

# Chapter 11: Legal Issues in Communications

## Overview

This chapter is important as an employee in any organization (for your own protection) and if you are responsible for any human resource functions (to protect others). While the laws and acts are many, they are there to protect employee rights. Take the time to learn about them to make your organization run more efficiently with higher morale.

## Lecture Notes

### A. Legal Issues and the Workplace

Managers and other professionals must be informed about the rights of employees and employers.

1. **Prejudice and Discrimination.** Prejudice is an attitude about an individual or group based on a selected set of characteristics rather than the entire person; it is usually a result of stereotypes about people who are different from someone else (skin color, national origin, religion, gender, age, and special needs). Prejudice leads to scapegoating. Discrimination occurs when people act on their prejudices and treat people unfairly. The government and courts have worked to end workplace discrimination through laws that seek fair treatment of everyone.
  - a. Types of workplace discrimination occur in the areas of work including hiring, performance appraisal, pay, and promotions. They may take many forms, including testing and evaluation methods, the glass ceiling, tokenism, pay differential, and reverse discrimination.
  - b. Affirmative Action as a remedy has evolved through Presidential Executive Orders and court cases; it is not a law. There are four types of plans:
    1. Focus on improved recruitment and hiring of minorities and women; more difficult for smaller companies
    2. Focus on how decisions are made in hiring and promotion; used when minorities and women are underrepresented in the position
    3. Sets minimum qualifications necessary for hiring and promotion decisions; this type has difficulties in court
    4. States a female or minority will get the job, the search continues until a qualified woman or minority candidate is found; never been allowed by the Supreme Court
2. **Laws Regulating Discrimination** focus on establishing fair and equal practices.
3. **Sexual Harassment and Hostile Environments** can include many things.
  - a. Forms of workplace harassment have become a sensitive issue in the workplace. Harassment may include comments or actions, it can be a single action or a set of actions, it may be in a complete range of demands and pressure to physical action.
  - b. The definition of sexual harassment includes any conduct involving “unwanted imposition of sexual requirements in a relationship of unequal power.” The EEOC definition includes three components. (*Review definition in text.*)

- c. The first two components establish Quid Pro Quo (do me a favor, and I'll do one for you) and harassment, and the third is identified in hostile environments.
- d. Impacts on victims of harassment range from shame to defensive responses and physical disorders; they may also include guilt, anxiety, and helplessness.
- e. Legal remedies lead to application of individual rights and corporate obligations. EEOC regulations include a broader application of the rights and obligations than some might think; they go farther than the commonplace definition of a superior male advancing on a subordinate female. Organizations should have clear policies enforced to protect themselves.
- f. Approaches to dealing with sexual harassment require a combined effort on the part of the individual and organization. Training programs may be implemented to cover sensitivity to gender issues and teach respect for one another.

## B. Laws Affecting Management and Employees

These laws are important for the administrative professional to understand in order to oversee the flow of work.

1. **Laws Related to Compensation and Benefits** can be administered from any level of government. Some federal laws include:
  - a. Equal Employment Opportunity is the most widely known. It refers to the responsibilities and obligations that ensure all human resource functions are developed and administered fairly. The act also requires that records be kept in human resource areas.
  - b. Title VII of the Civil Rights Act of 1964 (amended in 1972) created the EEOC to make everyone aware and enforce discrimination laws for employers with 15 or more people.
  - c. The Equal Pay Act of 1963 prohibits wage discrimination on the basis of gender; it requires that equal pay is offered to employees holding equal jobs.
  - d. Doctrine of Comparable Worth says jobs with comparable knowledge and skill requirements should offer equal pay. The doctrine has still not been accepted as a U.S. law—difficult to evaluate.
  - e. Pregnancy Discrimination Act of 1978 protects job security during maternity leave and protects women from being fired for being pregnant. The act mandates that maternity leave be treated like any other type of leave of absence.
  - f. Age Discrimination in Employment Act of 1967 (amended) protects those 40–70 years old in pay and benefit issues.
  - g. Mandatory Retirement Act of 1974 (amended) prohibits required retirements before the age of 70. Now there is no mandatory age in many professions.
  - h. Employee Retirement Income Security Act of 1974 (ERISA) guarantees pension vesting rights to employees.

- i. Veterans Readjustment Act of 1974 prohibits discrimination against disabled Vietnam War veterans. The act also applies to those who served in Desert Storm.
  - j. Vocational Rehabilitation Act of 1973 protects physically or mentally disabled from discrimination in human resource management practices.
  - k. Social Security Act of 1935 (amended) guarantees minimum income to retired and disabled people.
  - l. Fair Labor Standards Act of 1938 (amended) established minimum wage, requires overtime pay for hours over 40 in a week, and sets child labor standards.
  - m. Health Maintenance Organization (HMO) Act of 1973 stimulated prepaid healthcare as an alternative in reducing healthcare costs.
  - n. Family and Medical Leave Act of 1993 protects one's job during leave necessary to take care of family members.
  - o. State and local laws are often much more stringent than federal legislation in human resources management. Multi-state companies must be aware of laws in all states where they operate; they are accountable in each. Minimum wage, child labor, and family leave laws may be more rigid than in the Fair Labor Standards Act. If both federal and state laws exist, the more stringent laws apply.
2. **Workers' Compensation Laws** provide benefits to injured workers or their dependents, regardless of who is at fault (no proof necessary). All states require employers to pay the total cost of workers' compensation insurance. If a worker is killed or injured on the job, he/she or his/her dependents collect money.
  3. **Health and Safety** on the job is the immediate responsibility of the supervisor; however, workers have some responsibility for their own health and safety.
    - a. Benefits of health and safety programs are great—things like reduced insurance premiums, less money paid for lost work time, greater productivity and quality of work, and lower costs.
    - b. Health and safety legislation requires employers provide a healthy work place and rules. The Occupational Safety and Health Act (OSHA) of 1970 regulates the requirements.
  4. **Smoke-Free Workplace Rules** have bettered health and saved money through less second-hand smoke. Policies cover a wide range of restrictions.
  5. **Drug Use and Abuse** is identified through workplace testing; the Drug-Free Workplace Act of 1988 made it a requirement for all businesses that have contracts with the federal government.
    - a. Drug-free workplace and testing must be documented to do business with the federal government.
    - b. What are the limits? Many privacy issues come into play regarding what employees do when they are away from the workplace.

