

Robert L. Mathis | John H. Jackson | Sean R. Valentine

# Human Resource Management

ESSENTIAL PERSPECTIVES



Seventh Edition



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SEVENTH EDITION

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# Human

SEVENTH EDITION

# Resource Management

## ESSENTIAL PERSPECTIVES

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# PREFACE

The importance of human resource (HR) issues for managers and organizations is evident every day. As indicated by frequent headlines and news media reports on downsizing, shortages of qualified workforce, employee discrimination, union activity, and other topics, the management of human resources is growing in importance in the United States and the world. HR issues affect many individuals; consequently, they will benefit by becoming more knowledgeable about HR management and the nature of various activities.

This textbook has been prepared as a brief version of our comprehensive textbook, *Human Resource Management 14th Edition* and is intended for those desiring a concise discussion of the important issues and practices in HR management. The textbook provides a condensed overview of the essential HR topics and activities and combines solid academic research with a practitioner's orientation of how things are done. The concise nature of this book presents information in a way that is useful to various industry groups and professional organizations. It can be used in case courses as background material, as review for HR professionals, in workshops and seminars, and in any other forums requiring brevity. The positive reception of previous editions of *Human Resource Management: Essential Perspectives* confirmed the need for such a book. Consequently, we are pleased to provide an updated version.

## THE SEVENTH EDITION

The seventh edition contains numerous important updates that reflect the changes in the HR environment. Some of those changes are as follows:

- Each chapter includes a new or updated “Using HR to Meet Management Problems” opener to introduce the chapter. These are designed to explain relevance to management and to provide a list of the main topics to be covered.
- Several chapters have been restructured to ensure a suitable flow of information to provide readers with a solid understanding of topics.
- All chapters have been thoroughly updated to include new and expanded coverage of the most important topics affecting the HR environment. Some of the updates you will find in the new edition include new/expanded content on emerging topics such as ethics, leadership, social media, technology, current economic conditions and unemployment, and multinational and global business.

- New and updated figures throughout each chapter focus on the most important topics in HR management.
- Updated Internet Resources and Suggested Readings provide students with direction on where to learn more about the field.

## OF SPECIAL INTEREST TO INSTRUCTORS

Instructors will find a number of valuable resources on our online instructor resource center, accessed through [cengagebrain.com](http://cengagebrain.com). These include

- ***Instructor's Manual.*** Designed to provide support for instructors new to the course, as well as innovative materials for experienced professors, the *Instructor's Manual* provides comprehensive teaching materials, including overviews, annotated outlines, and detailed teaching notes.
- ***Test Bank.*** This edition's test bank has been upgraded to include a wider range of questions across Bloom's taxonomy. True/false, multiple choice, and short-essay questions test students' knowledge and comprehension. All questions have metadata tags to assist instructors in locating questions by difficulty level, Bloom's level, learning objective, or topic. Instructors can access the Test Bank via Word documents available on the instructor resource center.
- ***PowerPoint Lecture Presentation.*** The PowerPoint Lecture Presentation enables instructors to customize their own multimedia classroom presentation. The package includes figures and tables from the text and summarized teaching notes. The material is organized by chapter and can be modified or expanded for individual classroom use.

With this seventh edition of *Human Resource Management: Essential Perspectives* we also welcome a new author. Sean Valentine is an accomplished scholar who has a special interest, and expertise, in HR ethics. He is a strong addition to the author team.

It is our hope as authors that this book will be useful to those needing a very concise treatment of HR topics. Certainly the need for understanding the material is not going away. It is increasing and now even spreading into segments of the work world where it is sometimes viewed as difficult. HR takes place in an environment that changes rapidly; the new edition identifies these changes, and it is our hope that it will contribute to more effective management of human resources in organizations.

*Robert L. Mathis, PhD, SPHR*

*John H. Jackson, PhD*

*Sean R. Valentine, DBA*

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# HR's Roles, Strategy, and Planning

## 1 CHAPTER

### USING HUMAN RESOURCES TO SOLVE MANAGEMENT PROBLEMS

Many things affect an organization's performance and therefore management's focus. The people who are employed are certainly one of the crucial factors. Key questions about human resources (HR) are:

- Why do organizations need HR?
- What does HR do?
- How can HR measure its contributions to the organization?

The people who work in an organization do not automatically make a useful contribution; they require training, good jobs to do, pay, safe working conditions, and more. This chapter highlights how HR contributes to the framework necessary for people to do their jobs usefully and successfully.

Human beings are a necessary, varied, and sometimes problematic resource that different organizations use to a greater or lesser degree. For some organizations, talented employees are the cornerstones of a competitive advantage in the marketplace. If the organization is to compete on the basis of new ideas, outstanding customer service, or quick and accurate decisions, having excellent employees is critical. Of course, not every organization must compete on the basis of having the best employees, but even for those that do not need to, employees are a major source of organizational performance, problems, growth, resistance to change, and lawsuits.

Productive, creative, and reliable people doing rewarding work in a flexible organization should be the goal for a company to get the most out of the money spent on its employees. Such organizations often earn the reputation as good employers, and as a result they have more, and better, potential employees available than competitors. But how does an employer earn such a reputation?

When an organization employs people, certain efforts must be made to recruit and retain the best people. Finding potentially good employees, training them, paying them appropriately, giving them good work to do, and providing them opportunities to succeed are but a few of the activities that must be addressed by someone in the organization. Often it is an HR department that does so.

## 1-1 WHAT IS HUMAN RESOURCE MANAGEMENT?

What is now called “human resource management” has evolved a great deal since its beginnings at the turn of the twentieth century. What began in larger companies as a primarily clerical operation concerned with payroll and employee records faced changes with the social legislation of the 1960s and 1970s. “Personnel departments,” as they came to be called, became concerned with the legal ramifications of policies and procedures affecting employees. As the twentieth century continued, globalization and competition began forcing HR departments to become more concerned with costs, planning, and the implications of various HR strategies for both organizations and their employees. More recently, HR operations in some companies have been involved with mergers and acquisitions, outsourcing, and managing vendors of certain traditional HR activities such as payroll and executive search.

**Human resource management** is concerned with designing formal systems in an organization to manage human talent for accomplishing organizational goals. Whether it is a big company with 10,000 employees or a small nonprofit organization with 10 employees, those employees must be paid, which means that an appropriate and legal compensation system is needed. Employees also must be recruited, selected, trained, and managed. Each of these activities requires thought and understanding about what may work well within the organization and what may not. Research on these issues and the knowledge gained from successful approaches form the basis for effective HR management.

### 1-1a Why Organizations Need HR Management

Not every organization has an HR department. In a company with an owner and 10 employees, for example, the owner usually takes care of HR issues. However, despite the obvious differences between large and small organizations, the same HR issues must be dealt with in every organization.

In a sense, *every* manager in an organization is an HR manager. Sales managers, head nurses, drafting supervisors, college deans, and accounting department supervisors all engage in HR management, and their effectiveness depends in part on the success of organizational HR systems. It is unrealistic, however, to expect a nursing supervisor to know about the nuances of equal employment regulations or how to design a compensation system. For that reason, larger organizations frequently have people who specialize in these activities, which form the HR function or department.

All assets are important to varying degrees in different organizations. But the human assets are the “glue” that holds all the other assets together and guides their use to achieve results. Human capital is not just the people in organizations—it is also what those people contribute to organizational success. Broadly defined, **human capital** is the collective value of the capabilities, knowledge, skills, life experiences, and motivation of an organizational workforce.

A fundamental question is whether better HR management strategies create higher market value for companies or whether financially successful companies have more resources to allocate to human capital initiatives. It can be argued that hiring the right people, supporting their creative thinking and productivity, and combining these with the right technology will build superior business performance and shareholder value. But it is more complex than that. In fact, it appears that the way the HR practices are *implemented* strongly affects business results.<sup>1</sup> Generally, better HR practices improve firm performance if implemented properly, and having superior human capital can indeed influence company performance.<sup>2</sup>

### 1-1b Managing Human Resources in Organizations

Human resources/human capital (or more simply, *people*) who work in organizations may have valuable contributions they can make to the organization's mission. But this will occur only if people are given a reasonable opportunity to contribute. Employees must be placed into the right job, be trained, and given feedback if they are to do well. It is not just the HR department that does these things; it is a team effort between operating managers and the HR department, if one exists.

In the United States and worldwide, small businesses employ more than half of all private-sector employees and generate many new jobs each year. In surveys taken over several years by the U.S. Small Business Association (SBA), the issues identified as significant concerns in small organizations were consistent: not having enough qualified workers, the rapidly increasing costs of employee benefits, payroll taxes, and compliance with government regulations. Notice that all these concerns have an HR focus, especially when governmental compliance with wages/hours, safety, equal employment, and other regulations are considered.

At about 80 to 100 employees, small organizations typically find that they need to designate someone to specialize in HR issues. Other HR positions are added as specialists (e.g., in compensation, training, or recruiting) as the company grows larger. The need for HR grows as an organization grows, until it evolves into a specialty with specialists assigned to specific duties. However, for HR to be most useful it must remain firmly attached to the operating management of the organization.

### 1-1c Human Resource as a Core Competency

The development and implementation of specific strategies must be based on the areas of strength in an organization. Referred to as *core competencies*, those

strengths are the foundation for creating a competitive advantage for an organization. A **core competency** is a unique capability, at which an organization excels, that creates high value.

