

## CHAPTER 9

# Successful Employee Communication

### THE BIGGEST CHALLENGE

Casey is seated at his desk reviewing his human resource strategic plan when Lily walks in, obviously upset. Her facial expressions show she is upset, and after she enters, she crosses her arms while standing in front of Casey's desk. Casey thinks Lily is a very hard worker and does an excellent job managing people as the manager of her marketing department. Lately, she has been having trouble with some of her employees.

"Casey," she says, "I really need to vent. Can I sit down and talk with you?" Casey offers Lily a seat and she sits down. She tells Casey that Sam, a marketing manager, made snide and underhanded comments during a meeting this morning. "For example, when I asked the status on one of our projects, Sam said snidely, 'Why don't you ask one of your marketing assistants? They are doing such a great job, after all.' I suspect he is upset with something I wrote on my blog last week. As you know, I started the blog to continually let employees know of changes in the department and to provide feedback. In last week's blog, I wrote about what a great job the marketing assistants are doing in my department."

Lily goes on, "So I pulled him aside after the meeting and asked him about his comment. He said that he was upset that I had given feedback to the marketing assistants because he feels that as their manager, it is his job to do that. He felt I had stepped on his toes and the toes of other marketing managers."

Casey thinks about the situation and asks Lily if she apologized. Lily responds, "I didn't feel like I needed to. I do think the marketing assistants are doing a good job, and I don't need to apologize for mentioning that. I am just trying to raise morale among them. You know, two marketing assistants have quit in the last three months."

Casey leans back in his chair and gives some thought as to how to advise Lily. He suggests that Lily speak with Sam directly (not via e-mail) and tell him that her intention was only positive and not meant to be harmful, and see what happens. Lily thinks about that and says she will try to see Sam later today. When she leaves, Casey sits back and thinks about how communication is one of the biggest challenges in any job, but especially in human resources.



## Communication Introduction

The author introduces the chapter on employee communication



View the video online at: <http://app.wistia.com/embed/medias/a0a74fe369>

# 1. COMMUNICATION STRATEGIES

## LEARNING OBJECTIVES

1. Explain the concept of emotional intelligence.
2. Describe the four types of communication in the workplace.
3. Explain the various communication styles and identify your own style.
4. Define nonverbal communication and describe the importance of it in an HR setting.

Communication, as you see in our opening scenario, is key to a successful career as a human resource manager (HRM) or as a manager. While communication is likely discussed in several of your business classes, it should also be addressed in an HRM book, since much of what we do in HR is based on effective communication.

How many times do miscommunications happen on a daily basis, either in your personal life or at your job? The good news is that we can all get better at communication. The first thing we need to do is learn how we can communicate with our employees. Then we will want to look at our own communication style and compare that with other styles. Have you ever spoken with someone you just didn't "get"? It is probably because you have different communication styles. We address this in Section 1. Body language is also a key contributor to communication; in fact, as was suggested in the late 1960s by researcher Albert Mehrabian, body language makes up 93 percent of our communication.<sup>[1]</sup> Part of communication is also looking at the way we manage people. Depending on our style of management, we may use a variety of management styles to communicate things we need done or to give performance feedback. One major way companies communicate with employees is through the use of meetings. Some meetings can be very effective, but as you probably already know, many meetings aren't very productive. We will discuss some strategies to help you run a more effective meeting.

## 1.1 Communication and Emotional Intelligence (EI)

One of the most important aspects to good communication is emotional intelligence (EI). **Emotional intelligence** is different from IQ. First, EI predicts much of life success, much more than IQ, in fact.<sup>[2]</sup> The great thing about EI is that it can actually improve over time, unlike IQ, which stays the same over a lifetime. According to Daniel Goleman,<sup>[3]</sup> a researcher on EI, there are five main aspects or domains to EI:

1. Knowing your emotions
2. Managing your emotions
3. Motivating yourself

### emotional intelligence (EI)

The ability to know and manage our emotions, motivate ourselves, understand others' emotions, and manage relationships.

