Instructor’s Manual
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Chapter Three: Providing Equal Employment Opportunity and a Safe Workplace
Welcome to your guide to teaching Chapter Three, Providing Equal Opportunity and a Safe Workplace!

This guide will provide you with a chapter summary, learning objectives, lecture outlines, solutions to in-chapter case questions and end of chapter discussion questions and possible responses.

Instructor’s Manual Highlights:

Chapter Three Roadmap

We hope you find each chapter of your Instructor Manual practical and useful, but also, exciting! You can adapt the chapter text, the PowerPoints, and the video to work in an online class environment, a guided independent study environment, or a face to face or on-ground environment.

✓ When presenting Chapter Three, have the students first read the chapter and encourage them to absorb the “big picture” of Equal Employment Opportunity and Workplace Safety.
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- Use the PowerPoint for Chapter Three to frame your lecture.
- Have students read and discuss the cases and their respective questions.
- Have students validate their knowledge of the chapter by working through the discussion questions at the end of the chapter.
- Lastly, have students review, journal, or discuss the Key Vocabulary Terms at the end of the chapter.

ROADMAP: THE LECTURE

Chapter Summary

This chapter provides an overview of the ways governmental bodies regulate equal employment opportunity and workplace safety and health. It introduces major laws affecting employers in these areas as well as the agencies charged with enforcing those laws. The chapter discusses ways organizations can develop practices that ensure they are in compliance with the laws. This chapter will provide guidance on avoiding certain illegal or inadvisable practices. It introduces ways to think more creatively and constructively about fair employment and workplace safety.

Learning Objectives for Chapter Three

After reading and studying Chapter Three, students will be able to:

1. Explain how the three branches of government regulate human resource management.
2. Summarize the major federal laws requiring equal employment opportunity.
3. Identify the federal agencies that enforce equal employment opportunity and describe the role of each.
4. Describe ways employers can avoid illegal discrimination and provide reasonable accommodation.
5. Define sexual harassment and tell how employers can eliminate or minimize it.
6. Explain employers’ duties under the Occupational Safety and Health Act.

7. Describe the role of the Occupational Safety and Health Administration.

8. Discuss ways employers promote worker safety and health.
I. Introduction

This opening case explores the controversial comments made by Los Angeles Clipper owner, Donald Sterling, made to a female friend. The comments were made in private but it was recorded and made public. He made blatantly racist remarks that went beyond embarrassment when the Clipper payers protested and threatened a boycott. The NBA commissioner, Adam Silver then investigated the situation and found that Sterling had violated NBA core values. Silver fined Sterling 2.5 million dollars and barred him from entering any Clipper facility or being involved in any personnel decisions. Silver’s decision made a point that the leader or an organization sets the tone of the organization with their words and actions.

Discussion Question and Suggested Response

1. Do you agree with how Adam Silver handled the situation? Do leaders really set the tone of an organization’s values?

Answer will vary. Students should discuss the issue of employee concerns (players in this instance) with the owner’s racist’s comments and how they impact the players. Students should also discuss ways in which the owner impact the values of an organization in a positive and negative way.

In the U.S., the federal government has set some limits on how an organization can practice human resource management. Among these limits are requirements intended to prevent discrimination in hiring and employment practices and to protect the health and safety of workers while they are on the job. A company that skillfully navigates the maze of regulations can gain an advantage over its competition. A further advantage may go to companies that, like Harley-Davidson, go beyond mere legal compliance to make fair employment and worker safety important components of the company’s business strategy.

II. Regulation of Human Resource Management

1. All three branches of the U.S. government – legislative, executive, and judicial – play an important role in creating a legal environment for human resource management.

2. The legislative branch, which consists of the two houses of Congress, has enacted a number of laws governing human resource activities.

3. The executive branch, including the many regulatory agencies that the president oversees, is responsible for enforcing the laws passed by Congress.

2. Some federal agencies involved in regulating human resource management include the Equal Employment Opportunity Commission and the Occupational Safety and Health Administration.

3. The president may issue executive orders, which are directives issued solely by the president, without requiring congressional approval. Some of these executive orders regulate the activities of organizations that have contracts with the federal government.
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4. The judicial branch, the federal court system, influences employment law by interpreting the law and holding trials concerning violations of the law.

III. Equal Employment Opportunity

1. Among the most significant efforts to regulate human resource management are those aimed at achieving equal employment opportunity (EEO). This is the condition in which all individuals have an equal chance for employment, regardless of their race, color, religion, sex, age, disability, or national origin.

2. The federal government’s efforts to create equal employment opportunity include:
   a. Constitutional amendments
   b. Legislation
   c. Executive orders

3. **Table 3.1, Summary of Major EEO Laws and Regulations**, summarizes some of the major EEO laws discussed in this chapter.

A. **Constitutional Amendments**

   1. Two amendments to the U.S. Constitution – the 13th and 14th – have implications for human resource management.

   2. The 13th Amendment abolished slavery in the U.S.

   3. The 14th Amendment forbids the states from taking life, liberty, or property without due process of law and prevents the states from denying equal protection of the laws. An important point regarding the 14th Amendment is that it applies only to the decisions or actions of the government or of private groups whose activities are deemed government actions.

B. **Legislation**

   1. Congress has passed laws designed to provide for equal opportunity and in later years has passed additional laws that have extended EEO protection more broadly.

   2. **Civil Rights Acts of 1866 and 1871**: During Reconstruction, Congress passed two Civil Rights Acts to further the 13th Amendment’s goal of abolishing slavery:

      a. The Civil Rights Act of 1866 granted all persons the same property rights as white citizens as well as the right to enter into and enforce contracts.
b. The Civil Rights Act of 1871 granted all citizens the right to sue in federal court if they feel they have been deprived of some civil right.

