**

With increasing pressure from federal and state regulations to establish visible and effective procedures for settling employee complaints, the employee handbook is an appropriate communication tool for an agency's grievance procedure.

The majority of the 25 employee handbooks address the grievance procedure on a superficial level (See **Table 6.7**). Only two of the prescribed components of employee handbooks are identified in the majority of the employee handbooks. Generally, the handbooks identify the procedure an employee must follow to notify the agency of a grievance as well as the time required for management to respond to this grievance. However, most often the handbooks do not address issues surrounding the quality of employee treatment and the process involved in determining corrective action. Furthermore, virtually none of the 25 state agency employee handbooks includes a follow up procedure ensuring corrective action is implemented.

Overall, the grievance policies appear to exist in name alone but specify little to ensure enforceability. A clear guideline to assess whether a problem has been remedied or to prevent other grievances from occurring out of the same source of discontentment is not prevalent in the 25 employee handbooks.

**TABLE 6.8 PERFORMANCE APPRAISAL RESULTS**

Elements	Yes	No	Average Words
time schedule	18	7	114
party administering appraisal	18	7	60
components	11	14	144
employee and managerial acceptance	14	11	94

### **Performance Appraisal**

Performance appraisals are identified as one of the most important supervisory tasks. Providing knowledge of how effectively the employee performs his or her job is crucial to fostering positive behaviors and eliminating inappropriate action.<sup>28</sup> Because performance is dependent on the structure of the performance appraisal system, it is relevant for an agency to include this information in an employee handbook.

The data in **Table 6.8** reveal public sector awareness of the importance of performance appraisals. With the exception of the content of the performance appraisal, the majority of the 25 employee handbooks address the prescribed issues relating to performance appraisal. Because an employee's performance is often enhanced when informed of an organization's expectation with regard to his or her performance, the

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<sup>28</sup>Refer to Chapter 4 for additional information relating to Performance Appraisals.

components of an employee handbook is a critical missing element in over half of the 25 handbooks.

**TABLE 6.9 MISCELLANEOUS CATEGORY RESULTS**

Elements	Yes	No	Average Word
table of contents	25	0	466
historical information	11	14	343
welcome statement	7	18	145
organization's code of ethics	25	0	1469
goodwill statement	5	20	238

### **Miscellaneous**

**Table 6.9** reveals an interesting consistency in the analysis of the 25 employee handbooks. Every handbook designated a significant number of words to an agency code of ethics. It is evident that state agencies are taking a positive step to address the public's concern regarding ethical issues in public sector employment.

## Physical Attributes Results

**TABLE 6.10 PHYSICAL ATTRIBUTES RESULTS**

ID	Dated Pages	Date*	Acknow Sheet	Format/Design	Writing Style	Score
1	1	0	0	4	3	8
2	1	1	0	3	2	7
3	1	1	0	4	3	9
4	1	1	0	1	2	5
5	1	1	0	1	2	5
6	0	0	1	2	2	6
7	1	1	0	4	3	9
8	1	1	0	4	2	8
9	1	1	0	4	3	9
10	1	1	0	4	1	7
11	1	1	1	1	3	7
12	0	1	0	4	2	7
13	0	0	0	4	2	6
14	1	0	0	4	2	7
15	0	0	0	2	2	4
16	0	0	0	2	3	5
17	1	1	0	4	3	9
18	0	1	0	3	1	5
19	1	0	1	3	3	8
20	0	0	1	3	4	8
21	1	1	0	3	3	8
22	0	1	0	1	1	3
23	0	0	0	4	4	8
24	0	0	0	1	2	3
25	1	0	1	3	3	8
<b>Avg</b>	<b>0.6</b>	<b>0.56</b>	<b>0.2</b>	<b>2.92</b>	<b>2.44</b>	<b>6.76</b>

\*The value of 1 applies to all employee handbooks that identified a date regardless of whether the date is on each page or on the handbook cover.