Certainly, many organizations have identified that their HR practices differentiate them from their competitors and that HR is a key determinant of competitive advantage. Recognizing this, organizations as diverse as FedEx, Nordstrom, and Dow Corning have focused on human resources as having special strategic value for the organization.

## 1-2 PRODUCTIVITY

Productivity can be a competitive advantage because when the costs to produce goods and services are lowered through high productivity, lower prices can be charged and the result is better sales. Better productivity does not necessarily mean more output—perhaps fewer people (or less money or time) are used to produce the same amount of goods or services. In its most basic sense, **productivity** is a measure of the quantity and quality of work done, considering the cost of the resources used. A useful way to measure the productivity of a workforce is to determine the total cost of people required for each unit of output. For example, a retailer may measure productivity as a ratio of employee payroll and benefits to sales; or a bank may compare the number and dollar amount of loans made to the number of loan officers employed, providing a metric of productivity per loan officer.

### 1-2a Improving Productivity

Productivity at the organizational level ultimately affects profitability and competitiveness in a for-profit organization and total costs in a nonprofit organization. Perhaps of all the resources used in organizations, the ones most closely scrutinized are human resources. Many HR management efforts are designed to enhance productivity, including:

- *Organizational restructuring* involves eliminating layers of management and changing reporting relationships as well as cutting staff through downsizing, layoffs, and early-retirement buyout programs.
- *Redesigning work* often involves having fewer employees who perform multiple job tasks. It may also involve replacing workers with capital equipment or making workers more efficient by use of technology or new processes.
- *Aligning HR activities* means making HR efforts consistent with organizational efforts to improve productivity. This alignment includes ensuring that staffing, training and development, performance management, compensation, and other HR activities are not working to offset productivity.

## 1-2b Organizational Culture

The ability of an organization to use its human capital as a core competency depends at least in part on the organizational culture that is operating. **Organizational culture** consists of the shared values and beliefs that give members of an organization meaning and provide them with rules for behavior. These values are inherent in the ways organizations and their members view themselves, define opportunities, and plan strategies. Much as personality shapes an individual, organizational culture shapes its members' responses and defines what an organization can, or is willing, to do.

The culture of an organization is seen in the norms of the expected behaviors, values, philosophies, rituals, and symbols of its employees. Culture evolves over a period of time; only if an organization has a history in which people have shared experiences for years does a culture stabilize. A relatively new business, such as one that has existed for less than two years, probably has not yet developed a stable culture.

Culture is important because it tells people how to behave (or not to behave). It is relatively constant and enduring over time. Newcomers learn the culture from senior employees; hence, the rules of behavior are perpetuated. These rules may or may not be beneficial, so culture can either facilitate or limit performance.

## 1-3 HR MANAGEMENT FUNCTIONS

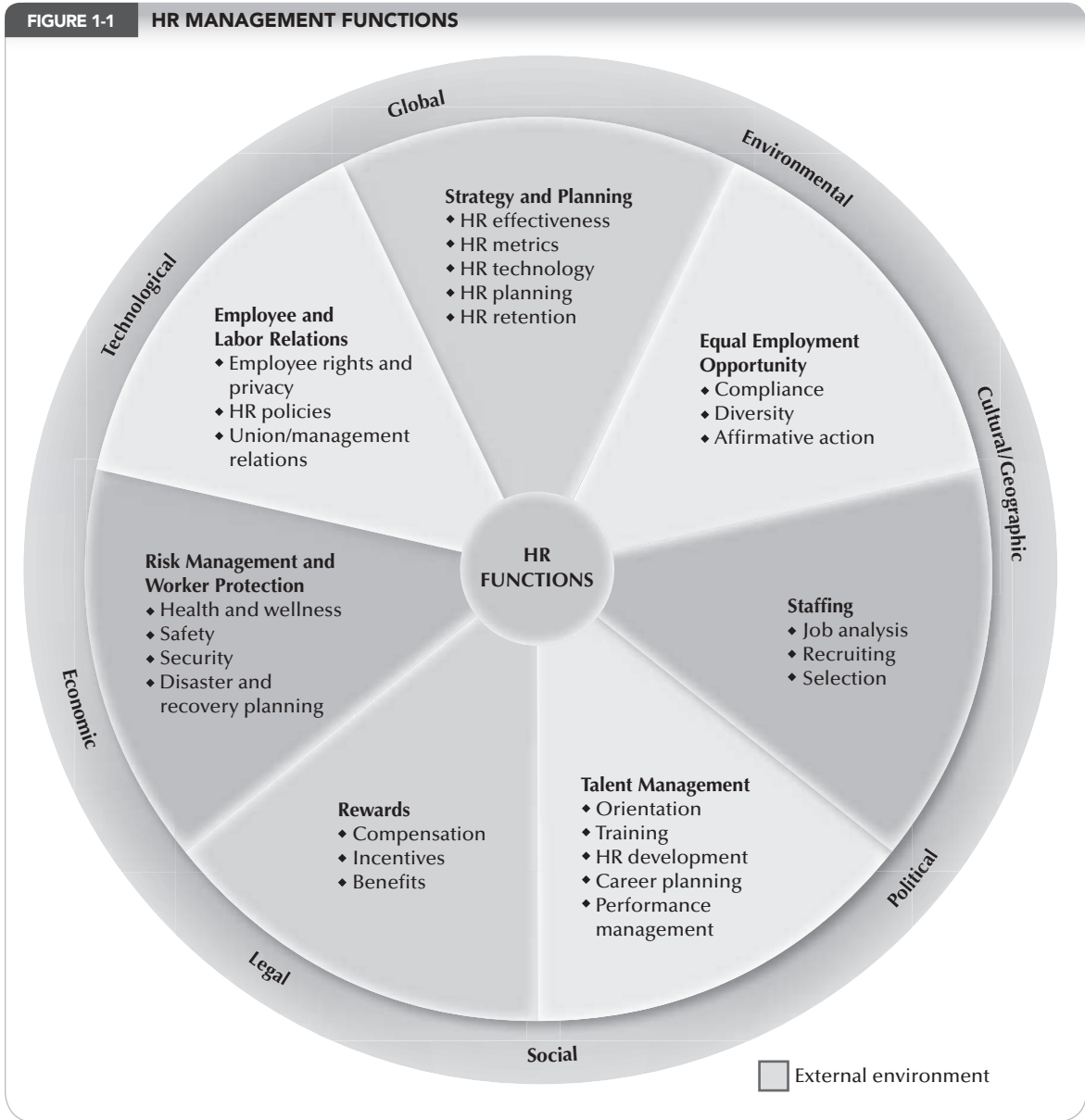
How many days of vacation does an employee receive after three years? There is no "right answer" except for the organization that is trying to devise a vacation policy. But the vacation policy that is finally designed is one of the formal systems used to manage people in work organizations. Such systems need to be formal, that is, agreed upon and written down for all to see. Try to picture the chaos that would result if every supervisor in a very large company could set his or her own vacation policy!

Considering the areas where HR typically has to have formal systems yields seven interlocking functions, as shown in Figure 1-1. These functions take place in a unique organizational format that is influenced by external forces: global, environmental, cultural/geographical, political, social, legal, economic, and technological in nature.

Each of these functions consists of several areas covered in the following chapters of this book. These functions are translated into daily activities for the HR department, if one exists, and for operating managers if an HR department does not yet exist.

## 1-4 ROLES FOR HUMAN RESOURCE DEPARTMENTS

If an organization has a formal HR group (perhaps a department), there are typically three different roles that group might play in the organization. Which of the roles predominates, or whether all three roles are performed,

**FIGURE 1-1 HR MANAGEMENT FUNCTIONS**

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depends on what management wants HR to do and what competencies the HR staff has demonstrated. The three roles are

- *Administrative:* Focusing on clerical administration and recordkeeping, including essential legal paperwork and policy implementation
- *Operational and employee advocacy:* Managing most HR activities in keeping with the strategies and operations that have been identified by



management and serving as employee “champion” for employee issues and concerns

- *Strategic:* Helping to define the business strategy relative to human capital and its contribution to organizational results

Although traditionally the administrative role has been the dominant one for HR, there is a growing emphasis on the operational and employee-advocate roles in most organizations. The strategic role requires that the HR team has the ability and orientation to contribute to strategic organizational decisions, and it requires recognition by upper management of those skills for implementation of HR practices. The strategic role in HR is less common, but is reportedly growing.

Some HR administrative functions can be outsourced to vendors. Outsourcing of HR administrative activities has grown dramatically in HR areas such as employee assistance (counseling), retirement planning, benefits administration, payroll services, and outplacement services. The primary reasons that HR functions are outsourced are to save money on HR staffing and to take advantage of specialized vendor expertise and technology.

HR has been viewed as the “employee advocate” in some organizations. As the voice for employee concerns, HR professionals traditionally may serve as “company morale officers,” but they tend to spend considerable time on HR “crisis management” in dealing with employee problems that are work-related. Employee advocacy helps ensure fair and equitable treatment for employees regardless of personal background or circumstances.

In the strategic role, HR is proactive in addressing and planning for business realities, focusing on future business needs, and understanding how the need for human capital fits into those plans and needs. HR may or may not help formulate strategies for the organization as a whole; it may merely carry them out.

