



Course Learning Outcomes for Unit II

Upon completion of this unit, students should be able to:

2. Estimate the impact of legal provisions on human resource management.
5. Relate different selection criteria and selection methods to organizational considerations.

Reading Assignment

Chapter 3:

Ensuring Equal Employment Opportunity and Safety

Chapter 6:

Selecting Employees Who Fit

Unit Lesson

Legal Proliferation Boiled Down to Disagreement

When President Johnson signed Executive Order 11246 in 1965 and Title 7 Laws were passed in the midst of a civil rights cultural revolution, he probably never imagined America would be where it is today. We now have dozens and dozens of complex employment laws governing every aspect of employment (and these are just federal laws!). The Equal Employment Opportunity Commission (EEOC) has a budget of over \$365 million dollars, hundreds of lawyers, and reviews over 88,000 cases a year against employers. To understand this phenomenon, we must first realize that the philosophical differences are driving the investigations, cases, and laws that govern them. In most cases, the average person believes if you are not breaking the law on a given issue, you are fine. In the employment-law world, it is different.

The main philosophy of the EEOC is that every employment decision should be based on documented merit and nothing else. The main philosophy of business owners is that every employment decision should be in the best interest of the company and not break any existing laws. Do you see the disconnect here?

For example, let's say I (as a manager) do not like the Pittsburgh Steelers American Football team, and one day my junior associate wears a shirt with a Pittsburgh Steelers logo. In response, I terminate his employment as now I do not want to work with him. What is the problem?

The EEOC would say this is "illegal" as the decision was not made based on documented merit (performance history).

I, as the manager, say it is NOT illegal as there are no laws making Pittsburgh Steelers supporters a protected class.

The 50-year conversation has gone like this between the EEOC and the business community.

While this evolving legal landscape has been a source of massive frustration for human resource professionals, it has been significantly helpful for victims of discrimination and harassment. Several years ago, an "expert witness" was brought into a case to review evidence for wrongful discharge (when someone is terminated for an illegal or improper reason). An EEOC lawyer made a comment to him in passing that she was just "keeping the American Dream alive." When he asked her what she meant by her story, she said she did not like being the big, bad, government pit-bull going after businesses, but she believed strongly that she

wanted to live in a nation where no matter who you are, where you came from, or what you believed, if you worked hard enough and performed well enough, you should get a shot at your success.

Many times in the business world, it pays to be exceptional and different. Standing out from the crowd allows an employee to be noticed for exceptional performance and can lead to faster and greater advancement. In some other respects, however, standing out for being a racial or ethnic minority, or for being a woman, can be incredibly uncomfortable for employees. Learning to celebrate differences appropriately remains a challenge for many human resource professionals. (Lau & Johnson, 2014, p. 262)

The EEOC is typically avoided by most companies and loathed by many. However, they exist to make sure people are being treated fairly by employers, and everyone is given a fair shot at employment. If you do your job thoughtfully, legally, and ethically, you will not see them very much at all.

In navigating the legal landmines of employment law, you can win, lose, mediate, and settle many cases. These experiences offer three pieces of advice as you manage a firm.

1. *Create a document trail:* When you make a decision to hire, fire, layoff, promote, or demote, make sure you have a clear document trail where any "prudent" person could review the documents and would likely come to the same conclusion you did.
2. *Make a group decision:* Nobody knows everything. Before you make employment related decisions, especially those that you think may be challenged, have two or three other people review the decision, and make sure they agree with you. A group is less likely to be (and be perceived as) biased.
3. *Check your metrics:* The 4/5ths rule (in the textbook) is not simply for your annual EEO-1 reporting form; it is a powerful management metric. Quarterly, review your data to ensure you are hiring, firing, and paying different types of people (e.g., race, age, disability status) equally. Reviewing trends in this data often shows you problems to deal with before they ever become court cases (Stewart & Brown, 2015).

References

- Lau, T., & Johnson, L. (2014). *The legal and ethical environment of business*. Washington, DC: Flat World Knowledge.
- Stewart, G. L., & Brown, K. G. (2015). *Human resource management: Linking strategy to practice* (3rd ed.). Hoboken, NJ: Wiley.

Suggested Reading

In recent years, many requirements have been put in place that were never an issue earlier in our history. The United States military has witnessed a landslide of changes over the past couple of decades regarding gender, religion, and ethnic issues. The following NPR article is an example of these issues:

Sikhs regain right to wear turbans in U.S. Army. (2010, March 24). Retrieved from <http://www.npr.org/templates/story/story.php?storyId=125142736>