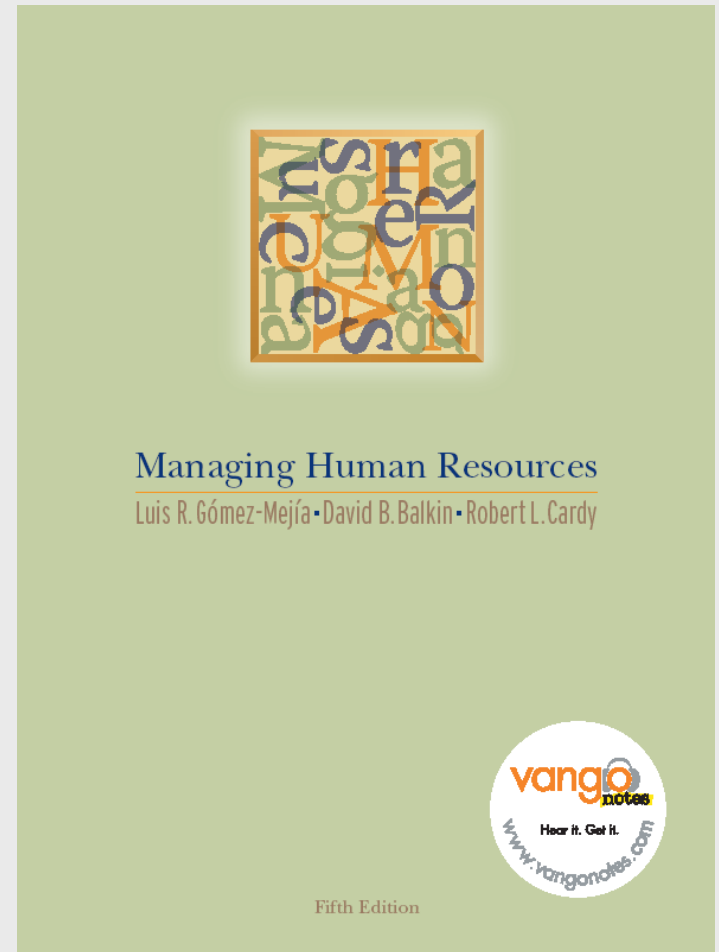


Chapter 3

Understanding Equal Opportunity and the Legal Environment



Chapter 3 Overview

- Explain why compliance with HR law is an important part of doing business
- Follow changes in HR law, regulation, and court decisions
- Manage within equal employment opportunity laws and understand affirmative action
- Make managerial decisions that will avoid legal liability
- Know when to seek the advice of legal counsel on HRM matters

Why Understanding the Legal Environment Is Important

Know the law to...

- Do the right thing
- Realize the limitations of the HR and Legal departments
- Create a fair and humane environment
- Limit potential liability

Challenges to Legal Compliance

- *A Dynamic Legal Landscape*
- *The Complexity of Laws*



Conflicting Strategies for Fair Employment

Fair Employment, Affirmative Action, and Unintended Consequences

Figure 3.1

Ideal Behavior Strategy

Best way to achieve fair employment is to make decisions without regard to:

- Race
- Sex
- Religion
- National origin
- Color
- Age
- Disability

Goal:
Fair
employment

Affirmative Action Strategy

Best way to achieve fair employment is to make decisions, at least in part, on the basis of:

- Race
- Sex
- Religion
- National origin
- Color
- Age
- Disability

Equal Employment Opportunity Laws

- *The Equal Pay Act of 1963*
- *Title VII of the Civil Rights Act of 1964*
- *The Age Discrimination in Employment Act of 1967*
- *The Americans with Disabilities Act of 1990*
- *The Vietnam Era Veterans Readjustment Act of 1974*

Title VII of the Civil Rights Act of 1964

- General Provisions
- Discrimination Defined
- Defense of Discrimination Charges
 - *Four-fifths rule*
 - *Job relatedness*
 - *BFOQ*
 - *Seniority*
 - *Business necessity*

Title VII - continued

- *Title VII and Pregnancy*
- *Sexual Harassment*

Do you have a hostile work environment?

Figure 3.5

The Supreme Court listed these questions to help judges and juries decide whether verbal and other nonphysical behavior of a sexual nature create a hostile work environment.