<b>Dated Pages</b>	<b>0 = not included</b>	<b>1 = included</b>		
<b>Date</b>	<b>0 = not current</b>	<b>1 = current</b>		
<b>Acknowledgment</b>	<b>0 = not included</b>	<b>1 = included</b>		
<b>Format/Design</b>	<b>1 = poor</b>	<b>2 = fair</b>	<b>3 = good</b>	<b>4 = excellent</b>
<b>Writing style</b>	<b>1 = poor</b>	<b>2 = fair</b>	<b>3 = good</b>	<b>4 = excellent</b>
<b>Overall Score</b>	<b>2 = lowest</b>	<b>11 = highest</b>		

### **Dated Pages**

The majority (60 percent) of the 25 employee handbooks analyzed in this study include dates on each page comprising the handbook. This allows the reader to ascertain whether the information, particularly that of a legal nature, is timely.

The coding method utilized for aesthetic content also assesses not only whether the state agency identifies the last revision or publication on each page, but also the agency's effort to annually revise the information within the employee handbook. This ensures that the information contained in the handbooks is relevant. The data in the column labeled **date** reveal that the majority (56 percent) of the handbooks are within the prescribed annual revision status. The data indicate that the majority of the state agencies in this study have made an effort to inform employees of new policies or statutes relating to employment.

### **Acknowledgment Statement**

The acknowledgment statement is a mechanism often utilized by employers for protection in employment litigation. Only 20 percent of the employee handbooks contain a separate, detachable page requiring employees to document receiving and reading the employee handbook. The data reveal a failure on the part of public sector employment to emphasize an employer's position on employment-at-will as well as emphasize the employee handbook as a communication tool and not an implied contract.

## **Writing Style**

An employee handbook that is written clearly and simply encourages the employee to read important information provided by the agency or organization. Overall, the state agency handbooks in this study slightly exceed *fair* (2.44) but fall short of *good* as prescribed by the ideal type. Often, policy statements did not reflect natural, everyday terms. It was not uncommon for paragraphs and sentences to be long having a negative effect on the reader's desire to continue. And finally, legal jargon counteracted clear and simple messages and reemphasized the handbook's role as a legal document.

## **Format/Design**

Because employee handbooks tend to be out of date shortly after issuance, the prescribed format is a loose-leaf ring book or a spiral binder. Other methods for easy revision and updates to the handbook fit within the prescribed format. The design also ensures easy readability. The prescribed design utilizes bullets and subheadings and allows plenty of white space on each page. Thus, format and design was rated on both easy readability and revision.

Overall, the 25 employee handbooks analyzed in this study are rated *good* (2.92) as prescribed by the practical ideal type. Thus, the majority of the handbook's format and design allows for easy readability and revision. This is evident in the data which reveal that almost half (44 percent) of the employee handbooks fit the prescribed standard for both format and design.



## **Conclusions**

The 25 Texas state agency employee handbooks analyzed in this study reveal an overall score of 6.76 with the lowest possible score being 2 and the highest possible score being 11. Thus, the data reveal the employee handbooks to be slightly exceeding average with regard to aesthetic content prescribed by the practical ideal type.

The final chapter presents overall conclusions for both the manifest content of this study (policy components) as well as the aesthetic content of this study (physical attributes).

## **CHAPTER 7**

### **CONCLUSION**

The purpose of this chapter is to present overall results and identify whether the components and physical attributes meet the ideal type set forth in this study. Policy recommendations are made for public sector employee handbooks. Overall results are illustrated in **Table 7.1** and **Table 7.2**.

This research presents an ideal type to assess employee handbooks. The components presented in this research are not rigidly fixed due to the ability to envision an ideal more than one way. With this considered, weakness of this research are presented in the final section of this chapter.

**TABLE 7.1 OVERALL CONCLUSIONS AND  
RECOMMENDATIONS: HANDBOOK COMPONENTS**

COMPONENT	MEETS STANDARD	RECOMMENDATIONS
<b>Absenteeism</b>	No	1. Because an absenteeism policy was virtually nonexistent in the employee handbooks, Texas agencies should develop and utilize an absenteeism policy .
<b>Compensation</b>	No	1. More emphasis should be placed on the legal issues surrounding compensation. 2. More recognition should be given to employee health care, to include where additional information can be obtained. 3. An explanation of vacation accrual should be addressed.

