Chapter 3

The Legal Environment:
Equal Employment Opportunity and Safety
Learning Objectives

1. Identify the three branches of government and the role each plays in influencing HRM legal environment.

2. List major federal laws that require equal employment opportunity (EEO) and protections provided by each of these laws.

3. Discuss roles, responsibilities, and requirements of the federal agencies responsible for EEO laws.

4. Identify three theories of discrimination under Title VII of the Civil Rights Act and apply these theories to different discrimination situations.
Learning Objectives, cont.

5. Identify behavior that constitutes sexual harassment and list things than an organization can do to eliminate or minimize it.

6. Identify major provisions of the *Occupational Safety and Health Act (OSHA) (1970)* and rights of employees guaranteed by this act.
U.S. Legal System

3 Branches

Legislative Branch

Executive Branch

Judicial Branch
Equal Employment Opportunity (EEO)

- **EEO**—the government's attempt to ensure that all individuals have an equal chance for employment, regardless of race, color, religion, sex or national origin.
Congressional Legislation

- Equal Pay Act of 1963
- Title VII of the Civil Rights Act of 1964
- Age Discrimination in Employment Act of 1967
Congressional Legislation

- Vietnam Era Veteran’s Readjustment Act of 1974
- Pregnancy Discrimination Act
- Americans with Disabilities Act of 1990
Enforcement of EEO

Two agencies responsible for enforcement of these laws and executive orders:

- Equal Employment Opportunity Commission (EEOC)
- Office of Federal Contract Compliance Programs
Current Legal Events

• June 30th, 2015 – DOL issues a Notice of Proposed Rulemaking (NPRM) regarding overtime exemptions under the FLSA.
  – Weekly Salary Level Moves from $455 to $970 per week ($50,440 annually)
    • NY is currently $656.25, going to $675 in 2016
  – DOL estimates this increase in salary threshold would result in 4.6 million employees no longer qualifying as being exempt from minimum wage and overtime
Current Legal Events

• ‘Ban the Box’ Legislation
  • Prohibits employers from inquiring about criminal records until the first interview, with few exceptions
    – Passing weekly in different locales across the country
    – Buffalo, Rochester, Syracuse and NYC have all passed this legislation in the past year
3 Types of Discrimination

Disparate Treatment

Disparate Impact

Reasonable Accommodation
Disparate treatment exists when individuals in similar situations are treated differently based upon race, color, religion, sex, national origin, age, or disability status.
Disparate impact occurs when a neutral employment practice disproportionately excludes a protected group from employment opportunities.

• Four-fifths rule
Bona fide occupational qualifications (BFOQ) is a job qualification based on race, sex, religion, etc. that an employer asserts is a necessary qualification for the job.
Reasonable Accommodation - places a special obligation on an employer to affirmatively accommodate an individual’s disability or religion.

- Religion and Accommodation
- Disability and Accommodation
  - readily accessible facilities
  - job restructuring
  - reassignment
  - alternative testing formats, readers, additional time, interpreters, or reading assistance technology
  - own accommodation etc.
Sexual Harassment

**Sexual harassment** - unwelcome sexual advances, requests for sexual favors, and other verbal or physical contact of a sexual nature constitute sexual harassment when

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment,

2. Submission to or rejection of such conduct by an individual is used as the basis of employment decisions affecting such individual, or

3. Such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile, or offensive working environment.
Sexual Harassment

Quid Pro Quo

Hostile Working Environment
### 4 Steps to Help Ensure a Workplace Free of Sexual Harassment

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Affirmative Action and Reverse Discrimination

- **Affirmative Action** was conceived as a way of taking extra effort to attract and retain minority employees.
  - Imposed quota programs.
  - Entire debate over affirmative action continues to evoke attention.
Americans with Disabilities Act (ADA)

- Under **ADA**, a firm must make "*reasonable accommodation*" to a physically or mentally disabled individual unless doing so would impose "*undue hardship*."

- **Consequences of ADA:**
  - Increased litigation
  - Cases being filed do not reflect Congressional intent
  - Act was passed to protect people with major disabilities
  - The law has not resulted in a major increase in the proportion of people with disabilities who are working.
Employee Safety

- Employee safety is regulated by both federal and state governments.

- Occupational Safety and Health Act (OSHA)
Employee Rights under OSHA

1. Request an inspection.
2. Have a representative present at inspection.
3. Have dangerous substances identified.
4. Be promptly informed about exposure to hazards and given access to accurate records regarding exposures.
5. Have employer violations posted at work-site.
Summary

- One of HRM’s major challenges is the legal constraints imposed by the government.

- HR and line managers need to understand legal requirements and prohibitions to manage in ways that are financially and ethically sound, and in so doing create a competitive advantage.