3. **Equal Pay Act of 1963**: Under the Equal Pay Act of 1963, if men and women in an organization are doing equal work, the employer must pay them equally. The act defines equal in terms of skill, effort, responsibility, and working conditions. However, the act allows for reasons why men and women performing the same job might be paid differently. For instance, if the pay differences result from differences in seniority, merit, quantity or quality of production, or any factor other than sex, such as participating in a training program or working the night shift, then the differences are legal.

4. **Title VII of the Civil Rights Act of 1964**: The major law regulating equal employment opportunity in the U.S. is Title VII of the Civil Rights Act of 1964. Title VII directly resulted from the civil rights movement of the early 1960s, led by such individuals as Dr. Martin Luther King, Jr.

5. To ensure that employment opportunities would be based on character or ability rather than race, Congress wrote and passed Title VII and President Lyndon Johnson signed it into law in 1964. The law is enforced by the Equal Employment Opportunity Commission, which is an agency of the Department of Justice.

6. Title VII prohibits employers from discriminating against individuals based on their race, color, religion, sex, or national origin. It applies to organizations that employ 15 or more persons working 20 or more weeks a year and that are involved in interstate commerce as well as state and local governments, employment agencies, and labor organizations.

7. Title VII also states that employers may not retaliate against employees for either opposing a perceived illegal employment practice or participating in a proceeding related to an alleged illegal employment practice.

8. **Age Discrimination in Employment Act (ADEA)**: One category of employees not covered by Title VII consists of older workers. Older workers tend to be paid more, so a company that wants to cut labor costs may save more by laying off its oldest workers. To counter such discrimination, Congress in 1967, passed the Age Discrimination in Employment Act (ADEA), which prohibits discrimination against workers over the age of 40.

9. Many firms have offered early-retirement incentives as an alternative or supplement to involuntary layoffs. Early-retirement incentives require that participating employees sign an agreement waiving their rights to sue under the ADEA. Courts have tended to uphold the use of these incentives as long as the individuals were not coerced into them. Also, these waivers must meet the basic requirements of a contract, so the employer must offer something of value in exchange for the employee giving up rights under the waiver.

10. One way to defend against age-related discrimination claims is to establish performance-related criteria for layoffs, rather than salary-related criteria. The
EEOC recently sued a Michigan manufacturer for apparently manipulating its layoff criteria in order to target the oldest engineers for layoffs.

11. Age discrimination complaints make up a large percentage of the complaints filed with the Equal Employment Opportunity Commission and whenever the economy is slow, the number of complaints grows.

12. **Figure 3.1, Age Discrimination Complaints, 1997-2013**, identifies the number of cases concerning age discrimination complaints during the period 1997-2013.

13. Another increase in age discrimination claims accompanied the economic slowdown at the beginning of this decade.

14. In today’s environment where firms are seeking talented individuals to achieve the company’s goals, older employees can be a tremendous pool of potential resources.

15. Researchers have found that although muscle power tends to decline with age, older workers tend to offer other important strengths, including conscientiousness and interpersonal skills.

16. **Vocational Rehabilitation Act of 1973**: In 1973, Congress passed the Vocational Rehabilitation Act to enhance employment opportunity for individuals with disabilities. This act covers executive agencies and contractors and subcontractors that receive more than $2,500 annually from the federal government. These organizations must engage in affirmative action for individuals with disabilities. Affirmative action is an organization’s active effort to find opportunities to hire or promote people in a particular group. The Department of Labor’s Employment Standards Administration enforces this act.

17. **Vietnam Era Veteran’s Readjustment Act of 1974**: This act requires federal contractors and subcontractors to take affirmative action toward employing veterans of the Vietnam War. The office of Federal Contract Compliance Procedures has authority to enforce this act.

18. **Pregnancy Discrimination Act of 1978**: This act defines discrimination on the basis of pregnancy, childbirth, or related medical condition to be a form of illegal sex discrimination. According to the EEOC, employers may not treat a female applicant or employee “unfavorably because of pregnancy, childbirth, or a medical condition related to pregnancy or childbirth.”

19. **Americans with Disabilities Act (ADA) of 1990**: This law protects individuals with disabilities from being discriminated against in the workplace.
20. The ADA defines **disability** as a physical or mental impairment that substantially limits one or more major life activities, a record of having such an impairment, or being regarded as having such an impairment.

21. **Figure 3.2, Disabilities Associated with Complaints Filed Under ADA**, shows the types of disabilities associated with complaints filed under the ADA.

22. The ADA goes beyond prohibiting discrimination to require that employers take steps to accommodate individuals covered under the act.

23. **Civil Rights Act of 1991**: CRA 1991 amends Title VII of the Civil Rights Act of 1964 as well as the CRA of 1866, the ADA, and the ADEA of 1967. This act broadened the relief available to victims of discrimination.

24. Compensatory damages include such things as future monetary loss, emotional pain, suffering, and loss of enjoyment of life while punitive damages are a punishment and are an attempt to discourage employers from discriminating.

25. Recognizing that one or a few discrimination cases could put an organization out of business and so harm many innocent employees, Congress has limited the amount of punitive damages.

26. As shown in **Table 3.2, Maximum Punitive Damages Allowed Under the Civil Rights Act of 1991**, the amount of damages awarded depends on the size of the organization charged with discrimination.

27. **Uniformed Services Employment and Reemployment Rights Act of 1994**: Under this law, employers must reemploy workers who left jobs to fulfill military duties for up to five years. Veterans with complaints under USERRA can obtain assistance from the Veterans’ Employment and Training Service of the Department of Labor.

28. **Genetic Information Nondiscrimination Act of 2008** prohibits companies with 15 or more employees from using genetic information in making decisions about hiring, promoting, or laying off workers.

**C. Executive Orders**

1. Two executive orders that directly affect human resource management are Executive Order 11246, issued by Lyndon Johnson, and Executive Order 11478, issued by Richard Nixon.

   a. Executive Order 11246 prohibits federal contractors and subcontractors from discriminating based on race, color, religion, sex, or national origin. In addition,
employers whose contacts meet minimum size requirements must engage in affirmative action to ensure against discrimination.

b. Executive Order 11478 requires the federal government to base all its employment policies on merit and fitness. It specifies that race, color, sex, religion, and national origin may not be considered. Along with the government, the act covers all contractors and subcontractors doing at least $10,000 worth of business with the federal government.