## 1-5 HUMAN RESOURCES MANAGEMENT CHALLENGES

As the field of HR management evolves, the contemporary global marketplace creates pressure for even more, and faster, change. The challenges of competing in this environment lead to cost pressures, the need to adapt to globalization, changes in the workforce, and the need for HR technology to keep up.

Competition maintains pressure on business organizations to keep costs down so that prices for goods or services will not become excessive and customers will not be lost. Global competitors, technology changes, and cost concerns are also reflected in changing jobs. Jobs are seldom static but rather are changing and evolving along with the organization. As work must be done differently, jobs often change as well and are sometimes no longer needed.

### 1-5a Competition/Job Changes

An overriding issue facing managers and organizations is how to operate in a “cost-less” mode, which means continually looking for ways to reduce costs of all types—financial, operations, equipment, and labor. Pressures from global

competitors have forced many U.S. firms to close facilities, use international outsourcing, adapt their management practices, increase productivity, and decrease labor costs to become more competitive. These shifts have caused some organizations to reduce the number of workers, while making them attract and retain employees with different capabilities than were previously needed. The human cost associated with downsizing has resulted in increased workloads, some loss of employee loyalty, and higher turnover among the remaining employees.

Various regions of the United States face significant workforce shortages because of an inadequate supply of workers with the skills needed to perform emerging new jobs. It may not be that there are too few people—only that there are too few with many of the skills being demanded. For instance, the hardest jobs to fill today are engineers, nurses, technicians, certain teachers, and sales representatives.

Even though many Americans are graduating from high school and college, employers are concerned about the preparation and specific skills of new graduates. Test results show that students in the United States perform slightly above worldwide average in math and science but *well below* students in some other nations directly competing with the United States. Also, graduates with degrees in computer science, engineering, and the health sciences remain in short supply relative to the demand for them. Unless major improvements are made to U.S. educational systems, U.S. employers will be unable to find enough qualified workers for the growing number of skilled jobs. However, some groups in the population feel that it is the job of business to offer jobs to people without much regard for their skills,<sup>3</sup> and global competition is not understood by these groups to be an issue worthy of consideration.

## 1-5b Global Influences

Many economic factors are linked to different political, legal, cultural, and economic systems. For example, in many developed countries, especially in Europe, both employment restrictions and wage levels are high. When labor costs in the United States are compared with those in Germany, the differences are significant. As a result of these differences, many U.S. and European firms are moving jobs to lower-wage countries.

Critics of globalization cite the extremely low wage rates paid by some international firms and the substandard working conditions that exist in some underdeveloped countries, such as those found in Apple computer factories in China.<sup>4</sup> Various advocacy groups have accused global firms of being “sweatshop employers.” As a result, some global employers have made efforts to ensure that foreign factories adhere to higher HR and employee standards, but others have not. Global employers counter that even though the wage rates in some countries are low compared to those in the United States, their employees often receive the highest wages and experience the best working conditions that exist in those countries. Also, they argue that outsourcing of jobs from the United States brings more jobs into the host countries, which typically have very high rates of unemployment and poverty, allowing those workers to improve their living standards where they otherwise could not.

### 1-5c A Changing Workforce

The U.S. workforce is more diverse racially and ethnically, and employs more women, than ever before, and the average age of its members is increasing. As a result of these demographic shifts, HR management in organizations has had to adapt to a more varied labor force both externally and internally. The changing workforce has raised employer concerns and requires increasing attention to resolve these concerns.

For many workers in the United States, balancing the demands of family and work is a significant challenge. Although that balancing has always been a concern since women joined the workforce, the increased number of working women and dual-career couples has resulted in greater tension for many workers, both male and female. Employers have had to respond to work/family concerns to retain employees. Responses have included greater use of job sharing, the establishment of child-care services in the workplace, increased flexibility in hours, and work-life programs.

In many of the more economically developed countries, the population is aging and the birth rate slowing, resulting in a significantly older workforce. In the United States, during the second decade of the twenty-first century, a significant number of experienced employees will be retiring, changing to part-time work, or otherwise shifting their employment. Replacing the experience and talents of longer-service workers is a challenge facing employers in all industries.

*Contingent workers* (temporary workers, independent contractors, leased employees, and part-timers) now represent about one-fourth of the U.S. workforce.<sup>5</sup> Many employers operate with a core group of regular employees who have critical skills and then expand and shrink the workforce by using contingent workers.

The number of contingent workers has grown for many reasons. One reason is the economic factor. Temporary workers are used to replace full-time employees, and many contingent workers are paid less and/or receive fewer benefits than regular employees.

Another reason for the increased use of contingent workers is that it may reduce legal liability for some employers. As more employment-related lawsuits are filed, employers have become more wary about adding regular full-time employees. By using contract workers, including those in other countries, employers may reduce many legal issues regarding selection, discrimination, benefits, discipline, and termination.

### 1-5d HR Technology

Using technology to support HR activities can increase the efficiency of the administrative HR functions and reduce costs. Managers benefit from readily available relevant information about employees. Properly designed systems provide historical information on performance, pay, training, career progress, and disciplinary actions. On the basis of this information, managers can make better HR-related decisions. To maximize the value of technology, systems should be integrated into the overall IT plan and enterprise software of the organization.

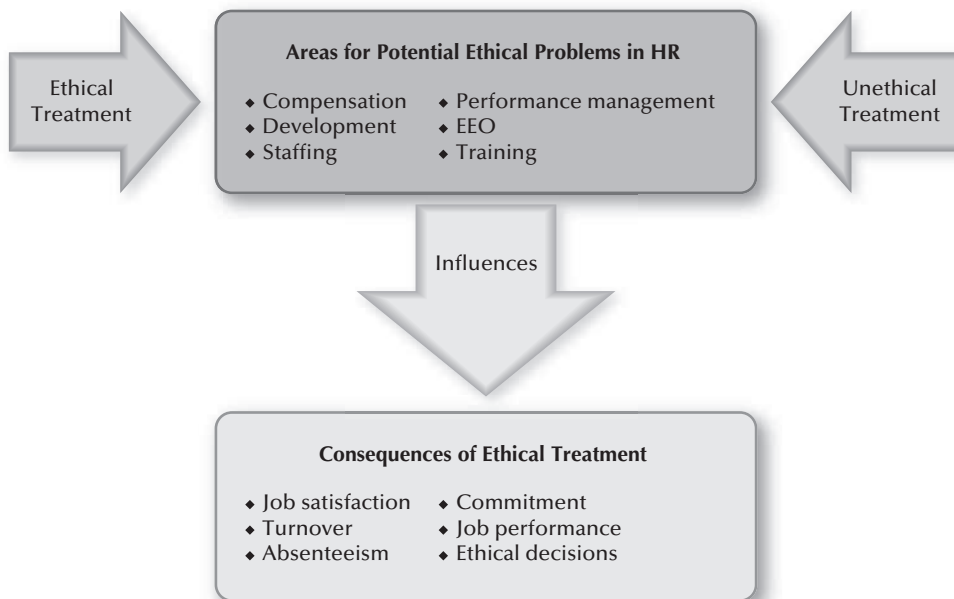
Technology can be used to support every function within human resource management. Recruiting and selection processes have changed perhaps the most dramatically with web-based job boards, online applications, and even on-line interviewing. Training is now conducted with the aid of videos, podcasts, web-enabled training programs, and virtual classrooms. Employee self-service has simplified benefit enrollment and administration by allowing employees to find health care providers and file claims online. Succession planning and career development are enhanced with real-time information on all employees and their potential career progression. One of the most important ways in which technology can contribute to organizational performance is through the collection and analysis of HR-related data. Identifying trends and modeling future conditions help managers to plan and optimize human resources.

## 1-6 ORGANIZATIONAL ETHICS AND HUMAN RESOURCE MANAGEMENT

Closely linked with the strategic role of HR are the ways in which managers and HR professionals influence the ethics of people in organizations. Discovering how those ethics affect work and lives for individuals may aid in producing more positive work outcomes as Figure 1-2 shows.

Attention to business ethics has grown in the past few years, perhaps due to the corporate scandals at numerous financial and investment firms in the

**FIGURE 1-2** HR AND ORGANIZATIONAL ETHICS



United States and globally during the recent recession. These scandals illustrate that ethical lapses do not happen in a vacuum; they directly affect employers and employees. The expansion of Internet job boards and postings has led to more publicity about ethical issues. An increase in ethics issues has been identified by the Ethics Resource Center. One survey of 3,000 U.S. workers found that within a year, 52% reported they had seen one incident of misconduct and 36% had observed two or more ethical violations. The survey also found that almost 70% of employers had provided ethics training to employees.<sup>6</sup>

When the following elements of ethics programs exist, ethical behavior is more likely to occur:

- A written code of ethics and standards of conduct
- Training on ethical behavior for all executives, managers, and employees
- Advice to employees, often given by HR, on ethical situations they might face

## 1-7 HUMAN RESOURCES MANAGEMENT COMPETENCIES AND CAREERS

The intent of this book is not to train all who read it to be HR managers. Most readers will take this knowledge and work at another job in the organization. The intent of this book is to help readers to understand the duties of HR and what it must accomplish and which other managers in an organization must often share.

