

9.9: Legal Environment of Human Resources and Labor Relations

9. What are the key laws and federal agencies affecting human resource management and labor relations?

Federal laws help ensure that job applicants and employees are treated fairly and not discriminated against. Hiring, training, and job placement must be unbiased. Promotion and compensation decisions must be based on performance. These laws help all Americans who have talent, training, and the desire to get ahead. The key laws that currently impact human resource management and labor relations are listed in **Table 8.6**.

Several laws govern wages, pensions, and unemployment compensation. For instance, the Fair Labor Standards Act sets the federal minimum wage, which is periodically raised by Congress. Many minimum-wage jobs are found in service firms, such as fast-food chains and retail stores. The Pension Reform Act protects the retirement income of employees and retirees. Federal tax laws also affect compensation, including employee profit-sharing and stock purchase plans. When John F. Kennedy signed the Equal Pay Act into law in 1963, the goal was to stop the practice of paying women lower wages for the same job based on their gender. At the time, women with full-time jobs earned between 59 and 64 cents for every dollar their male counterparts earned in the same jobs. Although this law has been in place for several decades, progress has been slow. On April 17, 2012, President Barack Obama proclaimed National Equal Pay Day, noting that women who work full time earn only 77 cents for every dollar their male counterparts make. In 2016, the wage gap changed slightly, with women making 80.5 percent of what men earn.¹⁷

Table 8.6: Laws Impacting Human Resource Management

| Law | Purpose | Agency of Enforcement |
|---|--|---|
| Social Security Act (1935) | Provides for retirement income and old-age health care | Social Security Administration |
| Wagner Act (1935) | Gives workers the right to unionize and prohibits employer unfair labor practices | National Labor Relations Board |
| Fair Labor Standards Act (1938) | Sets minimum wage, restricts child labor, sets overtime pay | Wage and Hour Division, Department of Labor |
| Taft-Hartley Act (1947) | Obligates the union to bargain in good faith and prohibits union unfair labor practices | Federal Mediation and Conciliation Service |
| Equal Pay Act (1963) | Eliminates pay differentials based on gender | Equal Employment Opportunity Commission |
| Civil Rights Act (1964), Title VII | Prohibits employment discrimination based on race, color, religion, gender, or national origin | Equal Employment Opportunity Commission |
| Age Discrimination Act (1967) | Prohibits age discrimination against those over 40 years of age | Equal Employment Opportunity Commission |
| Occupational Safety and Health Act (1970) | Protects worker health and safety, provides for hazard-free workplace | Occupational Safety and Health Administration |
| Vietnam Veterans' Readjustment Act (1974) | Requires affirmative employment of Vietnam War veterans | Veterans Employment Service, Department of Labor |
| Employee Retirement Income Security Act (1974)—also called Pension Reform Act | Establishes minimum requirements for private pension plans | Internal Revenue Service, Department of Labor, and Pension Benefit Guaranty Corporation |
| Pregnancy Discrimination Act (1978) | Treats pregnancy as a disability, prevents employment discrimination based on pregnancy | Equal Employment Opportunity Commission |

| Law | Purpose | Agency of Enforcement |
|---|---|---|
| Immigration Reform and Control Act (1986) | Verifies employment eligibility, prevents employment of illegal aliens | Employment Verification Systems, Immigration and Naturalization Service |
| Americans with Disabilities Act (1990) | Prohibits employment discrimination based on mental or physical disabilities | Department of Labor |
| Family and Medical Leave Act (1993) | Requires employers to provide unpaid leave for childbirth, adoption, or illness | Equal Employment Opportunity Commission |

Employers must also be aware of changes to laws concerning employee safety, health, and privacy. The Occupational Safety and Health Act (OSH Act) requires employers to provide a workplace free of health and safety hazards. For instance, manufacturers must require their employees working on loading docks to wear steel-toed shoes so their feet won't be injured if materials are dropped. Drug and AIDS testing are also governed by federal laws.

Another employee law that continues to affect the workplace is the Americans with Disabilities Act. To be considered disabled, a person must have a physical or mental impairment that greatly limits one or more major life activities. More than 40 million Americans, 12.6 percent of the population, were disabled in 2015, according to the U.S. Census Bureau.¹⁸ Employers may not discriminate against disabled persons. They must make "reasonable accommodations" so that qualified employees can perform the job, unless doing so would cause "undue hardship" for the business. Altering work schedules, modifying equipment so a wheelchair-bound person can use it, and making buildings accessible by ramps and elevators are considered reasonable. Two companies often praised for their efforts to hire the disabled are McDonald's and DuPont.