IV. The Government’s Role in Providing for Equal Employment Opportunity


A. Equal Employment Opportunity Commission (EEOC)

1. The Equal Employment Opportunity Commission (EEOC) is responsible for enforcing most of the EEO laws including Title VII, the Equal Pay Act, and the Americans with Disabilities Act.

2. The EEOC investigates and resolves complaints about discrimination, gathers information, and issues guidelines. Figure 3.3, Types of Charges Filed With the EEOC, illustrates the number of charges filed with the EEOC for different types of discrimination.

3. When individuals believe they have been discriminated against the following can take place:
   a. They can file a complaint with the EEOC or a similar state agency.
   b. The EEOC has 60 days to investigate the complaint.
   c. If the EEOC either does not believe the complaint to be valid or fails to complete the investigation within 60 days, the individual has the right to sue in federal court.
   d. If the EEOC determines that discrimination has taken place, it will attempt to achieve reconciliation without a lawsuit. Sometimes it enters into a consent decree with the discriminating organization. This decree is an agreement between the agency and the organization for the organization to cease certain discriminatory practices and possibly institute affirmative-action practices to rectify its history of discrimination.
e. If the settlement attempt fails, the EEOC has two options: issue a right to sue letter to the alleged victim or aid the alleged victim in bringing suit in federal court.

4. The EEOC also monitors organizations’ hiring practices. An Employer Information Report (EEO-1) is required annually from organizations that are government contractors or subcontractors or have 100 or more employees.

5. The EEOC issues guidelines designed to help employers determine when their decisions violate the laws enforced by the EEOC.

6. The **Uniform Guidelines on Employee Selection Procedures** is a set of guidelines issued by the EEOC and other government agencies to identify ways an organization should develop and administer its system for selecting employees so as not to violate Title VII.

**HR How To**

**Being Strategic about EEO**

The Equal Employment Opportunity Commission (EEOC) announced they plan to be more strategic in how they carry out their mission. The EEOC has chosen six priorities to focus their compliance efforts on to help reduce and deter discrimination. The six areas are: eliminate barriers in recruitment and hiring, protect immigrant and migrant workers considered vulnerable, address emerging issues, enforcing equal pay laws, preserving access to the legal system by targeting retaliation, and preventing harassment. Employers should review their selection methods, ensure all employees know how to avoid harassing any workers, train all supervisors, and keep complete records of employment decisions.

**Discussion Questions with Possible Responses**

1. Suppose you are a HR manager in a U.S. company. How would you explain to your company’s business managers the importance of the EEOC’s strategic priorities?

   The EEOC main mission is to reduce and deter any forms of employment discrimination. It is required that the company follows all U.S. employment laws. The EEOC has announcement some specific requirements that are of high priority and these are areas that the company should ensure are within compliance. The company shouldn’t just do this because of legal compliance. The company should choose to follow the regulations to ensure a productive workplace where all individuals are allowed to serve the organization free of any type of harassment.

2. How would you suggest that your department apply these priorities in planning its management training programs?

   The managers need to understand the law but more importantly need to understand that in order to have a productive work environment, it is critical that the workplace is free of discrimination and harassment. The department should look at all current hiring and
recruitment practices to ensure there is no discrimination. In addition, the pay structure should be reviewed and there should be a policy against harassment and all managers should be trained on the appropriate response to any complaints of harassment.

B. Office of Federal Contract Compliance Procedures (OFCCP)

1. The Office of Federal Contract Compliance Procedures (OFCCP) is the agency responsible for enforcing the executive orders that cover companies doing business with the federal government.

2. Businesses with contracts for more than $50,000 may not discriminate in employment based on race, color, religion, national origin, or sex and must have a written affirmative-action plan on file. This plan must include three basic components:
   a. Utilization analysis – a comparison of the race, sex, and ethnic composition of the employer’s workforce with that of the available labor supply.
   b. Goals and timetables – the percentage of women and minorities the organization seeks to employ in each job group and the dates by which the percentages are to be attained.
   c. Action steps – a plan for how the organization will meet its goals.

V. Businesses’ Role in Providing for Equal Employment Opportunity

1. Out of motives ranging from concern for fairness to the desire to avoid costly lawsuits and settlements, most companies recognize the importance of complying with equal employment opportunity laws. Management often relies on the expertise of HR professionals to help in identifying how to comply.

   A. Avoiding Discrimination

 Discrimination is often difficult to identify and prove. Legal scholars and court rulings have arrived at some ways to show evidence of discrimination.

1. Disparate treatment is differing treatment of individuals, where the differences are based on the individuals’ race, color, religion, sex, national origin, or disability status. The courts have held that in some situations, a factor such as sex or race may be a bona fide occupational qualification (BFOQ), that is, a necessary not merely preferred qualification for performing a job. An example is a job that includes handing out towels in a locker room. Requiring that employees who perform this job in the women’s locker room be female is a BFOQ.
2. **Disparate impact** is a condition in which employment practices are seemingly neutral yet disproportionately exclude a protected group from employment opportunities. In other words, the company’s employment practices lack obvious discriminatory content, but they affect one group differently than others.

**HRM Social**

**The Discrimination Risk of Using Social Media in Hiring**

Many employers are using social media sites to gain more information about applicants prior to making a hiring decision. A recent Carnegie Mellon University study suggests that screening candidates with social media contributes to discriminatory hiring decisions. The study specifically looked at religious affiliations and sexual orientation. EEOC is currently evaluating the use of social media in the hiring process and the current recommend is to use social media with caution.

**Discussion Questions and Possible Responses**

1. Explain how the Carnegie Mellon Study is an example of disparate impact. The study had online resumes with the same qualifications but with different names and their religious affiliation (Christian or Muslim) and sexual orientation. In many cases the Muslim applicants were discriminated against and that would be a case of disparate impact since a group of individuals were discriminated against.