The transformation of HR toward being more strategic and professional has implications for the competencies needed to achieve this goal. HR professionals at all levels need the following:

- Strategic knowledge and awareness of its potential impact
- Legal, administrative, and operational capabilities
- Knowledge of technology and the ability to use it

A variety of jobs exists within the HR career field, ranging from executive to clerical. As an organization grows large enough to need someone to focus primarily on HR activities, the role of the **HR generalist** emerges—that is, a person who has responsibility for performing a variety of HR activities. Further growth leads to the addition of **HR specialists**, individuals who have in-depth knowledge and expertise in specific areas of HR. The most common areas of HR specialty, in order of frequency, are benefits, employment and recruitment, and compensation.

### 1-7a Human Resource Professionalism and Certification

The broad range of issues faced by HR professionals has made its involvement in professional associations and organizations important. For HR generalists, the largest organization is the Society for Human Resource Management (SHRM). Public sector HR professionals tend to be concentrated in the

International Personnel Management Association (IPMA). Two other prominent specialized HR organizations are the World at Work Association and the American Society for Training and Development (ASTD).

The most well-known certification programs for HR generalists are administered by the Human Resource Certification Institute (HRCI), which is affiliated with SHRM. More than 100,000 professionals have an HRCI certification.

The most widely known HR certifications are the Professional in Human Resources (PHR) and the Senior Professional in Human Resources (SPHR), both sponsored by HRCI. Annually, thousands of individuals take the certification exams.

The World at Work Association has certifications emphasizing compensation and benefits. The four certifications are as follows:

- Certified Compensation Professional (CCP)
- Certified Benefits Professional (CBP)
- Certified Work-Life Professional (CWLP)
- Certified Global Remuneration (CGR)

Given that many people may enter HR jobs with limited formal HR training, certifications help both individuals and their employers to make HR management a better-performing part of their organizations.

## 1-8 STRATEGY AND HR

Organizations seek to achieve and maintain a competitive advantage in the marketplace by delivering high-quality products and services to their customers in a way that competitors cannot duplicate. Strategies to do so might include revising existing products, acquiring new businesses, or developing new products or services using existing capabilities. Other strategic approaches might be to maintain a secure position with a single stable product (like WD-40) or to emphasize a constant stream of new products (like Apple). These are all viable strategies for different businesses, but the strategies chosen will determine the number and capabilities of people needed in the organization. Further, the people already in the organization may limit the strategies that might be successful.

**Strategic planning** is the process of defining a strategy, or direction, and making decisions on how to allocate the resources of the organization (capital and people) to pursue this strategy. Successful organizations engage in this core business process on an ongoing basis.

The strategic planning cycle typically covers a three- to five-year time frame, and management considers both internal and external forces when formulating the strategic plan. The guiding force behind the strategic planning process is the **organizational mission**, which is the core reason for the existence of the organization and what makes it unique. The mission statement is usually determined by the organizational founders or leaders and sets the general direction of the organization.



The planning process begins with an assessment of the current state of the business and the environmental forces that may be important during the planning cycle. Analysis of the strengths, weaknesses, opportunities, and threats (SWOT) is a typical starting point because it allows managers to consider both internal and external conditions. The SWOT analysis helps managers to formulate a strategic plan that considers the organization's ability to deal with the situation at hand.

Managers then determine the objectives for the planning cycle and formulate organization-level strategies to accomplish those objectives. Each function (such as HR) within the organization then formulates strategies that will link to and support the organization-level strategies. The strategic plan is re-evaluated periodically because conditions may change and managers must react to the ever-changing business environment.

Bad strategy abounds perhaps because it ignores the difficult path of focusing and making choices among alternatives. Instead of making a choice, a strategy may try to accommodate many conflicting demands and interests.

Regardless of which specific strategies are adopted for guiding an organization, having the right people will be necessary to make the overall strategies work. If a strategy requires worker skills that are currently not available in the company, it will take time to find and hire people with those skills. Strategic HR management provides input for organizational strategic planning and develops specific HR initiatives to help achieve the organizational goals.

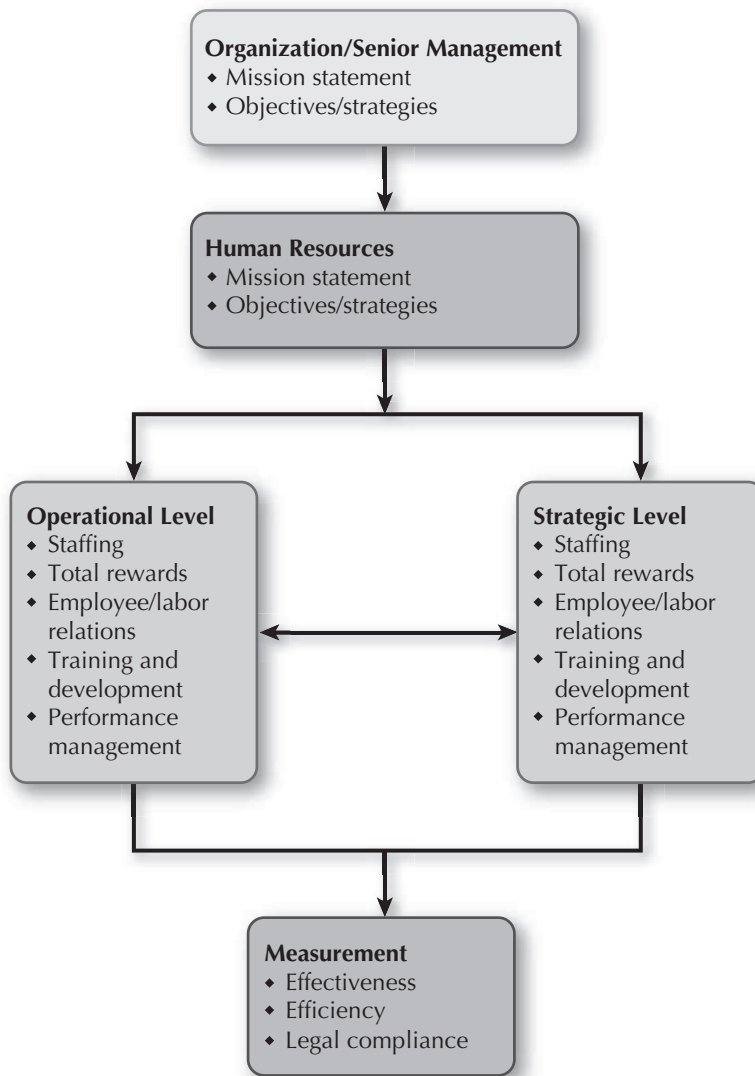
**Strategic HR management** refers to the use of HR management practices to gain or keep a competitive advantage. Talent acquisition, deployment, development, and reward are all strategic HRM approaches that can impact the organization's ability to achieve its strategic objectives.

### 1-8a Requirements for Human Resource Contribution to Strategy

Specific HR management strategies obviously depend on the strategies and plans of the company. Figure 1-3 highlights some common areas where HR should develop and implement appropriate strategies. To contribute in the strategic planning process, HR professionals can best provide their perspective and expertise to operating managers by doing the following:

- *Understanding the business:* Knowing the financials and key drivers of business success is important to understanding the need for certain strategies.
- *Focusing on the key business goals:* Programs that have the greatest relevance to business objectives should get priority.
- *Knowing what to measure:* Metrics are a vital part of assessing success, which means picking those measures that directly relate to the business goals.
- *Preparing for the future:* Strategic thinking requires preparing for the future, not focusing on the past—except as a predictor of the future.

**Human Resource planning** is the process of analyzing and identifying the need for and availability of people so that the organization can meet its strategic objectives. The focus of HR planning is to ensure that the organization

**FIGURE 1-3 AREAS WHERE HR CAN DEVELOP STRATEGIES**

has the *right number of people* with the *right capabilities*, at the *right times*, and in the *right places*. In HR planning, an organization must consider the availability and allocation of people to jobs over long periods of time, not just for the next month or even the next year.<sup>7</sup>

HR plans can include several approaches. Actions may include shifting employees to other jobs in the organization, laying off employees or otherwise cutting back the number of employees, retraining current employees,

and/or increasing the number of employees in certain areas. Factors to consider include the current employees' knowledge, skills, and abilities (KSAs) and the expected vacancies resulting from retirements, promotions, transfers, and discharges.

### 1-8b Human Resources Planning Process

The process begins with considering the organizational plans and the environmental analysis that went into developing strategies. It includes an environmental analysis to identify the situation in which HR is operating. Strengths, weaknesses, opportunities, and threats are considered. Then the possible *available workforce* is evaluated by identifying both the external and internal workforce.

Once those assessments are complete, forecasts must be developed to determine both the demand for and supply of human resources. Management then formulates HR staffing plans and actions to address imbalances, both short-term and long-term. Specific strategies may be developed to fill vacancies or deal with surplus employees. For example, a strategy might be to fill 50% of expected vacancies by training employees in lower-level jobs and promoting them.

Finally, HR plans are developed to provide specific direction for the management of HR activities related to employee recruiting, selection, and retention. The most telling evidence of successful HR planning is a consistent alignment of the availabilities and capabilities of human resources with the needs of the organization over time.<sup>8</sup>

## 1-9 PLANNING FOR WORKFORCE AVAILABILITY

If a network technology firm plans to double its number of client accounts from 100 to 200 in a three-year period, that firm must also identify how many and what types of new employees will be needed to staff the expanded services, locations, and facilities. Many of those new employees will probably have to come from outside the current pool of employees.