4. Recognizing and understanding other people's emotions
5. Managing relationships

First, let's discuss knowing your emotions. If we don't know how we feel about something, it can be difficult to communicate. It may seem obvious to know what we are feeling from moment to moment, but oftentimes we do not. How we feel impacts our body language as well as our verbal communication. For example, let's say you just got home from work and had a really crummy day. When you get home, you find that your spouse has not unloaded the dishwasher yet, as you had agreed. Tie this with a crummy day, and you might communicate differently about it than if you had a great day.

On the other hand, if you recognize that you are tired and a bit cranky, your awareness of these emotions allows you to manage them. The third aspect of EI, motivating yourself, goes without saying in a management or human resource role. This is the key not only to career success but also to personal success.

The last two domains of EI revolve around being able to see and understand emotions in other people, which in turn can benefit the relationship. Let's say, in the situation above, you get home and the dishwasher isn't unloaded, but you recognize immediately through body language and facial expressions that your spouse is extremely upset by something. Seeing this emotion in someone else may help you decide if you should mention the dishwasher—or not—at this specific time. But what if you didn't recognize this emotion and raised your voice to your spouse about the unloaded dishwasher? It will probably result in an argument. Using this example, I am sure you can see how this translates into the workplace. Emotional intelligence allows us to work better with people, understand them, and communicate with them.

### Human Resource Recall

Do you think you are a good communicator? What could you improve?

## 1.2 Communication Directions

As you already know, communication in companies is key to having a successful organization. Those companies who communicate well with their employees end up with more loyal and motivated workers. Those that don't communicate well, though, see increased turnover, absenteeism, dissatisfied customers, higher product defect rates, lack of focus on business objectives, and lack of innovation.<sup>[4]</sup> Proper communication can result in a sense of belonging and self-worth, leading to less turnover and absenteeism, which is mentioned in the opening scenario. These issues are also discussed in Chapter 7. In Section 1, we discuss some of the ways we can stay connected with our employees.

Four main types of communications occur within a company: upward communication, downward communication, diagonal communication, and horizontal communication. Each type of communication can serve a different purpose in human resources, and many messages may be sent in a variety of ways.

**Upward communication** is when the lower levels of an organization communicate with the upper levels of an organization. Some examples might be an employee satisfaction survey using online survey tools such as SurveyMonkey. These kinds of tools can be used to determine the changes that should occur in a company. Oftentimes human resource departments may develop a survey such as this to find out how satisfied the employees are with things such as benefits. Then the organization can make changes based on the satisfaction level of the employees. Employees might also engage in upward communication in a given work situation. They might tell their manager their plate is full and they can't take on any new projects. This is considered upward communication, too.

**Downward communication** is the opposite of upward communication, in that the communication occurs from the upper levels of an organization down to the lower levels of the organization. A manager explaining how to do a task to an employee would be considered downward communication. Development of training programs to communicate safety in the organization might be another example. A change in a pay or bonus structure would be communicated using the downward approach as well.

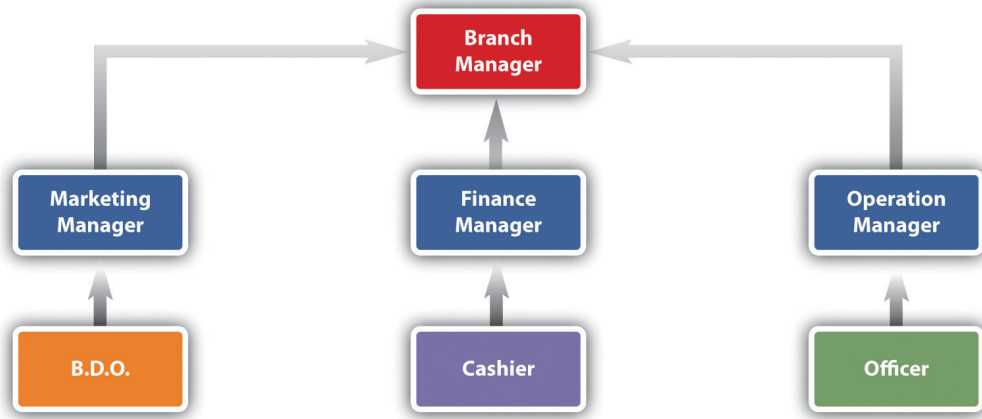
### upward communication

When the lower levels of an organization communicate with the upper levels of an organization.