COMPONENT	MEETS STANDARD	RECOMMENDATIONS
<b>Handbook Disclaimers</b>	No	<ol style="list-style-type: none"> <li>1. More emphasis should be placed on employee handbook disclaimers altogether.</li> <li>2. A detachable sheet should include an employee's acknowledgment that the handbook was received and read by the employee.</li> <li>3. Employers should emphasize that the employee handbook is in no way to be interpreted as an employed contract.</li> </ol>
<b>Discipline Procedures</b>	No	<ol style="list-style-type: none"> <li>1. The policy should address an investigative procedure for violations or misconduct.</li> <li>2. The policy should address a follow up procedure in an effort to enforce action regarding disciplinary procedures.</li> <li>3. The policy should include an association between violations, misconduct, and disciplinary action.</li> </ol>
<b>Equal Employment Opportunity</b>	No	<ol style="list-style-type: none"> <li>1. The policy should go beyond stating what is required by law.</li> <li>2. The policy should specify desire to promote equality in all aspects of employment.</li> <li>3. The policy should address the legalities surrounding the issue of equal employment opportunity.</li> </ol>
<b>Sexual Harassment</b>	No	<ol style="list-style-type: none"> <li>1. The legalities surrounding sexual harassment should be emphasized, particularly Title VII of the Civil Rights Act of 1964.</li> <li>2. Emphasis should be placed on prevention programs, corrective action, as well as agency investigation of all complaints regarding harassment.</li> <li>3. Various forms of sexual harassment should be identified within the policy.</li> <li>4. An employee's rights to complain related to Title VII should be identified.</li> </ol>

COMPONENT	MEETS STANDARD	RECOMMENDATIONS
<b>Grievance Procedure</b>	No	<ol style="list-style-type: none"> <li>1. Texas state agency policy should emphasize due process and fairness and objectivity.</li> <li>2. The policy should associate the grievance procedure with corrective action.</li> <li>3. The policy should specify a method ensuring enforceability rather than merely concentrating on documentation.</li> <li>4. The policy should specify an investigation process for employee grievances.</li> <li>5. The policy should enforce a follow up procedure to assess problem resolution.</li> </ol>
<b>Performance Appraisal</b>	No	<ol style="list-style-type: none"> <li>1. The employer's policy should identify the appraisal components to inform employees as to the areas of performance management will be assessing.</li> </ol>
<b>Miscellaneous</b>	No	<ol style="list-style-type: none"> <li>1. Employers can utilize the employee handbook to welcome employees and create a positive relationship with the employee at the onset of employment.</li> <li>2. Background knowledge with regard to the agency's history and the history surrounding the employment can be provided to the employee as a form of orientation.</li> <li>3. The agency can promote employee value and reinforce an agency's concern for employee happiness and satisfaction.</li> </ol>

The employee handbooks lack elements in each prescribed component.

**TABLE 7.2 AESTHETIC CONTENT RESULTS**

<b>PHYSICAL ATTRIBUTE</b>	<b>OVERALL RESULT</b>	<b>BRIEF DISCUSSION OF OVERALL RESULT</b>
<b>Dated Pages</b>	60%	60 percent of the employee handbooks included dates on each page revealing agency concern for easy revision and regard for timely information. Over half of the employee handbooks had been revised within the past year. This reveals desire on the agency's part to communicate adequate and relevant information to employees.
<b>Acknowledgment Sheet</b>	20%	The state agency handbooks reveal a lack of concern for documenting employee's acknowledgment of agency policies. This reveals the agency's irresponsibility with regard to employment-at-will and issues surrounding potential litigation related to implied contracts.
<b>Writing Style</b>	Fair	The employee handbooks lacked elements in the prescribed in writing style. Specific weaknesses include use of legal jargon and long sentences. Sentences lacked clarity and simplicity.
<b>Format and Design</b>	Good	Overall, the employee handbooks identified the majority of the requirements for format and design. The majority of the handbooks were spiral or loose-leaf binders. Information comprising the handbooks were displayed in concise paragraph form utilizing bullets and subheadings and plenty of white space.
<b>Overall Score</b>	Slightly above average	The overall score for the aesthetic content is 6.76 with 11 representing the highest possible score.