2. For the employee characteristics protected by EEO laws, which could you avoid revealing on a social media career site as LinkedIn? Which would be difficult or impossible to avoid disclosing? It would be easiest to avoid sharing religion. If a picture is shown then race, age, and gender are more easily seen.

3. A commonly used test of disparate treatment is the **four-fifths rule**, which finds evidence of discrimination if the hiring rate for a minority group is less than four-fifths the hiring rate for the majority group. This rule compares rates of hiring not numbers of employees hired. *Figure 3.4, Applying the Four-Fifths Rule,* illustrates how to apply the four-fifths rule.

4. An important distinction between disparate treatment and disparate impact is the role of the employer’s *intent*. Proving disparate treatment in court requires showing that the employer intended the disparate treatment, but a plaintiff need not show intent in the case of disparate impact. It is enough to show that the result of the treatment was unequal.

5. One way employers can avoid disparate impact is to be sure that employment decisions are based on valid measurements. The essence of the measurement is to show that test scores or other measurements are significantly related to job performance.

6. Some employers are also distancing themselves from information that could be seen as producing a disparate impact. Many employers also address the
challenge of disparate impact by analyzing their pay data to look for patterns that could signal unintended discrimination.

7. **EEO Policy:** Employers can also avoid discrimination and defend against claims of discrimination by establishing and enforcing an EEO policy. This policy should:

   a. Define and prohibit unlawful behaviors
   
   b. Provide procedures for making and investigating complaints
   
   c. Require that employees at all levels engage in fair conduct and respectful language

10. **Affirmative Action and Reverse Discrimination:** In the search for ways to avoid discrimination, some organizations have used affirmative-action programs, usually to increase the representation of minorities. Over the years, many organizations have resorted to quotas or numerical goals to ensure that their workforce mirrors that of the labor market.

11. In many cases, white and/or male individuals have fought against affirmative action and quotas, alleging reverse discrimination. In other words, the organizations are allegedly discriminating against white males by preferring women and minorities.

**HR OOPs**

**Lack of Rewards May Explain “Leaky Pipeline”**

Many U. S. companies have increasing levels of diversity however research shows that there is less diversity of women and minorities in higher levels of the organization. This is called a talent pipeline that is leaky. One possible reason is that many organizations do not measure performance based on diversity and inclusion. They say these are important factors but there is very little accountability. It is challenging to work with others different from oneself, however, if there are rewards and punishments, then individuals will tend to try harder.

**Discussion Questions and Possible Responses**

1. How might a bonus related to diversity affect the ways executives promote, train, and develop their employees?
   
   Many employees work to achieve a goal and specifically goals which have monetary rewards. Managers will be more motivated to take the time and energy needed to develop diverse employees knowing it is tied to performance and reward.

2. What issues of fairness would you need to consider in tying parts of an executive’s bonus to performance on diversity?
   
   One issue would be to ensure there wasn’t any reverse discrimination. It would be critical that a non-minority was given equal access to training and promotion as the minority so that the system was perceived as fair to all. It would also be important not to have too much bonus tied to diversity. If there is too much money, there is a temptation to promote or train for the wrong reasons.

**B. Providing Reasonable Accommodation**
1. Especially in situations involving religion and individuals with disabilities, equal employment opportunity may require that an employer make **reasonable accommodation**. This term refers to an employer’s obligation to do something to enable an otherwise qualified person to perform a job.

2. An accommodation is considered reasonable if it does not impose an undue hardship, such as expense that is large in relation to a company’s resources.

3. Assuming that it would not present an undue hardship, employers are required to accommodate religious practices.

4. Accommodations for an employee’s religion often involve decisions about what kinds of clothing to permit or require.

5. Disability accommodations vary according to the individuals’ needs. **Figure 3.5, Examples of Reasonable Accommodations Under the ADA**, indicates what is considered to be reasonable accommodations.

C. Preventing Sexual Harassment

1. **Sexual harassment** refers to unwelcome sexual advances. The EEOC has defined the types of behavior and situations under which this behavior constitute sexual harassment. Preventing sexual harassment includes managing the workplace in a manner that does not tolerate threatening or intimidating employees through sexual behavior.

2. In general, the most obvious examples of sexual harassment involve quid pro quo harassment. This means that a person makes a benefit or punishment contingent upon an employee’s submitting to or rejecting sexual advances.

3. A more subtle and possibly pervasive form of sexual harassment is to create or permit a hostile working environment. This occurs when someone’s behavior in the workplace creates an environment in which it is difficult for someone of a particular sex to work.

4. Although a large majority of sexual harassment complaints received by the EEOC involve women being harassed by men, a growing share of sexual harassment claims have been filed by men.

5. To ensure a workplace free from sexual harassment, organizations can follow some important steps:

   a. First, the organization can develop a policy statement making it very clear that sexual harassment will not be tolerated.

   b. Second, all employees, new and old can be trained to identify inappropriate workplace behavior.
c. Organizations can develop a mechanism for reporting sexual harassment in a way that encourages people to speak out.

d. Management can prepare to act promptly to discipline those who engage in sexual harassment as well as to protect the victims of it.

D. Valuing Diversity

1. The United States is a diverse nation and becoming more so.

2. The practice of valuing diversity has no single form, it is not written into law or business theory. Organizations that value diversity may practice some form of affirmative action. They may have policies stating their value of understanding and respecting differences.

3. Valuing diversity need not be limited to categories protected by law.

VI. Occupational Safety and Health Act (OSH ACT)

1. Like equal employment opportunity, the protection of employee safety and health is regulated by the government.

2. In 1970, Congress enacted the Occupational Safety and Health Act (OSH ACT). It is the most comprehensive U.S. law regarding worker safety.

3. The OSH Act authorized the federal government to establish and enforce occupational safety and health standards for all places of employment engaging in interstate commerce.