### 1-9a Factors to Consider

When making HR plans for the workforce, employers must consider a number of geographic and competitive concerns. The *net migration* into a particular region is important. For example, in the past decade, the populations of some U.S. cities in the South, Southwest, and West have grown rapidly and have provided sources of labor. However, areas in the Northeast and Midwest have experienced declining populations or net outmigration. This affects the number of people available to be hired.

*Direct competitors* are another important external force in HR planning. Failure to consider the competitive labor market and to offer pay scales and benefits comparable with those of organizations in the same general industry and geographic location may cost a company dearly in the long run. Finally,

the impact of *international competition* must be considered part of environmental scanning. Global competition for labor intensifies as global competitors shift jobs and workers around the world, as illustrated by the outsourcing of jobs from the United States to countries with cheaper labor.

Significant changes in the workforce, both in the United States and globally, must be considered when examining the outside workforce for HR planning. Shifts in the composition of the workforce, combined with the use of different work patterns, have created workplaces and organizations that are notably different from those of a decade ago.

When assessing these factors, it is important to analyze how they affect the current and future availability of workers with specific capabilities and experience. For instance, in a number of industries, the median age of highly specialized professionals is over 50 years, and the supply of potential replacements with adequate education and experiences is not sufficient to replace such employees as they retire. Many firms have planned for workforce shortages because of the brain drain created by the retirement of existing older workers.

Analyzing the jobs that will need to be done and the capabilities of people who are currently available in the organization to do them is the next part of HR planning. The needs of the organization must be compared against the existing labor supply, as well as the potential labor supply available outside the organization.

## 1-9b Jobs Audit

The starting point for evaluating internal workforce strengths and weaknesses is an audit of the jobs in the organization. A comprehensive analysis of all current jobs provides a basis for forecasting what jobs will need to be done in the future. Much of the data required for the audit should be available from existing staffing and organizational databases. The following are key questions that are addressed during the internal jobs assessment:

- What jobs exist now and how essential is each job?
- How many individuals are performing each job?
- What are the reporting relationships of jobs?
- What are the vital KSAs (knowledge, skills, and abilities) needed in the jobs?
- What jobs will be needed to implement future organizational strategies?
- What are the characteristics of those anticipated jobs?

As HR planners gain an understanding of the current and future jobs that will be necessary to carry out organizational plans, they can conduct a detailed audit of current employees and their capabilities. The basic data on employees should be available in the HR records in the organization.

Managers and HR staff members can gather data on individual employees and aggregate details into a profile of the current organizational workforce. This profile may reveal many of the strengths and deficiencies of people currently in the organization.

## 1-10 FORECASTING HR SUPPLY AND DEMAND

**Forecasting** uses information from the past and present to predict future conditions. When forecasting future HR conditions, the forecast comes from workforce availability and requirements. Projections for the future are, of course, subject to error. Fortunately, experienced people usually are able to forecast with enough accuracy to positively affect long-range organizational planning.

### 1-10a Forecasting the Demand (Need) for Human Resources

The demand for employees can be calculated for an entire organization and/or for individual units in the organization. For example, a forecast might indicate that a firm needs 125 new employees next year, or it might specifically calculate that it needs 25 new people in sales and customer service, 45 in production, 20 in accounting and information systems, 2 in HR, and 33 in the warehouse. The unit breakdown obviously allows HR planners to better pinpoint the specific skills needed than does the aggregate method.

Demand for employees can be forecast by considering specific openings that are likely to occur. The openings (or demands) are made when new jobs are being created or current jobs are being changed. Additionally, forecasts must consider when employees leave positions because of promotions, transfers, turnovers, and terminations.

### 1-10b Forecasting the Supply (Availability) of Human Resources

Once HR needs have been forecast, then availability of qualified individuals must be identified. Forecasting availability considers both *external* and *internal* supplies. Although the internal supply may be somewhat easier to calculate, it is important to calculate the external supply as accurately as possible.

The external supply of potential employees available to the organization can be identified from outside sources. Government estimates of labor force populations, trends in the industry, and many more complex and interrelated factors must be considered. Such information is often available from state or regional economic development offices. The following items may be included:

- Net migration into and out of the area
- Individuals entering and leaving the workforce
- Individuals graduating from schools and colleges
- Changing workforce composition and patterns
- Economic forecasts for the next few years
- Technological developments and shifts
- Actions of competing employers
- Government regulations and pressures
- Circumstances affecting persons entering and leaving the workforce

Estimating internal supply considers the number of external hires and the employees who move from their current jobs into others through promotions, lateral moves, and terminations. It also considers that the internal supply is influenced by training and development programs, transfer and promotion policies, and retirement policies, among other factors. In forecasting the internal supply, data from replacement charts and succession planning efforts are used to project potential personnel changes, identify possible backup candidates, and keep track of attrition (resignations, retirements, etc.) for each department in an organization.

If the firm employs too many people for its needs, a talent surplus exists, and if too few, a talent shortage. As a result of rapidly changing conditions, the organization may face a surplus in some parts of the business while facing a shortage in others. Figure 1-4 shows the tactics organizations might use to deal with workforce supply imbalances.

A talent surplus can be managed within a strategic HR plan in a number of ways. The reasons for the surplus will guide the steps taken by the organization. If the workforce has the right qualifications but sales revenue has

**FIGURE 1-4** MANAGING TALENT SUPPLY IMBALANCES

Managing a Talent Surplus	Managing a Talent Shortage
Reduce employee work hours or compensation	Increase employee work hours through overtime
Attrition	Outsource to a third party
Hiring freezes	Implement alternative work arrangements
Voluntary separation programs	Use contingent workers (temporaries, independent contractors)
Workforce downsizing/reduction in force (RIF)	Reduce employee turnover

fallen, the primary strategies would involve retaining the best workers while cutting costs. However, if the workforce is not appropriately trained for the jobs needed, the organization may lay off those employees who cannot perform the work. Managers may use various strategies in a progressive fashion to defer workforce reductions until absolutely necessary.

HR must be involved during workforce adjustments to ensure that the organization does not violate any of the nondiscrimination or other laws governing workforce reductions.

Managing a shortage of employees seems simple enough—simply hire more people. However, as mentioned earlier, there can be mismatches between the qualifications needed by employers and the skills possessed by available workers. The list of the 10 hardest jobs to fill in the United States includes engineers, nurses, certain teachers, IT staff, and skilled trades. For these jobs, there may not always be sufficient qualified workers to hire. Companies can use a number of alternative tactics to manage a talent shortage.

The existing workers can work overtime. This strategy can work on a short-term basis but is not a solution for a longer-term talent shortage. Workers may appreciate the extra hours and pay for a while, but eventually fatigue sets in and productivity and quality may drop and injuries and absenteeism may increase.

**Outsourcing** involves transferring the management and/or routine performance of a business function to an external service provider. Organizations in the United States outsource a wide variety of noncore functions in order to reduce costs or to obtain skills and expertise not available in the organization.

Reducing turnover of qualified employees should be an ongoing effort to maintain a talented workforce. Special attention may be required in times of talent shortages to hold on to skilled employees.

## 1-11 MEASURING EFFECTIVENESS OF HUMAN RESOURCES AND HUMAN CAPITAL

**Effectiveness** for organizations is a measure of the ability of a program, project, or task to produce a specific desired effect or result. **Efficiency** is the degree to which operations are carried out in an economical manner. Efficiency can also be thought of as a short-term measure that compares inputs and costs directly against outputs and benefits.

There are many ways of measuring the financial impact of the HR practices in an organization, and there are many challenges associated with doing so. Return on investment (ROI) is a common measure used by financial professionals to assess the value of an investment. For example, if a firm invests \$20,000 for a supervisory training program, what does it gain in lower worker compensation costs, lower legal costs, higher employee productivity, and lower employee turnover? The benefits of HR practices are not always immediately visible, which is what makes measuring HR's impact such a challenge. However, successful efforts can usually be made to assess HR practices.



### 1-11a Measuring HR's Contribution

The notion that one cannot really measure the value of HR practices is a long-standing myth that has hurt HR's credibility, because it suggests that either HR efforts do not add value or that they are too far removed from business results to matter. HR, like all other functions, can and must be evaluated by considering the results of its actions and the value it adds to the organization.

People-related costs are typically the largest controllable expense in organizations. Effective management of these costs can make a positive difference in the survival of the organization. Collecting and analyzing HR information can pinpoint waste and improper allocation of human resources. It is important that HR managers understand financial and operational measures that drive the business and that they relate decisions to key performance indicators (KPIs). Metrics, benchmarking, balanced scorecards, and audits can help the organization track HR performance and measure the value of HR practices.

