MANAGEMENT OBJECTIVE

Ensure that employment policies and procedures minimize negative consequences to the entity by clearly communicating the employer's and employees' expectations and complying with applicable laws and regulations.

BACKGROUND

Employee relations encompass the operational processes which implement an employer's philosophical or policy approach to employment. Rapid changes in the work place, such as the explosion of information technology, reduced layers of management, rising skill requirements for lower-level jobs, and an increasingly diverse labor pool, have altered the expectations of employees regarding employment and employee relations policies.

Much of employee relations deals with handling exceptional cases of behavior, including both the decisions and actions taken by managers and the behavior of employees within their position responsibilities. An employer's consistency in managing employee relations, including terminating employees who violate their obligations, should generate lower voluntary turnover rates.

DEFINITIONS

Affirmative Action is one method used to overcome the effects of past discrimination by giving preference to qualified members of the group that was the victim of such discrimination. After parity is achieved, affirmative action programs usually are abandoned.

At-will employment was summarized by the Texas Supreme Court in 1990 to mean "employment for an indefinite term may be terminated at will and without cause." Texas state government employees are considered to be employed "at-will."

Employee relations are the reciprocal expectations and behaviors between employers and employees, whether those expectations are formalized by federal and/or state laws or are implicitly understood. Many of these expectations are formalized in the entities' human resources policy and procedures manuals and employee handbooks.

Sexual harassment is unwelcome behavior of a sexual nature. It involves both employment decisions based on an employee's submission to sexual demands and conduct which creates a hostile environment for employees.

OVERVIEW OF THE PROCESS

The basic phases of an employee relations process are:
- **Identify employee relations issues which require policies and procedures.**
- **Establish and document all employee relations policies and procedures.**
- **Communicate policies and procedures to employees.**
- **Designate a staff person to handle employee relations problems.**
- **Review and update employee relations policies and manuals.**

PROCEDURES

Suggested procedures, organized according to the elements of a finding, are listed below. They should be expanded or tailored to fit the specific entity being reviewed.

Review criteria:
  Specific criteria

The criteria related to the basic phases of the employee relations process are as follows:

Identify employee relations issues which require policies and procedures
Laws and regulations mandate some workplace policies and procedures. Some examples of these are:
- All employment decisions should be made on a completely non-discriminatory basis, and management's actions should not inadvertently create barriers for qualified women, minorities, persons with disabilities, or other underutilized groups of people.
- Employee leave should be provided according to federal and state laws.
- The workplace should be free from sexual harassment.
- A valid mechanism should exist to determine which of an entity's positions are subject to the overtime provisions of the Fair Labor Standards Act (FLSA) and to ensure that rules for overtime compensation and timekeeping records are followed.
- All information relevant to disciplining or discharging employees should be documented.
- Unemployment insurance should be received only by people who are entitled to it. Unemployment benefits are only for those employees who are out of work through no fault of their own.

Despite explicit at-will employment statements in employee handbooks and other disclaimers, both employers and employees develop expectations of each other which are at variance with these disclaimers. Although Texas state government employees are considered to be employed "at-will," and an employer does not need any reason to terminate an employee, employment-at-will has been limited to some extent through laws, regulations, and court decisions:
- Federal and state laws bar firing anyone because of race, color, sex (provides protection from discharge due to pregnancy), national origin, religion, mental or physical disability or age (if the worker is 40 years or older).
- The Texas Supreme Court has ruled that an employer cannot fire a worker for refusing to perform an illegal act.
- An employee cannot be fired for filing a workers' compensation claim.
- Texas' Whistle-Blower Act extends protection to state employees who report wrongdoing and are disciplined or fired.
- The U.S. Supreme Court has ruled that government employees cannot be dismissed because of their political party affiliation.
- If an employer has signed an employment contract with the worker or guaranteed that certain procedures will be followed before a worker is fired or disciplined (e.g. a due process hearing), then a worker can collect damages in a lawsuit if the employer fails to comply with the agreement.

Also, no state statute requires or prohibits the establishment of an employee probationary period. However, if an entity chooses to establish a probationary period, it should be applied consistently and communicated to employees. This can

limit the entity's employment at-will rights.