4. The OSH Act divided enforcement responsibilities between the Department of Labor and the Department of Health.

5. Under the Department of Labor, the Occupational Safety and Health Administration (OSHA) is responsible for inspecting employers, applying safety and health standards, and levying fines for violations.

6. The Department of Health is responsible for conducting research to determine the criteria for specific operations or occupations and for training employers to comply with the act. Much of the research is conducted by the National Institute for Occupational Safety and Health (NIOSH).
A. General and Specific Duties

1. The main provision of the OSH Act states that each employer has a general duty to furnish each employee a place of employment free from recognized hazards that cause or are likely to cause death or serious physical harm. This is called the act’s general duty clause.

2. Figure 3.6, OSHA’s Form 300A, shows a sample of the annual summary that must be posted, even if no injuries or illnesses occurred.

3. The act also grants specific rights, for example, employees have the right to:
   a. Request an inspection
   b. Have a representative present an inspection
   c. Have dangerous substances removed
   d. Be promptly informed about exposure to hazards and be given access to accurate records regarding exposure
   e. Have employer violations posted at the work site

4. The Department of Labor recognizes many specific types of hazards and employers must comply with all the occupational safety and health standards published by NIOSH.

5. The general duty clause requires employers to be constantly alert for potential sources of harm in the workplace and to correct them.

B. Enforcement of the OSH Act

1. To enforce the OSH Act, the Occupational Safety and Health Administration conducts inspections.

2. An OSHA inspection typically has four major components:
   a. First, the compliance officer reviews the company’s records of deaths, injuries, and illnesses
   b. Next, the officer conducts a “walk around” tour of the employer’s premises
   c. Third, employee interviews may be conducted during the tour
   d. Fourth, in a closing conference, the compliance officer discusses the findings with the employer, noting any violations
3. Following the inspection, OSHA gives the employers a reasonable time frame within which to correct the violations identified.

4. If the violation could cause serious injury or death, the officer may seek a restraining order from a U.S. District Court. This order compels the employer to immediately correct the problem.

5. If citations are issued, they must be posted in a prominent place near the location of the violation.

6. Besides correcting violations, employers may have to pay fines ranging from $1,000 to $20,000.

7. Other penalties include criminal charges for falsifying records that are subject to OSHA inspection or for warning an employer of an OSHA inspection with permission from the Department of Labor.

C. Employee Rights and Responsibilities

1. Employees have a duty to report hazardous conditions.

2. Along with employee responsibilities go certain rights:
   a. Employees may file a complaint and request an inspection; the employers may not retaliate
   b. Employees have a right to receive information about any hazardous chemicals they handle in the course of their job
   c. OSHA’s Hazard Communication Standard and many states’ right-to-know laws require employers to provide employees with information about the health risks associated with exposure to substances considered hazardous

3. Under OSHA’s Hazard Communication Standard, organizations must have material safety data sheets (MSDSs) for chemicals that employees are exposed to. An MSDS is a form that details the hazards associated with a chemical.

D. Impact of the OSH Act

1. The OSH Act has succeeded in raising the level of awareness of occupational safety.
2. **Figure 3.7, Rates of Occupational Injuries and Illnesses**, shows the trend of these two items over a period of time.

3. Many industrial accidents are a product of unsafe behaviors, not unsafe working conditions.

4. Because conforming to the law alone does not guarantee their employees will be safe, many employers go beyond the letter of the law.

**VII. Employer-Sponsored Safety and Health Programs**

1. Many employers establish safety awareness programs to go beyond mere compliance with the OSH Act and attempt to instill an emphasis on safety. These programs have three primary components:

   a. Identifying and communicating hazards
   b. Reinforcing safe practices
   c. Promoting safety internationally

**Best Practices**

**Morton Salt’s Prizewinning Safety Program**

Morton Salt is one of the most dangerous industries; mining. However, this company has earned the accolade of “America’s safest companies.” This is a purpose priority of Morton Salt and they have a premier safety program which includes the following four points. First, employees report any “near miss” to a supervisor so they can prevent accidents. Second, they hold an annual safety day at all facilities where production stops for training and team building. Third, the company invites safety suggestions and prizes go to employee if their idea is selected. Fourth, the company participates in OSHA’s Voluntary Protection Program (VPP). This is a unique honor and very few companies are chosen by OSHA to participate. The bottom line is that the employees benefit the most from these programs because they have a safe and healthy work environment.

**Discussion Questions and Possible Answers**

1. How does Morton Salt’s safety program surpass the requirements of the OSH Act?

   Morton Salt does more than the minimum requirements by having employees report “near misses” and solving those problems immediately. They also listen to their employees on safety suggestions and give prizes and hold an annual safety day. All of those surpass the requirements of OSHA.

2. How might a human resource manager at Morton Salt support the company’s efforts to promote worker health and safety?
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The human resource manager should be leading the efforts of the safety programs. The HR manager should be the contact for the safety committee and listen to all suggestions. The HR manager could also build rewards for employees and departments regarding safety issues and build safety into the performance management system.

A. Identifying and Communicating Job Hazards

1. **Job hazard analysis technique** is a safety promotion technique that involves breaking down a job into basic elements, then rating each element for its potential for harm or injury.

2. **Technic of operations review (TOR)** is an analysis method for determining which specific element of a job led to a past accident. This method poses some special challenges for high-tech companies, where workers may be exposed to materials and conditions that are not yet well understood.

3. McShane Construction Company combined job analysis with mobile computing technology when it signed on with Field ID to provide the software for its safety inspections.

4. To communicate with employees about job hazards, managers should talk directly to their employees about safety.

5. In communicating risk, managers should recognize that different groups of individuals may constitute different audiences. Supervisors and trainers need to use vocabulary that employees will understand, and they need to ask for feedback in a culturally appropriate way.