## **Research Weaknesses**

Although this study includes an analysis of only 25 Texas state agency employee handbooks, evidence is presented revealing the significant need for improvement. However, an analysis of additional handbooks would prove beneficial, particularly an analysis incorporating employee handbooks from different levels of public sector employment. In addition, although the majority of the elements significant for employee communication were not identified in the state agency employee handbooks analyzed in this study, further research of state agency policy and procedure manuals may provide evidence of such communication.

This research serves to present only a minimum of the contents to be incorporated in a public sector employee handbook. The time span allocated for this research allows only for the identification of the basic employee handbook components. However, because this study is a practical ideal type, opportunity exists to expand this research to incorporate additional elements significant to public sector employee handbooks.

## **Possible Further Studies**

A further study of public sector employee handbooks should be made in a continual effort to identify weaknesses in handbook content. With the growing trend in employment litigation relating to employee handbooks, employers can not afford not to consistently improve and revise employee handbooks.

This research overwhelmingly identifies the need for revision of Texas state agency employee handbook contents. Three main contributions are presented in this research. First, this research presents evidence of the importance of employee handbooks in the public sector. Second, evidence is

established which reveals substantial need for improvement in Texas state agency employee handbooks. The final and main contribution presented in this research is a prescription that can be utilized by public sector and private sector employees in an effort to develop or improve employee handbooks.

The conceptual tool presented in this research is an ideal type. With further research and additional inquiry, this conceptual tool to assess employee handbooks can continually be improved. This presents vast opportunity for future research.

## Appendix A

ID	Texas State Agency	FTE
1	Attorney General	3613
2	Department of Information Resources	100
3	General Services Commission	922
4	Railroad Commission of Texas	848
5	Secretary of State	238
6	Teacher's Retirement System	389
7	Texas Alcoholic Beverage Commission	506
8	Texas Animal Health Commission	262
9	Texas Commission on Fire Protection	140
10	Texas Comptroller of Public Accounts	2843
11	Texas Department of Criminal Justice	38000
12	Texas Dept. of Housing and Community Affairs	233
13	Texas Department of Human Services	18388
14	Texas Department of Insurance	940
15	Texas Dept. of Licensing and Regulations	118
16	Texas Education Agency	850
17	Texas General Land Office	609
18	Texas Higher Education Coordinating Board	276
19	Texas Lottery	322
20	Texas Natural Resource Conservation Commission	3000
21	Texas Parks and Wildlife	2350
22	Texas Rehabilitation Commission	2411
23	Texas State Library and archives Commission	212
24	Texas Turnpike Authority	227
25	Texas Water Development Board	280
Total		78077



CATEGORIES AND CHARACTERS	INCLUDED	DEGREE
<b>ABSENTEEISM</b>		
Explanation of policy		
Monitoring procedures		
Management counseling		
Follow up procedure		
Statement regarding corrective measures		
<b>COMPENSATION</b>		
<b>DIRECT PAYMENTS</b>		
The Equal Pay Act of 1963 (EPA)		
The Age Discrimination Act of 1967 (ADEA)		
Americans with Disabilities Act of 1990 (ADA)		
The Fair Labor Standards Act of 1938 (FLSA)		
The Family and Medical Leave Act of 1993 (FMLA)		
<b>BENEFITS</b>		
Retirement Systems		
Health care plan		
Workers' Compensation		
Holidays		
Overtime and compensatory time		
Leave		
Vacation		
<b>DISCLAIMERS</b>		
Employment-at-will statement		
Signed acknowledgment statement		
Right to revise/update statement		
<b>DISCIPLINE</b>		
Clear statement of misbehavior or rule violations		
Process of violation analysis		
Investigative procedure		
Documented discussion		
Follow up procedure		
<b>EQUAL EMPLOYMENT OPPORTUNITY</b>		
A statement of nondiscrimination		
Equal Employment Act of 1972		
Acknowledgment of Title VII		
Selection process on placement, promotion, training		
Available training for career development		
Accessibility of performance appraisals		
<b>SEXUAL HARASSMENT</b>		
Strong denouncement statement		
Definition of sexual harassment		
Definition of various forms of sexual harassment		
Complaint procedure		
Investigative process		
Disciplinary action		
Training/education available		
Right to Complain under Title VII		