- How frequent is the discriminatory conduct?
- How severe is the discriminatory conduct?
- Is the conduct physically threatening or humiliating?
- Does the conduct interfere with the employee's work performance?

Customer-Driven HR

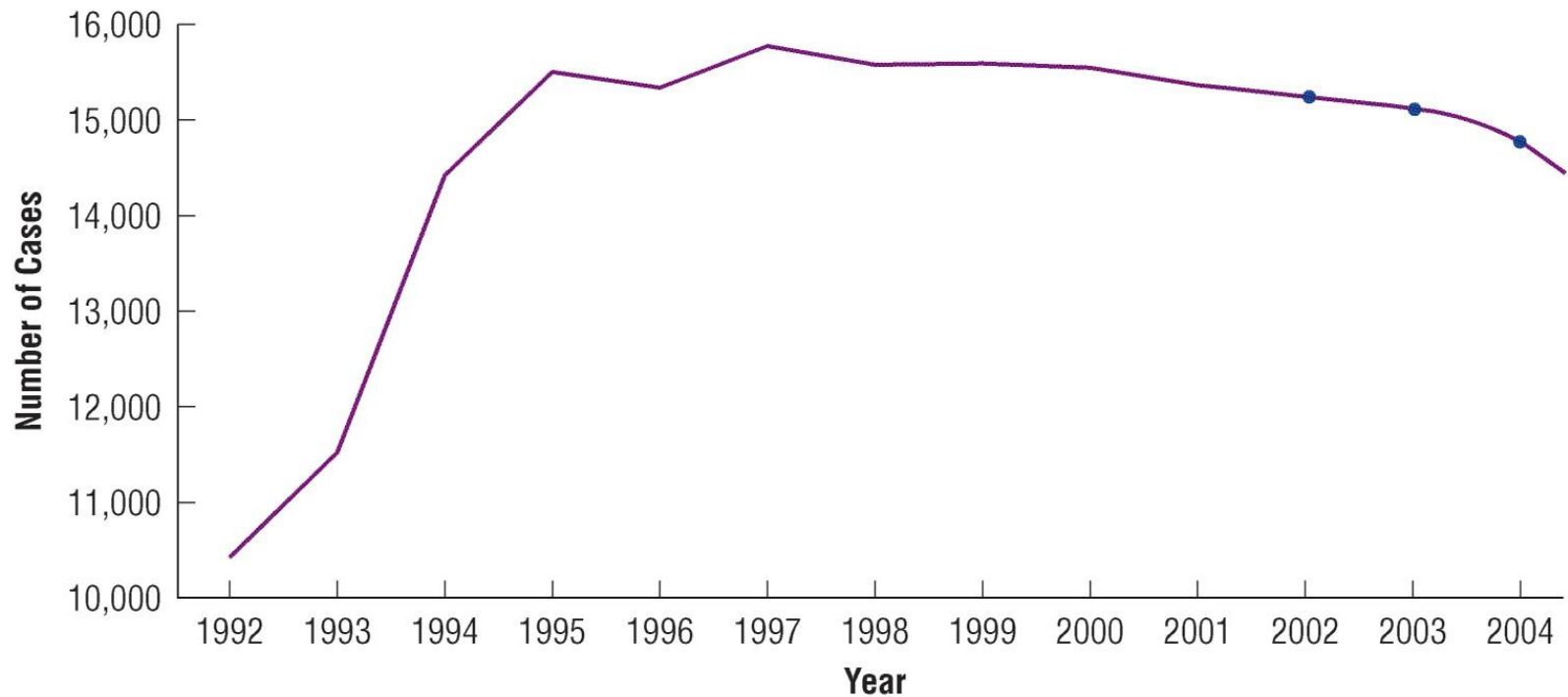
- Reducing Potential Liability for Sexual Harassment

To reduce the potential liability of a sexual harassment suit, managers should:

- 1. Establish a written policy prohibiting harassment*
- 2. Communicate the policy and train employees in what constitutes harassment*
- 3. Establish an effective complaint procedure*
- 4. Quickly investigate all claims*
- 5. Take remedial action to correct past harassment*
- 6. Make sure that the complainant does not end up in a less desirable position if he or she needs to be transferred*
- 7. Follow up to prevent continuation of harassment*