6. Safety concerns and safety training needs also vary by age group. According to the Bureau of Labor Statistics, injuries and illnesses requiring time off from work occurred at the highest rate among workers between the ages of 45 and 54; workers aged 55 to 64 were the next highest group. Safety training needs to address the needs of all age groups.

**Did You Know? Top 10 Causes of Workplace Injuries**

Liberty Mutual conducts research every year called the Workplace Safety Index. In 2011, serious work-related injuries cost employers $55 billion. The ten leading causes of workplace injuries in 2011 were overexertion, other exertions or bodily reactions, falls on same level, falls to lower level, bodily reaction, struck by object, roadway incidents, caught in or compressed by equipment, repetitive motion, and slip or trip without a fall.

**Discussion Question and Suggested Response**

1. Think about your current job, your most recent job, or the job you would like to have Which of the categories of injuries shown in the graph are most likely to occur on that job? (Don't assume injuries never occur in office jobs!)
Student responses may vary. Have the student or students relate the occupational risks of their job to the types of causes of injuries presented by this case. For example, a fast food worker could suffer from repetitive motion injuries; a landscape worker could be struck by a piece of equipment, an delivery driver could be involved in a highway incident.

B. Reinforcing Safe Practices

1. To ensure safe behaviors, employers should not only define how to work safely but reinforce the desired behavior.

2. One common technique for reinforcing safe practices is implementing a safety incentive program to reward workers for their support of and commitment to safety goals.

3. Organizations can prevent certain types of injuries through a combination of job analysis, written policies, safety training, protective gear, rewards and sanctions for safe and unsafe behavior, and management support for the safety effort.

5. Similar practices for preventing other types of injuries are available in trade publications, through the National Safety Council, and on the Web site of the OSHA at www.osha.gov.

C. Promoting Safety Internationally

1. Given the increasing focus on international management, organizations also need to consider how to ensure the safety of their employees regardless of the nation in which they operate.

2. Cultural differences may make this more difficult than it seems.

Thinking Ethically

Is Discrimination against the Unemployed Ethical?

Should companies take the length of time someone has been unemployed into consideration when evaluating them for a job? That is a question that many companies are struggling with today. Currently it is legal to discriminate against the unemployed but it raises ethical questions. Some companies even state not to apply if the person is currently unemployed and others simply reject the applicant if unemployed. However, is this fair based on the current unemployment rates? SHRM and the Obama administration has urged companies not to discriminate “based solely on the applicants unemployment status.”

Discussion Questions with Possible Responses

1. IF an employer’s hiring policies give preference to those who are already employed, what is the impact on (a) the company’s performance; (b) workers seeking jobs; (c) the communities where a company operates? Based on the impact of these policies, would you say they are ethical? Why or why not?
Student answers will vary. When an employer has a policy to only hire workers who already have jobs, it may have a disproportionate impact upon women and minorities. Although at the time of this writing, the EEOC has not completed its analysis on this trend, and it has not made recommendations, it bears noting that women and minorities might be impacted to a greater extent as a result of this policy. Employers are affected by this policy because it can be argued that it makes hiring more challenging, because they are required to find new recruits among those who are already employed. It could affect customers through hiring costs, because of the time and expense of recruiting workers who already have jobs. These workers might be harder to find, and harder to recruit. In general, the policies have some ethical issues as there are so many reasons for being unemployed and a judgment shouldn’t been made until determining if the reason is related to the future job.

2. Apply the ethical value of fairness to these policies: Is it fair to discriminate against the long-term unemployed? Is it fair not to let employers choose employees with a track record of holding a job? What hiring policy best achieve fairness?

Student responses may vary. It could be argued that a law that prohibits discrimination against the unemployed is not fair to employers, because it ties their hands when it comes to employment decisions. However, it could also be argued that it is neither ethical nor fair for an employer to eliminate job candidates on the basis of their employment status, which could be the results of circumstances entirely beyond their control. The best policy may be to not have a law but to allow employers to evaluate prospective applicants using length in a job/unemployment as only one criterion. In order to not be discriminatory, the company should NOT have a policy stating the unemployed won’t be considered.

**ROADMAP: Chapter Key Terms**

Equal employment opportunity (EEO)

Equal Employment Opportunity Commission (EEOC)

Affirmative action

Disability

EEOC-1 report

*Uniform Guidelines on Employee Selection Procedures*

Office of Federal Contract Compliance Programs (OFCCP)

Disparate treatment

Bona fide occupational qualification (BFOQ)

Disparate impact

Four-fifths rule

Reasonable accommodation

Sexual harassment
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Occupational Safety and Health Act (OSH Act)

Occupational Safety and Health Administration (OSHA)

Right-to-know laws

Material safety data sheets (MSDSs)

Job hazard analysis technique

Technical of operations review (TOR)

ROADMAP: Review and Discussion Questions

1. What is the role of each branch of the federal government with regard to equal employment opportunity?

   All three branches of the U.S. government—legislative, executive, and judicial—play an important role in creating a legal environment for human resource management. The legislative branch, which consists of the two houses of Congress, has enacted a number of laws governing human resource activities. This branch develops laws such as those governing equal employment opportunity and worker safety and health. The executive branch establishes agencies such as the Equal Employment Opportunity Commission and Occupational Safety and Health Administration to enforce the laws by publishing regulations, filing lawsuits, and other activities. The judicial branch hears cases related to employment law and interprets the law.

2. For each of the following situations, identify one or more constitutional amendments, laws, or executive orders that might apply:

   A. A veteran of the Vietnam conflict experiences lower-back pain after sitting for extended periods of time. He has applied for promotion to a supervisory position that has traditionally involved spending most of the workday behind a desk.

      Student responses may vary. However, the responses provided should predominately include the Americans with Disabilities Act (ADA) of 1990.

   B. One of two female workers on a road construction crew complains to her supervisor that she feels uncomfortable during breaks, because other employees routinely tell off-color jokes.
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Student responses may vary. However the responses provided should predominately focus on sexual harassment issues especially that of a hostile working environment. Title VII of the Civil Rights Act addresses this area.