**HR metrics** are specific measures of HR practices. They are performance indicators of some element of HR, for example, turnover rate. Metrics are typically used to assess the HR practices and results within the organization over time. A metric can be developed using costs, quantity, quality, on time performance, and other designated goals. Metrics can be developed to track both HR efficiency and effectiveness. A pioneer in developing HR measurements, Jac Fitz-Enz, has identified a wide range of HR metrics.<sup>9</sup>

### 1-11b Metrics and Analytics

Metrics and software have been combined to make analysis easier, but it is still an evolving area. *Analytics* can simply be a way to report certain metrics or it can consist of sophisticated predictive modeling designed to answer “what if” questions about HR variables. A definition of **HR analytics** that considers both extremes is as follows: HR analytics is an evidence-based approach to making HR decisions on the basis of quantitative tools and models.<sup>10</sup> Unlike financial reporting, there is not yet a standard for the implementation and reporting of HR measures. Managers choose what and how to report to employees, investors, and other interested parties.

The most important metrics for the HR department are often *retention* and *employee satisfaction*, followed by training and development, recruiting costs, productivity, and overall revenue. Certainly, these items are important, but important factors that the CEO and CFO care most about are costs, open positions, revenue, and productivity. Focusing on the wrong issues in analytics can be as costly as doing no analysis at all.

The importance of providing operating managers with the information about human capital in the organization that is useful to them, rather than simply of interest to HR, is becoming clear. HR will be prompted to provide actionable information, for example, “Your turnover rate is X%, here is what it is costing you, and here are some things you can do about it.”<sup>11</sup>

**Benchmarking** is the process of comparing the business metrics and outcomes to an industry standard or best practice. In other words, the organization compares itself to “best-in-class” organizations that demonstrate excellence for a specific process. Benchmarking is focused on external practices that the organization can use to improve its own processes and practices. When implementing benchmarking, managers should be careful to find organizations with similar contexts, cultures, operations, and size. Practices that would work effectively in an organization of 500 employees might not transfer very well to an organization with 5,000 employees. The organization should study and choose benchmarks that will have the greatest impact on its particular organizational performance.

One effective approach to measuring strategic performance of organizations, including their HR practices, is to use the balanced scorecard. The **balanced scorecard** is a framework that organizations use to report on a diverse set of performance measures. This method balances financial and nonfinancial measures so that managers are able to focus on long-term drivers of performance and organizational sustainability.

Organizational results in these areas determine if the organization is progressing toward its strategic objectives. For example, some firms have noticed that when survey results show a decline in employee satisfaction, several months later there are declines in customer loyalty and repeat customer sales. However, investing money in employee-leadership development training can be linked to lower employee turnover and reduced time to hire managers from outside the organization.

### 1-11c Human Capital Effectiveness Measures

HR measures outcomes that traditional analysis does not account for. Human capital often provides both the biggest value and the biggest cost to organizations; therefore many metrics reflect people-related *costs*. Measuring the *benefits* of human capital is more challenging but equally important. Assessing the value of human capital demonstrates the importance of effective HR practices in maintaining a high-quality workforce.

Revenue per employee is a basic measure of human capital effectiveness. The formula frequently used to assess revenue per employee is Revenue/Head Count (full-time employee equivalents). It is a measure of employee productivity that shows the sales revenue generated by each full-time employee. This measure is commonly used in government reporting (see Bureau of Labor Statistics, BLS) and by organizations to track productivity over time. If revenues increase but employee head count remains constant, the measure shows that productivity has increased.

ROI (defined earlier) can be applied to measure the contribution and cost of HR activities. The calculation shows the value of investments in human capital. It can also be used to show how long it will take for the activities to show results. The following formula can be used to calculate the potential ROI for a new HR practice:

$$\text{ROI} = \frac{C}{A + B}$$

where:

- A = Operating costs for a new or enhanced system for the time period
- B = One-time cost of acquisition and implementation
- C = Value of gains from productivity improvements for the time period

ROI is a useful measure to discuss returns on investment in human capital because ROI is used in most other functions in an organization and is therefore recognized and understood by financial staff and top management. It allows managers to choose from among various investment opportunities to determine the best use of funds.

**Human economic value added (HEVA)** shows the wealth created per employee. It shows how much more valuable the organization has become because of its investment in human capital. Wealth is the net operating profit of a firm after the cost of capital is deducted. Cost of capital is the minimum rate of return demanded by shareholders. When a company is making more than the cost of capital, it is creating wealth for shareholders. An HEVA approach requires that all policies, procedures, measures, and methods use cost of capital as a benchmark against which their return is judged. HR decisions can be subjected to the same analysis. The formula for HEVA is:

$$\frac{\text{Net Profit after Taxes} - \text{Cost of Capital}}{\text{Full-Time Head Count}}$$

## 1-12 HR AUDITS

One means for assessing HR performance is through an HR audit, which is similar to a financial audit. An **HR audit** is a formal research effort to assess the current state of HR practices in an organization. This audit is used to evaluate how well activities in each of the HR areas (staffing, compensation, health and safety, etc.) have been performing, so that management can identify areas for improvement. An HR audit often helps smaller organizations without a formal HR professional to identify issues associated with legal compliance, administrative processes and recordkeeping, employee retention, and other areas.

There are many kinds of HR audits.<sup>12</sup> Common audits are as follows:

- *Compliance Audit:* Checks record keeping on state and federal paperwork requirements
- *Benefit Programs Audit:* Reviews regulatory compliance, benefits administration, and reporting
- *I-9 Audit:* Reviews compliance with immigration regulations and the I-9 form requirement
- *Specific Program Audit:* Reviews specific HR subareas such as compensation, EEO, or training
- *Full HR Audit:* Reviews all of the above plus any and all other HR functions

Audits frequently use a questionnaire and interviews to collect information and they may be performed by outside entities to achieve more objective data. They can provide assessment about how well HR practices meet established standards and requirements.

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## INTERNET RESOURCES

**Ethics & Policy Integration Centre**—The Ethics & Policy Integration Centre is an online resource for ethical and policy issues. Visit the website at [www.ethicaledge.com](http://www.ethicaledge.com).

**HRN Performance Solutions**—Information on strategic issues for HR, including news and success stories for key HR decision makers, is available by linking to the HRN Performance Solutions website at [www.hrperformancesolutions.net](http://www.hrperformancesolutions.net).

**Society for Human Resource Management**—The Society for Human Resource Management is the largest association devoted to HR

management. Some of the most essential and comprehensive resources available for HR professionals are contained within the SHRM website at [www.shrm.org](http://www.shrm.org).

**Human Resource Planning Society**—Information and resources on building a strategic HR plan are available at [www.hrps.org](http://www.hrps.org).

**U.S. Department of Labor, Bureau of Labor Statistics**—This website contains data on workforce composition and trends from the U.S. Department of Labor, Bureau of Labor Statistics. Visit the site at [www.bls.gov](http://www.bls.gov).

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# Equal Employment and Discrimination

## USING HR TO SOLVE MANAGEMENT PROBLEMS

Equal employment opportunity (EEO) is the law of the land, and employers must know what they can and cannot do in this regard. This chapter considers:

- The legal basis for EEO
- Issues concerning racial, sex/gender, and disability discrimination
- Age, religion, and other forms of discrimination

EEO is a management challenge because a great deal of litigation is associated with it. Yet the workforce will continue to become more diverse in the future, which makes it even more necessary to manage this part of the human resource function effectively.

Basing employment decisions on factors other than worker qualifications is generally illegal in the United States. The costs of litigation, penalties, and harm to the company's reputation can be substantial when violations occur. With the enactment of the Civil Rights Act of 1964 (Title VII), workers in the United States were provided a more level playing field in terms of employment opportunities. Since then, a number of additional laws and presidential Executive Orders have been implemented to prohibit illegal discrimination in the workplace. Although the Civil Rights Act stands as the foundation of equal employment laws, it is by no means the only regulation affecting the employer–employee relationship.

Employers have paid (and continue to pay) large amounts for violating EEO laws. This chapter provides an introduction to nondiscrimination requirements and explains how to successfully manage workforce diversity. To provide context, Appendix A lists the major laws governing workplace nondiscrimination.

## 2-1 THE NATURE OF EQUAL EMPLOYMENT OPPORTUNITY

Civil rights activists in the United States used nonviolent means to protest unequal treatment during the turbulent 1960s, which led to the passage of nondiscrimination laws and guaranteed the right to an equal opportunity for employment to all. Equal employment opportunity (EEO) means that employment decisions must be made on the basis of job requirements and worker qualifications. Unlawful discrimination occurs when those decisions are made on the basis of **protected characteristics** such as the race, age, sex, disability, or religion of the worker. Under federal, state, and local laws, employers are prohibited from considering the following factors in making hiring and other employment decisions:

- Age
- Color
- Disability
- Genetic information
- Marital status (some states)
- Military status or experience
- National origin
- Pregnancy
- Race
- Religion
- Sexual orientation (some states and cities)

These categories are considered protected characteristics under EEO laws and regulations. All workers are provided equal protection; the laws do not favor some groups over others. For example, both men and women can file charges on the basis of alleged sex discrimination.

**Equal employment opportunity** is a broad-reaching concept that essentially requires employers to make **status-blind** employment decisions. Status blind decisions are made without regard to applicants' personal characteristics (i.e., age, sex, race, and so on). Most employers are required to comply with equal employment opportunity laws. Affirmative action means that an employer takes proactive measures to increase the number of women and minorities in the workforce. The objective of affirmative action plans is to compensate for past patterns of discrimination. Federal contractors are required to implement and maintain affirmative action plans.