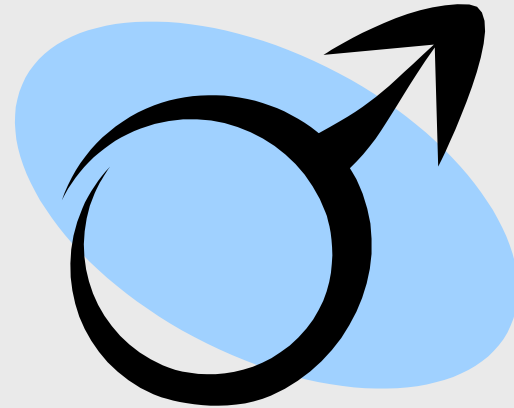
Customer Driven HR

Figure 3.6



How to Handle a Sexual Harassment Investigation

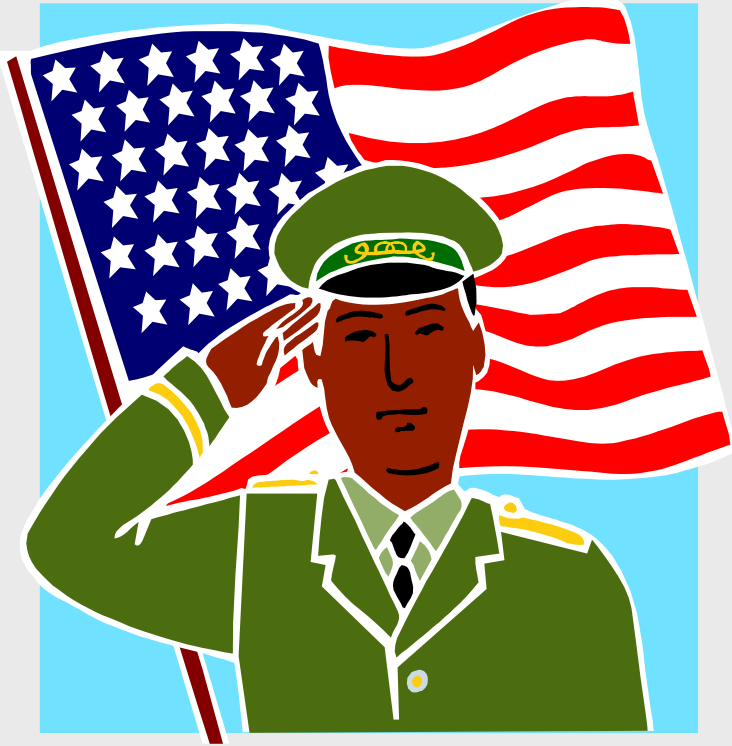
- *Timeliness*
- *Documentation*
- *Employee agreement*
- *Resolution*
- *Findings of fact*
- *Remedy*



Equal Employment Opportunity Laws - continued

- *The Civil Rights Act of 1991*
- *Executive Order 11246*
- *The Age Discrimination in Employment Act of 1967*
- *The Americans with Disabilities Act*
 - Individuals with Disabilities
 - Essential Functions
 - Reasonable Accommodation

Equal Employment Opportunity Laws - continued



- The Vocational Rehabilitation Act of 1973
- The Vietnam Era Veterans Readjustment Act of 1974

EEO Enforcement and Compliance

- Regulatory Agencies
 - *Equal Employment Opportunity Commission – (EEOC)*
 - *Investigation*
 - *Conciliation*
 - *Litigation*
 - *Office of Federal Contract Compliance Programs – (OFCCP)*

EEO Enforcement and Compliance

- Affirmative Action Plans
 - *Utilization Analysis*
 - *Goals and Timetables*
 - *Action Plans*
 - Reverse Discrimination



Other Important Laws

- *Immigration Reform and Control Act of 1986*
- *Immigration Act of 1990*
- *Drug-Free Workplace Act of 1988*
- *Uniformed Services Employment and Reemployment Rights Act of 1994*

Avoiding Pitfalls in EEO



- Provide Training
- Document Decisions
- Be Honest
- Establish a Complaint Resolution Process
- Ask Only for Info You Need to Know

Summary and Conclusions

- Why Understanding the Legal Environment Is Important
- Challenges to Legal Compliance
- Equal Employment Opportunity Laws
- EEO Enforcement and Compliance
 - Other Important Laws
 - Avoiding Pitfalls in EEO