C. A manager at an architectural firm receives a call from a local newspaper. The reporter wonders how the firm wishes to respond to calls from two of its employees alleging racial discrimination. About half of the firm’s employees (including all of its partners and most of its architects) are white. One of the firm’s clients is the federal government.

Student responses will vary. However, the responses presented by the students should readily mention Title VII of the Civil Rights Act and Executive Order 11478.

3. For each situation in the preceding question, what actions, if any, should the organization take?

   The student responses to this question will vary. The following items are provided to offer some possible suggestions to be expected in their given answers. In response to “A” above, the organization should provide reasonable accommodation for the employee such as permitting the job to be conducted from a standing position. In response to “B” above, the organization should provide employee awareness training to prevent sexual harassment from occurring within the workplace. In response to “C” above, the organization should modify its hiring practices to ensure compliance with EEO laws and guidelines.

4. The Americans with Disabilities Act requires that employers make reasonable accommodations for individuals with disabilities. How might this requirement affect law enforcement officers and firefighters?

   Given the overwhelming impact of these jobs on the security and safety of society, it will be very important for managers in these fields to carefully examine the essential functions of these jobs. Where disabled individuals can perform the essential functions, they may be hired. However, through job analysis, most aspects of these jobs will most likely be defined as essential, (for instance all fire fighters may need to be able to administer CPR), and few if any, as marginal functions. This may decrease the likelihood of disabled individuals working in these jobs, unless their disabilities are minimal.

5. To identify instances of sexual harassment, the courts may use a “reasonable woman” standard of what constitutes offensive behavior. This standard is based on the idea that women and men have different ideas of what behavior is appropriate. What are the implications of this distinction? Do you think this distinction is helpful or harmful? Why?

   [Type text]
A variety of thoughts and ideas should be expected in the responses given by the students. The responses provided to this question should allow for an interesting discussion to ensue among the students. Clearly, the implications indicate that men may act in certain ways that they deem permissible, while women (any reasonable ones) would find the behavior offensive. This creates a problem of equity. However, this distinction pushes society, particularly companies, to educate both men and women about how each sex perceives different types of behavior. If both men and women are to work harmoniously in the workplace, they need to know how various behaviors are perceived.

6. Given that the “reasonable woman” standard is based on women’s ideas of what is appropriate, how might an organization with mostly male employees identify and avoid behavior that could be found to be sexual harassment?

As indicated in response to Question 5, if both men and women are to work harmoniously in the workplace, they need to know how various behaviors are perceived by members of the opposite sex. Organizations can provide training to the employees and managers in order to increase their understanding and dissuade such behaviors from occurring within the workplace. In addition, organizations can establish written policies and guidelines on what constitutes acceptable workplace behaviors.

7. What are an organization’s basic duties under the Occupational Safety and Health Act?

Under the Occupational Safety and Health Act, the basic duties for an organization include a general duty to provide employees a place of employment free from recognized safety and health hazards. They must inform employees about hazardous substances, maintain and post records of accidents and illnesses, and comply with NIOSH standards about specific occupational hazards.

8. OSHA penalties are aimed at employers, rather than employees. How does this affect employee safety?

Given the small size of most OSHA penalties, many companies refuse to make necessary safety changes in their workplace environment. Overall, this results in a negative effect on employee safety. However, students may suggest that because most industrial accidents are a product of unsafe behavior, not unsafe working conditions, higher penalties would have only a marginal impact on rectifying the situation.

9. How can organizations motivate employees to promote safety and health in the workplace?

Besides complying with OSHA regulations, employers often establish safety awareness programs designed to instill an emphasis on safety. They may identify and communicate hazards through the job hazard technique or the technic of operations review. They may adapt communications and training to the needs of different employees, such as differences in experience levels or cultural differences from one country to another. Employers may also establish incentive programs to reward safe behavior.
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10. For each of the following occupations, identify at least one possible hazard and at least one action employers could take to minimize the risk of an injury or illness related to that hazard.

   A. Worker in a fast-food restaurant
   B. Computer programmer
   C. Truck driver
   D. House painter

   The student responses given for this question will vary. However, all answers provided should demonstrate the individual student’s understanding of the chapter concepts.

Taking Responsibility

Keeping Sprint’s Subcontractors Safe

The communication tower industry is a dangerous field with more than 18 tower workers killed in 2008. OSHA calls this industry the most dangerous one in the United States. Sprint is working on an ambitious program to upgrade all of its 38,000 towers which means workers are working quickly and many of the workers are contract employees. OSHA is concerned that Sprint is not requiring the contract workers to follow the standard safety procedures. Initial reports indicate that safety was set aside as the industry pushed to upgrade equipment to meet consumer demand. There is evidence of poor safety training, improper equipment, and intense time pressures. The National Association of Tower Erectors (NATE) shares OSHA’s concerns but Sprint insists that safety is its top priority and that the contractors must have a written safety program.

Discussion Questions and Possible Responses

1. What responsibility do you think Sprint has to the employees of subcontractors working on its communication towers? How well is it meeting that responsibility?

   Legally, the employees are subcontractors so they have limited liability. The subcontractor must have their own workers compensation. However, ethically, Sprint has a great deal of responsibility. It is not currently meeting the responsibility since they are aware of the danger and accidents and deaths yet stay disengaged and only require the subcontractor to have a written safety program.

2. Beyond the steps Sprint says it has taken, what else could it do to meet or exceed OSHA requirements to protect worker safety at its communication towers?

   Sprint could have a uniform safety program that all subcontractors are required to follow. That would ensure uniformity in the program and could have higher standards. They could also have
their own site supervisors check for safety and have a bonus program for subcontractors who finish the work using all the safety standards.