### 2-1a Sources of Regulation and Enforcement

The employee–employer relationship is governed by a wide variety of regulations. All three branches of government have played a role in shaping these laws. Federal statutes enacted by Congress form the backbone of the regulatory environment; state and city governments also enact laws governing activity within their domains. The courts interpret these laws and rule on cases. Case law helps employers to understand how laws are applied and what they must do to comply. Executive Orders are issued by the president of the United States to help government departments and agencies manage their operations.



The two main enforcement bodies for EEO are the Equal Employment Opportunity Commission (EEOC) and the U.S. Department of Labor (DOL) (in particular, the Office of Federal Contract Compliance Programs [OFCCP]). The EEOC enforces employment laws for employers in both private and public workplaces. The DOL has broad enforcement power and oversees compliance with many employment-related laws. The OFCCP enforces employment requirements set out by Executive Orders for federal

**FIGURE 2-1 CHARGES FILED WITH EEOC: 1997, 2011**

Charge Basis	Claims Filed 1997 Number, percentage	Claims Filed 2011 Number, percentage
Race	29,199 36%	35,395 35%
Sex	24,728 31%	28,534 29%
National Origin	6,712 8%	11,833 12%
Religion	1,709 2%	4,151 4%
Color	762 1%	2,832 3%
Retaliation	18,198 23%	37,334 37%
Age	15,785 20%	23,465 24%
Disability	18,108 22%	25,742 26%
Equal Pay Act	1,134 1%	919 0.9%
Genetic Information Nondiscrimination Act	Not in Force	245 0.2%
Total	80,680	99,947

Note: Total exceed 100% because of multiple charges filed by an individual claimant.

Source: U.S. Equal Employment Opportunity Commission, <http://www.eeoc.gov/eeoc/statistics/enforcement/charges.cfm>.

contractors and subcontractors. Many states have enforcement agencies to ensure compliance with state employment laws, but compliance can certainly become complex for companies.

Multinational companies face a confusing array of nondiscrimination laws in different countries. Many nations in Europe, for example, have laws similar to those in the United States regarding employment discrimination, whereas nations in Asia and other developing economies are less restrictive about workplace practices.<sup>1</sup>

Discrimination remains a concern as the U.S. workforce becomes more diverse. Charges filed with the EEOC continue to rise, as shown in Figure 2-1. Over the past 15 years, the total number of charges has increased nearly 24%. While race and sex have historically represented the highest percentages of complaints, in recent years, charges of retaliation against employees by employers have become the most common. Historically, the EEOC has found “no reasonable cause” in about two thirds of those claims. The remaining one third are settled, withdrawn, or pursued by the EEOC. The EEOC has also been held accountable for filing lawsuits against employers without properly investigating charges and has been forced to reimburse the employers’ legal costs.<sup>2</sup>

## 2-2 THEORIES OF UNLAWFUL DISCRIMINATION

There are two types of unlawful employment discrimination: disparate treatment and disparate impact. The first type, **disparate treatment**, occurs when either different standards are used to judge individuals or the same standard is used but it is not related to the individuals’ jobs. Disparate treatment occurs when individuals with a particular characteristic are treated differently from others. This type of discrimination is typically overt and intentional and often follows a pattern or practice. For example, if female applicants are asked interview questions regarding child-care plans while male applicants are not, then disparate treatment may be occurring.

**Disparate impact** occurs when an employment practice has an adverse impact on individuals with a particular characteristic. This type of discrimination is often unintentional, as when identical criteria are used but the results differ for certain groups. For example, using a test for firefighters that requires candidates to carry a 100-pound sack down a ladder is likely to result in more women being eliminated from selection. The same test is used for all candidates with markedly different results on the basis of sex, which in this case is job related.

In a landmark case on disparate impact, *Griggs v. Duke Power* (1971), the U.S. Supreme Court ruled that lack of intent is not sufficient for an employer to prove that a practice is lawful. The Court also stated that the employer has the burden to show that a selection practice is directly job related as a business necessity. In the firefighter test where women fail at a higher rate, the test is a true reflection of a job-related duty: carrying a person out of a burning building. Therefore, the test would be lawful even though women would not pass at the same rate as men.

Unlawful discrimination can occur in all employment-related decisions, from external hiring to internal promotions, selection for training opportunities, and layoffs and terminations. Job analysis, recordkeeping, and reviewing the results of all employment decisions are important steps to prevent lawsuits on the basis of disparate treatment and disparate impact. Companies can also provide training to managers to increase awareness of discrimination and help to prevent unlawful decisions.

## 2-2a Equal Employment Opportunity Concepts

Court decisions and administrative rulings have helped to define several basic EEO concepts. The four key concepts discussed next help to clarify key EEO recommendations for ensuring fair treatment and nondiscriminatory employment decisions.

**Business Necessity and Job Relatedness** A **business necessity** is a practice necessary for safe and efficient organizational operations, such as restricting employees from wearing garments that might get caught in machinery even if the attire may be required by an employee's religion. Business necessity has been the subject of numerous court cases. Educational requirements are often decided on the basis of business necessity. However, an employer that requires a minimum level of education, such as a high school diploma, must be able to defend the requirement as essential to the performance of the job (job relatedness), which may be difficult. For instance, equating a high school diploma with the possession of math or reading abilities is considered questionable.

**Bona Fide Occupational Qualification** Employers may discriminate on the basis of sex, religion, or national origin if the characteristic can be justified as a bona fide occupational qualification reasonably necessary to the normal operation of the particular business or enterprise. Thus, a **bona fide occupational qualification (BFOQ)** provides a legitimate reason for an employer to exclude persons on otherwise illegal bases of consideration. The application of a BFOQ is very narrowly determined and an employer seeking to justify hiring on this basis is advised to obtain prior authorization from the EEOC.

**Burden of Proof** When a legal issue regarding unlawful discrimination is raised, the **burden of proof** must be satisfied by the plaintiff to file suit against an employer and establish that unlawful discrimination has occurred. The plaintiff charging discrimination must establish a *prima facie* case of discrimination through either factual or statistical evidence. The *prima facie* case means that sufficient evidence is provided to the court to support the claim and allow the plaintiff to proceed. The burden of proof then shifts to the employer, who must provide a legitimate, nondiscriminatory reason for the decision. The plaintiff then must show either that the employer's reason was a pretext for unlawful discrimination or that there is an alternative selection

technique that would not result in unlawful discrimination. The plaintiff maintains the final burden of proving that an employment decision was the result of unlawful discrimination.<sup>3</sup>

**Nonretaliatory Practices** Employers are prohibited from retaliating against individuals who file discrimination charges. **Retaliation** occurs when employers take punitive actions against individuals who exercise their legal rights. For example, a former police officer filed an EEOC charge alleging sex discrimination when she was transferred to a less prestigious job. She later learned that she was receiving less overtime work than her peers and used the department's copier to copy her coworkers' payroll stubs to substantiate her claim. The city's attorney threatened to criminally prosecute her for making the copies on the department's equipment but offered to drop the charges if she withdrew her EEOC complaint. The plaintiff was awarded over \$400,000 in damages and costs.<sup>4</sup>

## 2-3 BROAD-BASED DISCRIMINATION LAWS

Comprehensive equal employment laws provide broad-based protection for applicants and employees. The following sections explain these major laws and compliance requirements.

### 2-3a Civil Rights Act of 1964, Title VII

Although the very first civil rights act was passed in 1866, it was not until passage of the Civil Rights Act of 1964 that the keystone of antidiscrimination employment legislation was put into place. Title VII, the employment section of the Civil Rights Act of 1964, details the legal protections provided to applicants and employees and defines prohibited employment practices. Title VII is the foundation on which all other workplace nondiscrimination legislation rests.

Title VII of the Civil Rights Act states that it is illegal for an employer to:

- fail or refuse to hire or discharge any individual, or otherwise discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment because of such individual's race, color, religion, sex, or national origin, or
- limit, segregate, or classify his employees or applicants for employment in any way that would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee because of such individual's race, color, religion, sex, or national origin.

**Title VII Coverage** Title VII, as amended by the Equal Employment Opportunity Act of 1972, covers most employers in the United States. Any organization meeting one of the following criteria must comply with rules and regulations that specific government agencies have established to administer the Act:

- All private employers of 15 or more employees
- All educational institutions, public and private

- State and local governments
- Public and private employment agencies
- Labor unions with 15 or more members
- Joint labor/management committees for apprenticeships and training

### 2-3b Civil Rights Act of 1991

In response to several Supreme Court decisions during the 1980s, Congress amended the Civil Rights Act of 1964 to strengthen legal protection for employees, provide for jury trials, and allow for damages payable to successful plaintiffs in employment discrimination cases. A key provision of the 1991 act relates to how U.S. EEO laws are applied globally.

### 2-3c Executive Orders 11246, 11375, and 11478

Several important Executive Orders have been issued by U.S. presidents that affect the employment practices of federal contractors and subcontractors. The OFCCP in the U.S. Department of Labor is responsible for overseeing federal contractor operations and for ensuring that unlawful discrimination does not occur. Executive Orders 11246, 11375, and 11478 require federal contractors to take **affirmative action** to compensate for historical discrimination against women, minorities, and handicapped individuals. The concept of affirmative action is not without controversy, and some states have passed laws banning the use of such programs.

Supporters offer many reasons for why affirmative action is important, while opponents argue firmly against it. Individuals can consider both sides in the debate and compare them with their personal views of affirmative action.