## C. Employment and Separation

Legal protection and regulations must be followed carefully to avoid litigation.

1. **Legal Issues in Recruitment and Selection** make it necessary for a business to be careful in their processes to survive in a competitive environment.
  - a. Recruitment is the process of locating, identifying, and attracting qualified applicants to fill positions. Policies that are fair and nondiscriminatory are crucial for company success. Internal recruiting is the most common approach; the employer recruits qualified applicants from within the organization. External recruiting can be effective as long as the organization has the resources to find qualified candidates. A combined approach is often best to ensure attracting the best candidate for a job.
  - b. Selection methods usually include screening applications, employment testing, and interviews. The specific process for each can vary depending on the type of organization and position being filled. (*Review types of screening, testing, and interviewing in the text.*)

Recruitment and selection policies do not need to be sophisticated, just fair and nondiscriminatory.

- c. Legal restraints prohibit discriminatory practices; a major piece of legislation, the Civil Rights Act of 1964, covers many personnel functions for employers with 15 or more employees. The other laws discussed in this chapter offer additional guidance and protection.
2. **Termination and Separation** occur for different reasons, but in all cases employment with the organization will cease.
  - a. Involuntary separations occur as a result of downsizing or plant closures; the employer may be required to offer some special benefits in these types of situations (severance pay, time to find a new job, retraining, etc.).
  - b. Employment-at-will (EAW) is a common law doctrine that allows employers the right to hire, fire, promote, or demote anyone at any time UNLESS another law or contract exists. It came to be as a result of laissez-faire capitalism in the 19<sup>th</sup> century. Its basic premises include private ownership of business, maintaining organizational efficiency, and defense of employer and worker rights. Some groups are exempt: government employees, union members, contract employees, and management.
  - c. Violations of agreements (union or nonunion) can lead to dismissal, as long as the process/practice used for dismissal is legal. The cost of a wrongful discharge can be great.
  - d. Effects of separations can bring morale down and lead to job insecurity. It may be that productivity is way lower or additional employees start leaving.

### Additional Resources for Students

Recommended readings (no texts should be more than two years old):

- Boone, Louis E. and David L. Kurtz. *Contemporary Business Communication*. Prentice-Hall, Inc.

- Bovee, Courtland L. and John V. Thill. *Business Communication Today*. McGraw-Hill, Inc.
- Carrell, Michael R. *Human Resources Management*. John Wiley and Sons, Inc.
- Davis, Fruehling, and Oldham. *Psychology: Human Relations and Work Adjustment*. McGraw-Hill Book Co.
- DeCenzo, David A. and Stephen P. Robbins. *Human Resource Management*. John Wiley and Sons.
- Dessler, Gary. *Human Resource Management*. Prentice-Hall.
- Gomez-Mejia, Luis, David Balkin, and Robert Cardy. *Management Human Resources*.
- Guffey, Mary Ellen. *Business and Administrations Communication*. South-Western Publishing Co.
- Haimann and Hilgert. *Supervision*. South-Western Publishing Co.
- Harris, Michael. *Human Resource Management*.
- Ivancevich, John M. *Human Resource Management*. Irwin/McGraw Hill.
- Milkovich, George T. and John W. Boudreau. *Human Resources Management*.
- Mondy, Noe and Premeaux. *Human Resource Management*. Prentice-Hall.
- Sherman, Arthur W. Jr. and George W. Bohlander. *Managing Human Resources*. South-Western Publishing Co.
- Wolf, P. and S. Kuiper. *Effective Communication in Business*.

Current issues of periodicals or business publications are also an excellent resource. Some of the following periodicals have an accompanying Web site.

<b>Current Periodical</b>	<b>Web Address</b>
<i>Gregg Reference Manual</i>	
<i>IAAP Complete Office Handbook</i>	<a href="http://www.iaap-hq.org/products/handbook.htm">http://www.iaap-hq.org/products/handbook.htm</a>
<i>Modern Office Technology</i>	
<i>OfficePro</i>	<a href="http://www.iaap-hq.org/officepro/toc.htm">http://www.iaap-hq.org/officepro/toc.htm</a>
<i>The Office</i>	
<i>The Wall Street Journal</i>	<a href="http://www.wsj.com">http://www.wsj.com</a>
<i>BusinessWeek</i>	<a href="http://www.businessweek.com">http://www.businessweek.com</a>