Establish and document all employee relations policies and procedures
Entities should have human resources manuals which document employee relations policies and procedures. These policies and procedures should be in compliance with applicable federal and state laws and regulations.

Typically entities should have human resources manuals that include policies and procedures on the following issues:
● alcoholic beverages/substance abuse
● disciplinary action
● dual employment
● employee assistance programs
● equal employment opportunity policy/affirmative action plans
● employee complaint/grievance procedures
● leave policies
● nepotism
● salary administration policies
● sexual harassment
● travel

Entities may also have policies on the following human resources issues:

● awards and gifts
● bad weather situations
● bonding state employees
● conflicts of interest
● consulting contracts
● financial disclosure statements
● open records/confidentiality
● political influence
● professional conduct
● references for former employees
● timekeeping procedures
● use of state property/telephone
● workers' compensation
● working hours

Communicate policies and procedures to employees

Entities should have established mechanisms to communicate these policies and procedures to all employees. Any revisions to the policies and procedures should be communicated to employees in a timely manner. Employees should have access to human resource manuals which outline the policies and procedures dealing with employment.

Entities are required to post notices explaining several state and federal regulations, including Family and Medical Leave Act, Equal Employment Opportunity, Workers' Compensation, Unemployment Insurance, Fair Labor Standards Act, Whistle-Blower Act, Hazardous Working Environment, and the Americans With Disabilities Act Notice of Non-Discrimination and Grievance Procedures.

Designate a staff person to handle employee relations problems

Employees should know whom to contact when they have questions or concerns about a policy or procedure and when they need to discuss work related and/or personal matters. The information should be kept appropriately confidential.

Review and update employee relations policies and manuals

Entities should review their human resources manuals periodically to ensure that policies and procedures are updated and appropriate. Case law should be reviewed for decisions which affect human resource policies. Exit interviews should be held for every employee leaving the entity. Employees should be surveyed to determine if the current policies and procedures are meeting their needs. The results of the surveys, as well as the exit interviews, should be used to adjust the current policies where feasible.

Employee attitude surveys can measure employees' perceptions of the Human Resources Department and/or human resources policies and procedures. They can also measure the effectiveness of the entity's employee relations communication with employees. They should not, however, be used as primary indicators of the effectiveness of the Human Resources Department as employees are rarely satisfied with many human resources policies. Rather, they should be used to indicate needs for communication and education or to signal when certain employee relations policies should be reviewed.

Suggested performance measures are listed below. The auditor should consider which aspects of the employee relations process being evaluated are most crucial and develop appropriate measures.

Measure	Description
Employee Complaints/ Grievances Filed	Measures the number and cost of employee complaints and grievances. (This may have to be done by the entity.)
Lawsuits Filed	Measures the number and cost of lawsuits filed by employees relating to HR issues. (This may have to be done by the entity.)
Turnover Reports	Measures the turnover rate and reasons why employees voluntarily terminate employment.
Disciplinary Actions Taken	Measures the number of employee disciplinary actions taken and reasons for taking such action.

Assess Condition:
   Determine the actual
   process used

Conduct interviews, observe operations, and identify and collect available documentation in order to gain an understanding of the entity's actual employee relations process and controls. Included in the actual process are both official/unofficial and formal/informal processes and controls. An official process may exist even if it is not documented. Possible procedures include, but are not limited to:

- Review the entity's employee relations policies and procedures planning.
- Obtain and review the entity's employee relations policies and procedures, related forms, and other documentation sources.
  - Determine if the entity has a human resources manual that describes formal employee relations policies and procedures.
  - Determine how the content of the manual is communicated to employees.
- Review the entity's administration of employee relations policies and procedures.
  - Determine who is responsible for coordinating all employee relations policies and activities.
  - Determine if employees have access to human resources manuals.
  - Determine if employees feel that there are procedures in place to air concerns, complaints, grievances and if they feel free to utilize such procedures.
  - Determine the existence of a human resources staff member with whom employees can discuss work-related and/or personal matters.

  - Determine how employees are informed of whom to contact about employee relations situations.
- Review the entity's system for reviewing employee relations policies and procedures.
  - Determine the existence of a review process for employee relations policies and procedures.
  - Determine if the entity conducts exit interviews. Determine who conducts exit interviews and if all employees are required to have exit interviews.
  - Determine if the entity periodically conducts employee attitude surveys to determine potential areas for improvement in employee relations policies and procedures.