Appendix B: Coding Procedure 1-Policy Content

<b>GRIEVANCE PROCEDURE</b>		
Investigation process		
Acknowledgment of due process		
Statement regarding procedural fairness and objectivity		
Notification process		
Management response procedure		
Statement specifying corrective action		
Monitoring process		
<b>PERFORMANCE APPRAISAL</b>		
Time of appraisals		
Responsible party for administering the appraisal		
Components		
Employee/managerial acceptance		
<b>MISCELLANEOUS</b>		
Table of Contents		
Historical Information		
Welcome Statement		
Organization's code of ethic		
Goodwill statement		

## Appendix C: Example of Poor Writing Style

maintenance organization will automatically receive a basic term life with accidental death and dismemberment benefit. The Insurance Coordinator in the Administration Department is responsible for enrolling new members, informing them of their insurance options, and filling out proper forms for changes and terminations. A new member is required to sign up for insurance the first day of employment and has 30 days to change to a different coverage. Payroll deductions will be made for selections of coverage which exceed the amount paid by the Authority. Employees temporarily dropped from the payroll by proper authorization will not be covered by hospitalization insurance at the expense of the Texas Turnpike Authority. Such employees may, however, continue coverage by payments of premiums at their own expense. In this event, the employee should make out his check for the necessary premium costs payable to the Employees Group Insurance Fund. These checks must be received by the Employees Retirement System before the 10th of each month.

318.2 Right to Continue Coverage. A "qualified beneficiary" such as an employee, surviving spouse, a divorced spouse or a dependent child, has a right under Federal law to continue health care coverage under the Texas Employees Uniform Group Insurance Program if the qualified beneficiary would otherwise lose coverage as a result of a "qualifying event": (1) death of the employee; (2) voluntary or involuntary termination of the employee's employment other than for gross misconduct; (3) the divorce of the employee from the employee's spouse; and (4) a dependent child ceasing to be a dependent child under the generally applicable requirements of the plan--marrying or attaining the age of 25. Continuation coverage is health coverage only and may be only the health coverage in effect at the time of the qualifying event. A qualified beneficiary must pay the full premium for the continuation coverage plus an additional 2% for the additional administrative expenses to the program. These must be paid in full by the 10th of each month with a check or money order payable to Employees Group Insurance Fund. Failure to pay will result in termination without the possibility of reinstatement.

319: Retirement. As a condition of employment with the Texas Turnpike Authority, each employee becomes a member of the Employees Retirement System (ERS) on the first day of employment. A contribution at the rate required by law is deducted each payroll period from an employee's gross salary. The State also contributes monthly to the system an amount at least equal to the total of all contributing members. Due to periodic changes in the retirement system itself, it would be impractical to summarize its provisions in this manual. The ERS publishes a booklet entitled "Benefits for You and Your Family," which summarizes the provisions of the retirement system. Employees are given a