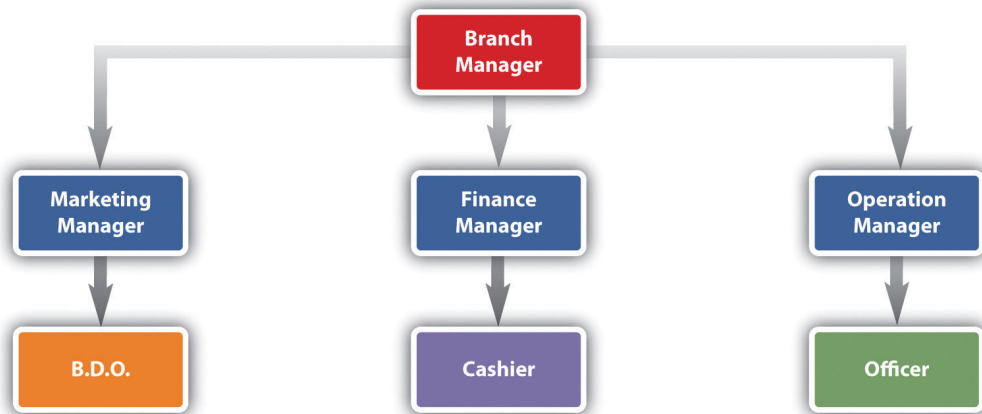
### downward communication

The opposite of upward communication, in that the communication occurs from the upper levels of an organization down to the lower levels of the organization.

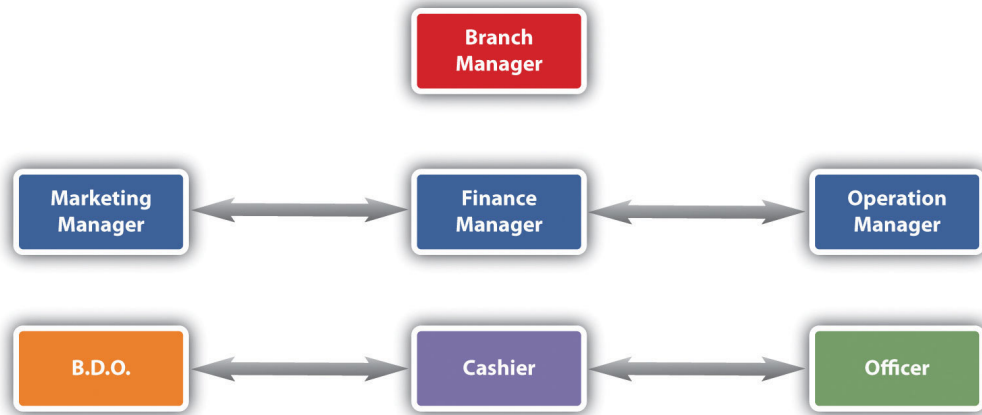
FIGURE 9.1 Types of Communication Flow in Organizations



*"Upward"* Communication in a Bank



*"Downward"* Communication in a Bank



*"Horizontal"* Communication in a Bank

A **diagonal communication** approach occurs when interdepartmental communication occurs with people at different levels of the organization. When the human resources assistant speaks with the marketing manager about the hiring of a new employee in marketing, this would be considered diagonal communication.

**Horizontal communication** occurs when people of the same level in an organization, for example, a marketing manager and a human resource manager, communicate usually to coordinate work between departments. An accounting manager might share information with a production manager so the production manager knows how much budget they have left.

Within all the communication methods we discussed, there are a variety of approaches. Of course, the most obvious is the informal communication that occurs. An e-mail may be sent or a phone call made. Meetings are another way to communicate information. Companies can also use more formal means to communicate. A blog would be an example. Many companies use blogs to communicate information such as financial numbers, changes to policy, and other “state of the business” information. This type of information is often downward communication. However, blogs are not just for upper management anymore. Companies are using microblogs more and more to ensure that people in various departments stay connected with each other, especially when tasks tend to be very interdependent.