The Family and Medical Leave Act went into effect in 1993. The law guarantees continuation of paid health benefits, plus a return to the same or equivalent job, and applies to employers with 50 or more employees. It requires these employers to provide unpaid leave of up to 12 weeks during any 12-month period to workers who have been employed for at least a year and worked at least 1,250 hours during the past year. The reasons for the leave include the birth or adoption of a child; the serious illness of a child, spouse, or parent; or a serious illness that prevents the worker from doing the job.

According to the Bureau of Labor Statistics, only 11 percent of all private industry workers have access to paid family leave. Low-wage earners fare even worse. Only 5 percent of low-wage earners get any paid maternity leave, and nearly half will not take time off because they cannot afford to go without income. The United States continues to be one of only four countries in the world (along with Liberia, Suriname, and Papua New Guinea) that do not guarantee paid parental leave.¹⁹

The Wagner and Taft-Hartley Acts govern the relationship between an employer and union. Employees have the right to unionize and bargain collectively with the company. The employer must deal with the union fairly, bargain in good faith, and not discriminate against an employee who belongs to the union. The union must also represent all employees covered by a labor agreement fairly and deal with the employer in good faith.

Several federal agencies oversee employment, safety, compensation, and related areas. The **Occupational Safety and Health Administration** (OSHA) sets workplace safety and health standards, provides safety training, and inspects places of work (assembly plants, construction sites, and warehouse facilities, for example) to determine employer compliance with safety regulations.



Exhibit 8.14: For some occupations, danger is part of the job description. Tallies of work-related casualties routinely identify miners, loggers, pilots, commercial fishermen, and steel workers as holding the most deadly jobs. Job fatalities are often linked to the use of heavy or outdated equipment. However, many work-related deaths also happen in common highway accidents or as homicides. Pictured here are miners at the Coal Miner's Memorial and Pennsylvania Welcome Center. *What laws and agencies are designated to improve occupational safety?* (Credit: Mike Steele/ Flickr/ Attribution 2.0 Generic (CC BY 2.0))

The Wage and Hour division of the Department of Labor enforces the federal minimum-wage law and overtime provisions of the Fair Labor Standards Act. Employers covered by this law must pay certain employees a premium rate of pay (or time and one-half) for all hours worked beyond 40 in one week.

The **Equal Employment Opportunity Commission (EEOC)** was created by the 1964 Civil Rights Act. It is one of the most influential agencies responsible for enforcing employment laws. The EEOC has three basic functions: processing discrimination complaints, issuing written regulations, and gathering and disseminating information. An employment discrimination complaint can be filed by an individual or a group of employees who work for a company. The group may comprise a **protected class**, such as women, African Americans, or Hispanic Americans. The protected group may pursue a class-action complaint that may eventually become a lawsuit. As a measure to prevent employment discrimination, many employers set up **affirmative action programs** to expand job opportunities for women and minorities

Even with affirmative action and other company efforts to follow the law, each year the EEOC receives tens of thousands of complaints from current or former employees. The monetary benefits that the EEOC wins for employees has grown substantially during the past 10 years. Large monetary settlements often occur when the EEOC files a class-action suit against an employer. For example, the Ford Motor Company settled sexual and racial harassment claims by more than 30 women for more than \$10 million at two Chicago-area manufacturing plants in 2017.²⁰ Also, Sears, Motorola, and AT&T have had to make large back-pay awards and to offer special training to minority employees after the court found they had been discriminated against.

The NLRB was established to enforce the Wagner Act. Its five members are appointed by the president; the agency's main office is in Washington, DC, and regional and field offices are scattered throughout the United States. NLRB field agents investigate charges of employer and union wrongdoing (or unfair labor practices) and supervise elections held to decide union representation. Judges conduct hearings to determine whether employers and unions have violated the law.

The Federal Mediation and Conciliation Service helps unions and employers negotiate labor agreements. Agency specialists, who serve as impartial third parties between the union and company, use two processes: conciliation and mediation, both of which require expert communication and persuasion. In **conciliation**, the specialist assists management and the union with focusing on the issues in dispute and acts as a go-between, or communication channel through which the union and employer send messages to and share information with each other. The specialist takes a stronger role in **mediation** by suggesting compromises to the disputing organizations.

CONCEPT CHECK

1. Discuss the laws that govern wages, pensions, and employee compensation.
2. Describe the Americans with Disabilities Act.
3. How do the Wagner and Taft-Hartley Acts impact labor-management relations?

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