## Appendix C: Example of Fair Writing Style

### CHAPTER 4 • DISCIPLINARY ACTIONS Performance Counseling/Disciplinary Action Guidelines

02/97

<b>Substandard Performance or Inappropriate Behavior</b>	When supervisors use the performance counseling/disciplinary action guidelines, they should determine whether the corrective action(s) are to be geared towards bringing performance up to standard or correcting inappropriate behavior.
<b>Substandard Performance</b>	Any employee who exhibits substandard work performance (failure to perform, as opposed to misconduct) should be counseled orally and documented. Recently hired (new) employees or employees transferred to an unfamiliar job should be provided the consistent coaching and training commensurate with their new responsibilities.
<b>Misconduct</b>	Disciplinary action will be taken for employee actions which are unacceptable, unlawful, or against established policy. An employee may be given warning with time to improve whenever possible, prior to suspension or termination. However, situations requiring disciplinary action are unacceptable and should not be allowed to continue. This must be clearly communicated to the employee via counseling.
<b>Executive Action</b>	<p>The employee will be made aware that management is not constrained by the counseling/disciplinary process. If the situation warrants, any disciplinary action, including immediate termination, will be implemented.</p> <p>While every employee is subject to certain standards, any employee may be dismissed at any time, with or without regard to these procedures, if it is deemed to be in the best interest of the agency.</p>
<b>Determining Appropriate Measures</b>	<p>All or a combination of the following counseling/disciplinary measures may be taken depending on the:</p> <ul style="list-style-type: none"> <li>• Severity or degree of the problem with work performance.</li> <li>• Type and severity of the misconduct offense.</li> <li>• Employee's work record.</li> <li>• Circumstances surrounding these situations.</li> </ul>
<b>Progressive Counseling/Disciplinary Action</b>	<p>The following outline of the progressive disciplinary process can be used for improving an employee's performance as well as for correcting inappropriate behavior in the workplace and addressing policy infractions. Oral and written counseling will generally be used to improve job performance, while oral and written reprimands are used to address policy infractions, misconduct, and/or correct inappropriate behavior. Performance or disciplinary probation that is serious in nature can lead directly to termination or demotion. This must be clearly communicated to the employee in the probationary report.</p> <p>The first two of the following steps for progressive counseling/disciplinary action should be followed, except when special situations arise that must be dealt with more promptly and/or more severely, calling for Executive Action as described on p. 4.7:</p>
<b>Outline of Progressive Disciplinary Process</b>	<ol style="list-style-type: none"> <li>1. Oral Counseling or Oral Reprimand.</li> <li>2. Written Counseling or Written Reprimand (Supervisor/Employee Communication Report).</li> <li>3. Performance or Disciplinary Probation.</li> <li>4. Termination or Demotion as appropriate.</li> </ol> <p><b>NOTE:</b> Suspension Without Pay, Salary Reduction for Disciplinary Reasons, and Disciplinary Demotion are options available to management when dealing with an employee's misconduct.</p>

## Appendix C: Example of Good Writing Style

### Teacher Retirement Benefits

If you are a regular employee (or if you meet other qualifying criteria established by law), you are a member of the Teacher Retirement System and are eligible for all system benefits. 6.4 percent of your gross salary is deducted each month and deposited in your TRS retirement account. Your contributions are tax-sheltered by means of an employer pick-up, which reduces your salary for the purposes of income tax calculation. Taxes on the deferred income are due when TRS makes a benefit distribution on your behalf.

Please read the TRS Benefit Plan Summary (a booklet available in the lobby) for information about your retirement benefits, which include service retirement, disability retirement, and benefits payable to your beneficiaries in the event of your death. If you permanently terminate your employment in a TRS-covered position, you may withdraw all deposits plus interest credited to your account by filing form TRS 6.

### TexFlex

You are eligible for a flexible benefits program called TexFlex, which allows you to use pre-tax dollars to pay for three types of benefit plans. The portion of your salary used to pay for these benefits is not taxed because you are "redirecting" those dollars through TexFlex. The benefit costs are deducted from your taxable gross salary before federal income and social security taxes are calculated, which results in lower tax withholding from your pay.

You may use pre-tax dollars for the following programs:

- ◆ **Premium Conversion.** To pay your share of the cost of certain insurance premiums, above the monthly state contribution.
- ◆ **Health Care Reimbursement Account.** To reimburse your costs for certain health care expenses not covered by health insurance.
- ◆ **Dependent Care Reimbursement Account.** To reimburse your cost for certain dependent care expenses.

## Appendix C: Example of Excellent Writing Style

# HOW TO GET THINGS DONE

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The following resources and information can help make your daily work at the TNRCC as effective as possible.

### ADMINISTRATIVE SERVICE COORDINATORS

Each division and many sections of the agency have designated staff members to act as your point of contact with the various divisions in the Office of Administrative Services. In small divisions there is one Administrative Services Coordinator (ASC), while in large divisions there may be three: one for Financial Management issues, one for Human Resource issues and one for Support Services. These employees receive regular training on the latest policies and procedures — you can rely on them for help in navigating the administrative systems of the agency.