In addition to gaining an understanding of the actual process, also try to find out:
- how the participants view their own process
- what they think is important about the process, and why

This information may help identify causes and barriers.

Determine the strengths and weaknesses of the actual process

Using the tailored criteria, the understanding of the entity's process gained above, and the procedures in this section, analyze the actual process to determine if it:

- is designed to accomplish the management objective (this module, page 1)
- has controls that provide reasonable assurance that the process will work as intended
- is implemented and functioning as designed
- is actually achieving the desired management objective(s)

In executing these procedures, remember to identify and analyze both strengths and weaknesses.

Identify and review the steps in the actual process. Possible procedures include, but are not limited to:

- Determine if all major steps in the criteria are included in the actual process.
- Determine if all the steps in the process appear to add value. If there are steps that do not appear to add value, try to get additional information on why they are included in the process.
- Review the order of the steps in the process to determine if it promotes productivity.
- Review the level of technology used in the process to determine if it is up-to-date and appropriate to the task.

Identify the controls over the process and determine if the controls are appropriate, placed at the right point(s) in the process, timely, and cost effective. Possible procedures include, but are not limited to:

- Draw a picture of the process, the controls, and the control objectives (see the graphic of the procurement process in the <u>Introduction</u> for an example). Determine if the control objectives are in alignment with the overall management objective(s).
- Identify and analyze the controls to ensure the policies and procedures in the human resources manual adequately address relevant federal and state legislation.

Review observations, interviews, documentation, and other evidence and design specific audit procedures as needed to determine if the process and/or the controls are functioning as designed. Depending upon the objectives of the project, these procedures may include both tests of controls and substantive tests. Possible procedures include, but are not limited to:

- Compare official employee grievance procedures with results of employee interviews.
- Review sample of grievance reports to determine if complaints are being satisfactorily resolved at the entity level.

Analyze process reports over time for trends. Determine whether the information

gained from the monitoring process is fed back AND is used to modify the system. Possible procedures include, but are not limited to:
- Compare current employee relations law to entity policies and procedures. Determine if they are current.
- Review employee turnover data for trends. Review any reports which analyze reasons for employee terminations. Determine if appropriate changes are made as a result.

Determine causes

Determine what circumstances, if any, caused the identified weaknesses in the employee relations process. Possible procedures include, but are not limited to:
- Determine if the participants in the employee relations process understand its relationship to the entity's mission, goals, and values.
- Determine if the participants understand their role in the employee relations process.
- If the process occurs at multiple locations, determine the nature and scope of the communication and coordination among them.
- Determine if the relationship between the employee relations process and other entity processes is clear.
- Determine if the employee relations process has adequate human, dollar, time, and asset resources.
- If there are negative trends in the monitoring reports, determine if the reports are communicated to and used by the appropriate parties.

Determine what internal or external constraints or barriers, if any, must be removed in order to successfully overcome these weaknesses. Possible procedures include, but are not limited to:
- Determine if any key employees are unwilling to change the process and why they are unwilling.
- Review the applicable entity, state, or federal laws or regulations to determine if any of them prevent the necessary changes from being made in the process.

Determine effect

Determine the effect of each of the identified weaknesses in terms of dollars, impact on services (either quantity or quality), impact on citizens, impact on the economy, etc. Possible procedures include, but are not limited to:
- Identify benchmarks for process in question and compare to actual performance. Quantify the difference, if possible.
- Estimate the cost before and after the proposed change and compare.
- Estimate the quantity and/or quality of services before and after the proposed change and compare.
- Identify the risks associated with not making the proposed change and quantify.

Develop recommendations   Use the tailored criteria, references in the resource section, the identified
                                    weaknesses, and the identified causes and barriers to develop specific recommendations
                                    to address the cause and correct the weaknesses. Possible procedures include, but are
                                    not limited to:

- Identify alternative solutions used by other entities.
- Identify solutions for removing barriers.
- Provide general guidelines as to the objectives each solution should meet.
  Then the entity can tailor the solution to its specific situation.
- Provide specific information, if available, on how each recommendation can
  be implemented.

RESOURCES   See the document titled "Resources" behind the last human resources module.