Companies also use social networking sites to keep in touch, such as Twitter and Facebook. For example, Alcatel-Lucent, a 77,000-employee telecommunications company in Europe, found that using social media keeps a large number of employees connected and tends to be a low or no-cost method of communicating. Rather than sending e-mail to their employees telling them to expect updates via these methods, the news is spread via word of mouth as most of the employees blog or use Facebook or other social media to communicate. In fact, Alcatel-Lucent has over eight hundred groups in its system, ranging from business related to ones social in nature.<sup>[5]</sup> Use of this type of technology can result in upward, downward, horizontal, and diagonal communication all at once.

Companies also use intranets to communicate information to their employees. An intranet is an internal website, meaning that others generally cannot log in and see information there. The intranet may include information on pay and vacation time as well as recent happenings, awards, and achievements.

### 1.3 Communication Styles

In addition to the communication that occurs within organizations, each of us has our own individual communication style. Many organizations give tests that may indicate their candidate’s preferred style, providing information on the best job fit.

Our communication styles can determine how well we communicate with others, how well we are understood, and even how well we get along with others. As you can imagine, our personality types and our communication styles are very similar. Keep in mind, though, that no one person is “always” one style. We can change our style depending on the situation. The more we can understand our own dominant communication style and pinpoint the styles of others, the better we can communicate. The styles are expresser, driver, relater, and analytical. Let’s discuss each of these styles next.

People with an **expresser communication style** tend to get excited. They like challenges and rely heavily on hunches and feelings. Depending on the type of business, this can be a downfall as sometimes hard data should be used for decision-making purposes. These people are easily recognized because they don’t like too many facts or boring explanations and tend to be antsy if they feel their time is being wasted with too many facts.

People with a **driver style** like to have their own way and tend to be decisive. They have strong viewpoints, which they are not afraid to share with others. They like to take charge in their jobs but also in the way they communicate. Drivers usually get right to the point and not waste time with small talk.

People with a **relater style** like positive attention and want to be regarded warmly. They want others to care about them and treat them well. Because relaters value friendships, a good way to communicate well with them is to create a communication environment where they can feel close to others.

#### diagonal communication

Interdepartmental communication occurring at various levels of the organization.

#### horizontal communication

When people at the same level in the organization communicate.

#### expresser communication style

A communication style that is easily excitable and relies heavily on hunches and feelings.

#### driver style

A communication style in which a person likes to have his or her own way and be decisive.

#### relater style

A communication style by someone who prefers to be warmly regarded and have positive attention.

### analytical communication style

A communication style in which a person tends to ask a lot of questions and behave methodically.

People with an **analytical communication style** will ask a lot of questions and behave methodically. They don't like to be pressured to make a decision and prefer to be structured. They are easily recognized by the high number of questions they ask.

**TABLE 9.1 Which One of These Communication Styles Do You Tend to Use?**

Factors:	Expresser	Driver	Relater	Analytical
How to recognize:	They get excited.	They like their own way; decisive and strong viewpoints.	They like positive attention, to be helpful, and to be regarded warmly.	They seek a lot of data, ask many questions, behave methodically and systematically.
Tends to ask:	Who? (the personal dominant question)	What? (the results-oriented question)	Why? (the personal nongoal question)	How? (the technical analytical question)
Dislikes:	Boring explanations/wasting time with too many facts.	Someone wasting their time trying to decide for them.	Rejection, being treated impersonally, uncaring and unfeeling attitudes.	Making an error, being unprepared, spontaneity.
Reacts to pressure and tension by:	"Selling" their ideas or becoming argumentative.	Taking charge, taking more control.	Becoming silent, withdrawn, introspective.	Seeking more data and information.
Best way to deal with:	Get excited with them, show emotion.	Let them be in charge.	Be supportive; show you care.	Provide lots of data and information.
Likes to be measured by:	Applause, feedback, recognition.	Results, meeting goals.	Friends, close relationships.	Activity and business that lead to results.
Must be allowed to:	Get ahead quickly. Likes challenges.	Get into a competitive situation. Likes to win.	Relax, feel, care, know you care.	Make decisions at own pace, not feel cornered or pressured.
Will improve with:	Recognition and some structure with which to reach the goal.	A position that requires cooperation with others.	A structure of goals and methods for achieving each goal.	Further development of interpersonal and communication skills.
Likes to save:	Effort. They rely heavily on hunches, intuition, feelings.	Time. They like to be efficient, get things done now.	Relationships. Friendship means a lot to them.	Face. They hate to make an error, be wrong, or get caught without enough info.
For best results:	Inspire them to bigger and better accomplishments.	Allow them freedom to do things their own way.	Care and provide detail, specific plans, and activities to be accomplished.	Structure a framework or "track" to follow.