For example, if you need to get an identification card, your ASC can tell you who to talk to and which form to fill out. If you need to make travel plans, your ASC can tell you how to arrange for the travel and how to get reimbursed by the agency.

If you don't already know your ASC, please ask around

### KEY PHONE NUMBERS

General Information .... 512/239-1000  
Small Business Assistance ..... 512/239-1069  
CLEAN TEXAS 2000 Info Center ..... 800/64-TEXAS

in your division. The Office of Administrative Services keeps an updated list of ASC staff, so you may call there if necessary.

### OPERATING POLICIES AND PROCEDURES MANUAL

The TNRCC has a complete set of policies and associated procedures compiled in what is called the Operating Policies and Procedures Manual (OPPM). It provides much more detail than this handbook, and should be referred to when you need more information about any of the topics addressed here. The manual is a "living document" and will be updated by the Office of Administrative Services as necessary. All employees have the opportunity to suggest additions or changes, and will be informed when changes are made.

The manual itself can be accessed through the com-

puter network (if you don't have a computer, you may use the one in the agency library). You may obtain hard copy of any of the documents from your ASC. You are encouraged to use the computer version, and only use the hard copy when truly necessary — we are an environmental agency and want to provide an example of how to minimize our use of paper!

### INTERNAL COMMUNICATIONS

The following resources can help you make the right connections within the agency:

#### PHONE DIRECTORY

The phone directory is maintained by Support Services, with assistance from the operators in Public Information and Education, and computer staff in Information Resources. If you don't already have a directory, ask your ASC or get one from the Publications Section of Public Information and Education.

#### E-MAIL

This is an easy way to communicate with colleagues in other divisions. If you have a computer, you should learn how to use the system.

## **Appendix D: Example of Poor Design**

### **3. Vacation Leave**

Accrual of vacation leave begins on the first day of employment and ends on the last day of duty. The amount of vacation leave that employees accrue each month and the amount that can be carried forward into the next fiscal year is set by the Legislature. The state's fiscal year is from September 1 through August 31.

Part-time employees accrue vacation leave at a rate in proportion to that of regular full-time employees. The amount part-time employees can carry forward into the next fiscal year is also in proportion to that of regular full-time employees.

Employees receive credit for one month's vacation leave for each month, or fraction of a month, of state employment. Vacation leave is credited as of the first day of each month. Vacation leave is not accrued for any calendar month(s) that an employee is not physically on duty. If an employee is on any type of paid leave that extends into a subsequent month, vacation leave for that month will not be posted until the employee returns to duty. If an employee separates from state employment without returning to duty, the employee is not entitled to leave accruals, while on paid leave, for any calendar months following the month in which the last day of duty occurs.

Employees are eligible to use vacation leave after completing six months of uninterrupted employment with the state. If you have met this requirement through previous state service, you are eligible to take vacation leave as it is earned.

All requests to take vacation leave must be approved in advance by your supervisor. Vacation schedules should be carefully planned with your supervisor to ensure the continued effectiveness of the department. It is possible that individual plans may need to be altered to meet departmental needs.

As stated above, the Legislature sets the rates of vacation accrual based on length of state service, and also determines the maximum number of hours an employee may carry forward each fiscal year. An employee must complete the full years of employment to be entitled to the higher rate of vacation accrual. Length of service is calculated from your anniversary date. If your anniversary date falls on other than the first calendar day of the month, the increase in vacation leave will begin on the first calendar day of the following month. In determining length of service, only actual days, months, and years of state employment will be counted. Vacation leave hours in excess of the maximum which may be carried forward will be converted to sick leave hours on September 1 of each year.