Managing Talent

Walmart’s Struggle to Manage Diversity and Safety on a Grand Scale

Walmart gain national attention when they announced their Veterans Welcome Home Commitment which guarantees a veteran a job within 12 months of returning from duty. Walmart supports veterans because they have a record of performance as being quick learners, team players, and the ability to perform under pressure. At the headquarters, Walmart strives to live out its mission of “making better possible” by supporting an annual Cultural World Fair where employees representing different ethnic backgrounds share food an art with one another. They also have a UNITY group, African American Group, and Pride groups to help support all forms of diversity. The company employs 2.2 million people in more than 2 dozen countries. Although Walmart has many efforts valuing diversity there are also several EEO claims against the company.

Discussion Questions and Possible Responses

1. In what way is Walmart trying to meet legal requirements for equal employment opportunity?

Walmart has sound policies for EEO and tries to ensure those policies are followed. The problem is with 2.2 million employees it can be difficult to consistently execute the policies.

2. What could Walmart’s HR managers do to help the company improve its performance in complying with EEO laws?

HR managers should be looking for accountability with the policies, having consistent and regular training on EEO issues, and make HR available in the stores on a regular basis.

HR in Small Business

Company Fails Fair-Employment Test

Companies have to comply with federal as well as state and local laws. One company that didn’t was Professional Neurological Services (PNS), which was cited by the Chicago Commission on Human Relations when it discriminated against an employee because she is a parent. Chicago is one of a few cities that prohibit this type of discrimination. The difficulties began with employee Dena Lockwood as soon as she was interviewing for a sales position with PNS. The interviewer noticed that Lockwood made a reference to her children, and he asked her if her responsibilities as a parent would “prevent her from working 70 hours a week.” Lockwood said no, but the job offer she received suggests that the interviewer had his doubts. According to Lockwood’s later complaint, female sales reps without children routinely were paid a $45,000 base salary plus a 10% commission. Lockwood was offered $25,000 plus the 10% commission. Lockwood negotiated and eventually accepted $45,000 plus 5%, with a promise to increase the commission rate to 10% when she reached sales of $300,000. She was also offered five vacation days a year; when she objected, she was told not to worry. Lockwood worked hard and eventually reached her sales goal. Then the company raised the requirement for the higher commission rate, and the situation took a turn for the worse. Lockwood’s daughter woke up one morning with pink-eye, a highly contagious ailment. Lockwood called in to
reschedule a meeting for that day, but her manager told her not to bother; she was being fired. When Lockwood asked why, the manager said “it just wasn’t working out.” She went to the Chicago Human Relations Commission for help. The commission investigated and could find no evidence of performance-related problems that would justify her dismissal. Instead, the commission found that Lockwood was a victim of “blatant” discrimination against employees with children and awarded her $213,000 plus attorney’s fees—a hefty fine for a company with fewer than 50 employees. PNS stated that it would appeal the decision.

Questions

1. Why do you think “parental discrimination” was the grounds for this complaint instead of a federally protected class? Could you make a case for discrimination on the basis of sex? Why or why not?
Most likely the parental discrimination was grounds so that the State court would hear the case since there is no parental protection in Federal court. It would be hard to make a case for discrimination based on sex since both males and females had the same work requirements. It doesn’t appear she was treated different for being female. She was treated different for family issues would be a state situation.

2. How could Professional Neurological Services have avoided this problem?
PNS could have had managers trained on how to run a successful sales organization without discrimination. The managers needed to know what was appropriate in regards to absenteeism and also the value of training and retaining employees.

3. Imagine that the company has called you in to help it hold down human resources costs, including costs of lawsuits such as this one. What advice would you give? How can the company avoid discrimination and still build an efficient workforce?
Student answers will vary. The company could have avoided the lawsuit by having realistic absenteeism policy.

HRM DVD Vol 3 Suggested Video with Discussion Questions and Possible Responses

Video Part 1: Managers Hot Seat: Workplace Aggression (9:52) and Manager’s Afterthoughts (3:21)

Video Summary

The employee in this film (Gloria) has requested a meeting with her manager because of a concern that one of her direct reports (John) was becoming physically threatening and intimidating. His behavior included entering her office unannounced, hovering over her, and not answering her questions. He also blocked Gloria in the hall refusing to let her by until he answered his question. When Gloria tried to walk around John, he physically grabs her arm and refuses to let her go until she answers his question. Gloria and her supervisor are discussing the situation when John breaks in to the meeting and refuses to leave.

Discussion Questions

1. What proper steps in an investigation did you witness in this case? Were there any weaknesses?
The supervisor welcomed the meeting. The supervisor took notes while Gloria spoke. He gave her his full attention and made eye contact. He summarized how pleased he has been with her performance and how he values her impression of what is happening in this case. The supervisor asked Gloria why she thought John was acting this way. He asked additional questions about the situation and how others might be affected by John’s behavior. He requested whether Gloria has documented this behavior in John’s evaluation. The supervisor asked Gloria if she felt she had been treated fairly during the meeting and if she was satisfied with the outcome.

The manager offered possible solutions, including termination of employment before he heard John’s side of the story, and before he covered the results of the investigation with human resources. Also, Gloria says she doesn’t want to see him fired, but wants to make sure the problem doesn’t just get handed off to someone else. The manager has to be careful at this point. Most employees who report harassment are intimidated. They usually don’t report something until it is very uncomfortable because they don’t want to see someone get in trouble, lose their job, etc. It is common for an employee to report harassment, but say they do not want the employer to do anything about it or say anything to the employee. The courts have been very clear that it is the employer’s responsibility to affectively and proactively address the issue.

2. Do you think that the manager should have allowed the accused employee to enter and participate in the meeting?

In the managers afterthoughts he said he considered allowing John to join the meeting when he entered the room, but decided against it. Allowing John to join the meeting at that point would have allowed the same bullying and intimidating behavior to persist. It also would have undermined confidentiality of the conversation. The manager said he was torn about how he had to deal with John when he burst into the meeting. Although he was very direct eventually about telling John to leave the meeting, he really didn’t take control of the situation. He allowed John to continue to bully and still leave on his own terms. A formal policy and training would have helped the manager know how to handle this situation.

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