**TABLE 9.2 Which One of These Communication Styles Do You Tend to Use?**

	Passive	Assertive	Aggressive
Definition	Communication style in which you put the rights of others before your own, minimizing your own self-worth	Communication style in which you stand up for your rights while maintaining respect for the rights of others	Communication style in which you stand up for your rights but you violate the rights of others
Implications to others	my feelings are not important	we are both important	your feelings are not important
	I don't matter	we both matter	you don't matter
	I think I'm inferior	I think we are equal	I think I'm superior
Verbal styles	apologetic	I statements	you statements
	overly soft or tentative voice	firm voice	loud voice
Nonverbal styles	looking down or away	looking direct	staring, narrow eyes
	stooped posture, excessive head nodding	relaxed posture, smooth and relaxed movements	tense, clenched fists, rigid posture, pointing fingers
Potential consequences	lowered self-esteem	higher self-esteem	guilt
	anger at self	self-respect	anger from others
	false feelings of inferiority	respect from others	lowered self-esteem
	disrespect from others	respect of others	disrespect from others
	pitied by others		feared by others

Let's discuss an example of how these communication styles might interact. Let's assume an analytical communicator and a relater are beginning a meeting where the purpose is to develop a project time line. The analytical communicator will be focused on the time line and not necessarily the rapport building that the relater would be focused on. The conversation might go something like this:

*Relater: What are you doing this weekend? I am going to my son's baseball game. It is supposed to be hot—I am looking forward to it.*

*Analytical: That's great. OK, so I was thinking a start date of August 1<sup>st</sup> for this project. I can get Kristin started on a to-do list for the project.*

*Relater: That would be great. Kristin is a really hard worker, and I'm sure she won't miss any details.*

*Analytical: Yes, she's OK. So, your team will need to start development now with a start day coming up. How are you going to go about this?*

How do these two personality styles walk away from this conversation? First, the relater may feel ignored or rejected, because the analytical communicator didn't want to discuss weekend details. The analytical communicator may feel annoyed that the relater is wasting time talking about personal things when they have a goal to set a project time line. These types of small miscommunications in business are what can create low morale, absenteeism, and other workplace issues. Understanding which style we tend to use can be the key in determining how we communicate with others. Here is another, personal example of these communication styles and how a conversation might go:



*Expresser, to his partner:* I am really excited for our hiking trip this weekend.

*Driver:* I still think we should leave on Thursday night rather than Friday.

*Expresser:* I told you, I don't think I can get all day Friday off. Besides, we won't have much time to explore anyway, if we get there on Thursday, it will already be dark.

*Driver:* It won't be dark; we will get there around 7, before anyone else, if we leave after work.

*Expresser:* I planned the trip. I am the one who went and got our food and permits, I don't see why you have to change it.

*Driver:* You didn't plan the trip; I am the one who applied for the permits.

In this situation, you can see that the expresser is just excited about the trip and brings up the conversation as such. The driver has a tendency to be competitive and wants to win, hence his willingness to get there Thursday before everyone else. The expresser, on the other hand, tried to sell his ideas and didn't get the feedback he felt he deserved for planning the trip, which made the communication start to go south.

In addition to our communication personalities, people tend to communicate based on one of three styles. First, a **passive communicator** tends to put the rights of others before his or her own. Passive communicators tend to be apologetic or sound tentative when they speak. They do not speak up if they feel like they are being wronged.

An **aggressive communicator**, on the other hand, will come across as standing up for his or her rights, while possibly violating the rights of others. This person tends to communicate in a way that tells others they don't matter, or their feelings don't matter.

An **assertive communicator** respects his rights and the rights of others when communicating. This person tends to be direct but not insulting or offensive. The assertive communicator stands up for his or her own rights but makes sure the rights of others aren't affected.