Federal contractors are required to develop and maintain a written **affirmative action program (AAP)** that outlines proactive steps the organization will take to attract and hire members of underrepresented groups. This data-driven program includes analysis of the composition of company's current workforce with a comparison to the availability of workers in the labor market. The overall objective of the AAP is to have the company's workforce demographics reflect as closely as possible the demographics in the labor market from which workers are recruited.

### 2-3d Managing Racial and Ethnic Discrimination Issues

The original purpose of the Civil Rights Act of 1964 was to address race discrimination in the United States. This concern continues to be important today and employers must be aware of potential HR issues that are based on race, national origin, and citizenship to take appropriate actions.

Charges of racial discrimination continue to make up one-third of all complaints filed with the EEOC. Employment discrimination can occur in numerous ways, from refusal to hire someone because of his or her race/ethnicity to the questions asked in a selection interview. All employment inquiries and decisions must be based on job-related factors and not personal

characteristics. See Appendix B for specific Uniform Guidelines on employee selection.

Under federal law, discriminating against people because of skin color is just as illegal as discriminating because of race. For example, one might be guilty of color discrimination but not racial discrimination if one hired light-skinned African Americans over darker-skinned African Americans.

**Racial/Ethnic Harassment** Racial/ethnic harassment is such a concern that the EEOC has issued guidelines on it. It is recommended that employers adopt policies to prevent harassment of any type, including ethnic jokes, vulgar epithets, racial slurs, and physical actions. The consequences of not enforcing these policies are seen in a case involving a major transportation company that subjected African American employees to a racially hostile working environment and discriminatory employment conditions. The company was fined \$11 million in penalties.

Contrast that case with another that shows the advantage of taking quick remedial action. A black employee filed a lawsuit against a security firm because his supervisor made racially offensive comments. After the company investigated, the white supervisor was disciplined for inappropriate jokes and comments and the complainant was transferred to a different supervisor. The company further conducted in-house diversity training. The court dismissed the lawsuit because the company had taken measures to remedy the harassment. Therefore, prompt investigation and remedial action can protect employers from liability.<sup>5</sup>

## 2-4 SEX/GENDER DISCRIMINATION LAWS AND REGULATIONS

The inclusion of sex as a basis for protected status in Title VII of the 1964 Civil Rights Act has led to additional areas of legal protection, and a number of laws and regulations now address discrimination based on sex or gender.

### 2-4a Pregnancy Discrimination

The Pregnancy Discrimination Act (PDA) of 1978 amended Title VII to require that employers treat maternity leave the same as other personal or medical leaves. Closely related to the PDA is the Family and Medical Leave Act (FMLA) of 1993, which requires that qualified individuals be given up to 12 weeks of unpaid family leave and also requires that those taking family leave be allowed to return to jobs. The FMLA applies to both men and women. Provisions of the Affordable Care Act (2010) allow for break time and a private place for nursing mothers to express breast milk for one year after the birth of a child.<sup>6</sup>

Unlawful discrimination can occur if a pregnant applicant is not hired or is transferred or terminated because of the pregnancy. Courts have generally ruled that the PDA requires employers to treat pregnant employees the same as nonpregnant employees with similar abilities or disabilities. Employers have a right to maintain performance standards and expectations of pregnant employees but should be cautious to use the same standards for nonpregnant employees and employees with other medical conditions.

## 2-4b Equal Pay and Pay Equity

The Equal Pay Act of 1963 requires employers to pay similar wage rates for similar work without regard to gender. A *common core of tasks* must be similar, but tasks performed only intermittently or infrequently do not make jobs different enough to justify significantly different wages. Differences in pay between men and women in the same jobs are permitted because of:

1. Differences in seniority
2. Differences in performance
3. Differences in quality and/or quantity of production
4. Factors other than sex, such as skill, effort, and working conditions

In response to a procedural issue in pursuit of a fair pay claim, Congress enacted the Lilly Ledbetter Fair Pay Act in 2009, which eliminates the statute of limitations for employees who file pay discrimination claims under the Equal Pay Act—each paycheck is essentially considered a new act of discrimination. Lawmakers recognized that because pay information is often secret, it might take months or even years for an employee to discover the inequity. The successful plaintiff can recover up to two years of back pay.

**Pay equity** is the idea that pay should be similar for jobs requiring comparable levels of knowledge, skill, and ability, even if actual duties differ significantly. This theory has also been called *comparable worth* in earlier cases. Some state laws mandate pay equity for public-sector employees. However, U.S. federal courts generally have ruled that the existence of pay differences between the different jobs held by women and men is not sufficient to prove that illegal discrimination has occurred.

## 2-4c Managing Sex/Gender Issues

The influx of women into the workforce has had major social, economic, and organizational consequences. The percentage of women in the total U.S. civilian workforce has increased dramatically since 1950, to almost 50% today. During the last economic downturn, unemployed workers were more likely to be male because the industries hit hardest in the recession tended to employ more men; construction and manufacturing. Women, on the other hand, are primarily employed in management and professional occupations and are less likely to be employed in operations, transportation, or construction occupations.<sup>7</sup>

The growth in the number of women in the workforce has led to sex/gender issues related to jobs and careers. Since women bear children and traditionally have a primary role in raising children, issues of work–life balance can emerge. Respect for employees' lives outside of the workplace can pay off in terms of attracting and retaining high-quality talent.

For years, women's groups have alleged that women in workplaces encounter a **glass ceiling**, which refers to discriminatory practices that have prevented women and other minority-status employees from advancing to executive-level jobs. Despite the fact that organizations with greater gender diversity enjoy better financial performance than those with less diversity, women still hold a small percentage of top leadership jobs in corporations.



Only 41 of the Fortune 1000 companies are led by a female CEO. In organizations where diversity is seen as strategically important, a higher percentage of C-level executives are women. There are some differences around the world regarding the importance of diversity.<sup>8</sup>

A related problem is that women have tended to advance to senior management in a limited number of support or staff areas, such as HR and corporate communications. Because executive jobs in these “supporting” areas tend to pay less than jobs in sales, marketing, operations, or finance, the overall impact is to reduce women’s career progression and income.

## 2-4d Sexual Orientation

Demographers estimate that about 3% to 5% of Americans identify themselves as being lesbian, gay, bisexual, or transgender (LGBT). That translates to approximately 9 million Americans with alternative sexual orientation. The U.S. Census reports that 650,000 couples reported living with same-sex partners, with 130,000 reporting being married. While there is no federal law prohibiting discrimination on the basis of sexual orientation, 18 states have passed laws to protect applicants and employees from such discrimination. Employers are increasingly offering same-sex employee benefits and accommodating varying lifestyles for their employees; some high-profile CEOs have spoken out in support of rights for LGBT employees.

## 2-4e Nepotism

Many employers have policies that restrict or prohibit **nepotism**, the practice of showing favoritism to relatives at work. Other firms require only that relatives not work directly for or with each other or not be placed in positions where collusion or conflict could occur. The policies most frequently cover spouses, siblings, parents, sons, and daughters. Generally, employer anti-nepotism policies have been upheld in court.

## 2-4f Consensual Relationships and Romance at Work

When work-based friendships lead to romance and off-the-job sexual relationships, managers and employers face a dilemma: Should they monitor these relationships to protect the firm from potential legal complaints, thereby “meddling” in employees’ private, off-the-job lives? Or do they simply ignore these relationships and the potential problems they present? These concerns are significant, given that the employer’s response to workplace romance influences employees’ and applicants’ perceptions of fairness and the degree to which the organization is viewed as a good place to work.

Most executives and HR professionals agree that workplace romances are risky, because they have great potential for causing conflict. Dealing with this as a strategic issue means that leaders should consider both the costs and the benefits in addition to the legal factors. Adopting practices such as a written policy, an ethics code, and a performance management system, along with training HR leaders, can lead to a more balanced approach when dealing with workplace romances.

## 2-5 SEXUAL HARASSMENT

Nearly 25% of women report having been harassed at work during their careers. This widespread problem is a form of sex discrimination under Title VII. The Equal Employment Opportunity Commission has issued guidelines designed to curtail sexual harassment. **Sexual harassment** is unwelcome verbal, visual, or physical conduct of a sexual nature that affects working conditions or creates a hostile work environment. Sexual harassment can occur between a boss and a subordinate, among coworkers, and when nonemployees have business contacts with employees.

Most of the sexual harassment charges filed involve harassment of women by men. However, over 10% of claims were filed by men claiming they were sexually harassed. Interestingly, women almost universally report that they were harassed by a male, while males report an equal percentage of male and female harassers. Most claims of harassment go unreported, because victims are generally reluctant to speak out for fear of retribution. Supervisors are the most frequent harassers, but coworkers and even subordinates have also been involved in these incidents.

### 2-5a Types of Sexual Harassment

Two basic types of sexual harassment have been defined by EEOC regulations and a number of court cases. Figure 2-2 shows the two types and how they differ. They are defined as follows:

1. **Quid pro quo** is harassment in which employment outcomes are linked to granting sexual favors.
2. **Hostile-environment** harassment is when an individual's work performance or psychological well-being is unreasonably affected by intimidating or offensive working conditions.

**FIGURE 2-2 TYPES OF SEXUAL HARASSMENT**