## Appendix D: Example of Fair Design

### Subchapter T. POSITION CLASSIFICATION PLAN

#### Section

1. Purpose.
  2. Salary Rates on September 1, 1976.
  3. Salary Rates on September 1, 1977 and Thereafter.
  4. Merit Salary Increases.
  5. Promotions.
  6. Demotions.
  7. Salary Reduction for Disciplinary Reasons.
  8. Salary Rate Determination by Intra-Agency Transfers.
  9. Hiring Policies.
  10. Temporary Assignment.
  11. Reclassifications.
  12. Addition of New Classifications.
  13. Part-Time Employees.
  14. Hourly Employees.
- Salary Schedule  
List of Classified Non-Professional Positions  
List of Classified Professional Positions

#### 1. Purpose.

Except as may otherwise be specifically provided, the salaries of employees in classified positions shall be governed by and be in conformity with the provisions of this Plan, including the list of position classification numbers, position titles, salary group allocations, and salary ranges in classification salary schedules hereinafter provided.

#### 2. Salary Rate on September 1, 1976.

(a) An employee whose position is classified by the Plan to a salary group with a higher minimum salary than the employee's salary before classification shall receive on September 1, 1976, a Step 1 rate in the salary group.

(b) An employee whose position is classified by this Plan to a salary group with a lower minimum salary than the employee's salary before classification shall receive on September 1, 1976, the annual rate which he or she would have received had the position not been classified.



## Appendix D: Example of Good Design

### Media Contact

Media contact is handled by the Director of Information Services, who coordinates closely with the Executive Director. If you receive a media inquiry, please note the following information and forward it immediately to the Director of Information Services:

- ◆ Date and time of contact.
- ◆ Reporter name and telephone number.
- ◆ News organization represented.
- ◆ Information sought.



*See the Media policy for additional information.*

### Sexual Harassment

TRS requires its work place to be free of unsolicited and unwelcome sexual overtures or conduct, either verbal or physical. Sexual harassment is generally considered to be any such behavior (whether committed by an employee or a non-employee) that is not welcome, is personally offensive, and affects an employee's work performance.

Management personnel are responsible for acting promptly to prevent or stop sexual harassment when they become aware of it. All TRS employees are responsible for promptly reporting to a manager or to Human Resources any incident of sexual harassment when they become aware of it.

If you are subject to unwelcome sexual overtures or conduct on the job, report it immediately to your manager or to Human Resources. TRS will investigate such reports promptly and take any action that is warranted.

*See the Sexual Harassment policy for more information.*

## Appendix D: Example of Excellent Design

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# WHERE WE STAND

employment with another state agency, please see the "Dual Employment" section of the full OPPM.

## WHISTLE-BLOWER POLICY

The TNRCC will not suspend, terminate or otherwise discriminate against an employee who reports a violation of law to an appropriate law enforcement authority if the employee's report is made in good faith. It would constitute a violation of state law to do so.

Furthermore, no employees will be harassed, suspended, terminated or otherwise discriminated against for:

- reporting violations of law;
- filing a Worker's Compensation Claim;
- filing a complaint or grievance; or
- filing a charge of alleged discrimination.

## HIV/AIDS

We recognize that people with HIV/AIDS and other life-threatening illnesses may wish to continue to work as long as their condition permits.

No discrimination is allowed in employment practices or conditions of employment regarding any employee or applicant with a medical disability or handicap, including HIV/AIDS. People with AIDS, and others who are HIV positive, are entitled to protection under state and federal laws against discrimination. Employees with this disability will be treated as would any other employee with a life-threatening disease. The TNRCC will maintain in strictest confidence all medical records of any employee with HIV/AIDS.

The state's group health insurance covers the treatment and care of HIV/AIDS conditions the same as any other illness.

According to the United States Surgeon General's Report, AIDS is *not* transmitted by:

- coughing;
- casual contact;
- sneezing;
- utensils and food;
- shaking hands;
- tools & machinery;

- mosquito or insect bites;
- telephones;
- sharing office supplies;
- office equipment;
- drinking from the same cup;
- air;
- sharing rest room facilities;
- water.

According to *all medical authorities*, AIDS can only be transmitted by:

- intimate sexual contact;
- direct exchange of blood;
- mother-to-infant contact during pregnancy and delivery.

If you have further questions regarding HIV/AIDS in the workplace, contact the Human Resources Division.

## DRUG-FREE WORKPLACE

The TNRCC has a vital interest in ensuring and maintaining the safety, health and well-being of its employees and the public it serves. The TNRCC recognizes that employees under the influence of illegal drugs, alcohol,

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