Have you heard of a passive-aggressive communicator? This person tends to be passive but later aggressive by perhaps making negative comments about others or making snide or underhanded comments. This person might express his or her negative feelings in an indirect way, instead of being direct. For example, you are trying to complete a project for a client and the deadline is three days away. You and your team are working frantically to finish. You ask one of your employees to come in to work on Saturday morning to finish up the loose ends, so the project will be ready to present to the client on Monday. Your employee agrees, but when you show up on Monday, the project isn't ready to present. You find out that this person had plans on Saturday but wasn't direct with you about this. So the project didn't get completed, and you had to change the appointment with the client. Later, you also find out that this employee was complaining to everyone else that you had asked her to come in on Saturday. As you can see from this example, passive-aggressive behavior doesn't benefit anyone. The employee should have been direct and simply said, "I can't come in on Saturday, but I can come in Sunday or work late Friday night." Ideally, we want to be assertive communicators, as this shows our own self-esteem but at the same time respects others and isn't misleading to others, either.

When dealing with someone who exhibits passive-aggressive behavior, it is best to just be direct with them. Tell that person you would rather she be direct than not show up. Oftentimes passive-aggressive people try to play the martyr or the victim. Do not allow such people to press your buttons and get you to feel sorry for them. This gives them control and can allow them to take advantage.

## 1.4 Nonverbal Communication

Now that we have discussed the types of communication in organizations and different verbal communication styles, it is only appropriate to discuss body language as well. Most successful HR professionals are excellent at reading and understanding nonverbal language, especially during the interview process. This is discussed in Chapter 5. The interviewer's nonverbal language can also help or hinder a candidate, so we want to be careful of our nonverbal language when interviewing someone. **Nonverbal language** accounts for a large part of communication. Without seeing and hearing the nonverbal clues, it is easier to have misunderstandings. Nonverbal language can include facial expressions, eye contact, standing or sitting posture, and the position of our hands. Our tone of voice, loudness or softness, and gestures can also be part of body language. The better we can get at knowing what our own body language is telling others and reading others' body language, the better we can get at communicating well with others.

### passive communicator

A communication style in which a person puts the rights of others over his or her own.

### aggressive communicator

The style of a person who stands up for his or her rights but possibly violates the rights of others.

### assertive communicator

Respects the rights of herself and others when communicating.

### nonverbal language

A type of communication that can include facial expressions and eye contact.





## Strategic HR Communication Style in Organizations

This video addresses the importance of determining company communication style.



View the video online at: <http://www.youtube.com/v/YACilUpWifk>

Consider the use of digital forms of communication, such as e-mail and text messaging. These forms of communication do not allow us to read another's body language, which can often result in misconceptions about what another is saying. Use of "smiley" icons can make this clearer, but often people cannot detect sarcasm and other nonverbal communication cues. If you have something important to communicate, it is better to communicate most of the time in person or via phone, so you can hear tone and see facial expressions.



## How Would You Handle This?

### She Said What?

As the HR manager, you have a meeting scheduled in a few minutes with Adeline. Adeline is the accounting manager for a small firm in Boise, Idaho. She has four people who report to her, Alan being one of them. Alan manages three people in his position as account director. Adeline just left a meeting with one of Alan's employees, who complained of Alan's communication style and threatened to quit. She said that Alan belittles them and withholds information. She also complained of Alan making inappropriate comments, which were meant as a joke but were offensive. How would you handle this?

### How Would You Handle This?

The author discusses the How Would You Handle This situation in this chapter at: <https://api.wistia.com/v1/medias/1360833/embed>.

Another note to consider on body language is how body language can be different across cultures. For example, the OK sign (thumb and pointer figure put together to form a circle) means "great" or "fine" in the United States, but in Brazil, Germany, and Russia, this sign would be considered both rude and offensive. In Japan, this sign means you want the store to give you change in coins. When traveling, we often take for granted that gestures, and even interpersonal distance, or how far apart we stand from another person, are the same at home, but obviously this is not the case. Different nonverbal language can be different wherever you go, so reading up on the place you will visit can ensure you won't offend anyone while there. Having this information can also help us train our employees for overseas assignments. This is discussed in Chapter 8 and Chapter 14.

**FIGURE 9.2**

What Are Each of These Images Telling Us?



### 1.5 Listening

**competitive or combative listening**

A type of listening that happens when we are focused on sharing our own point of view instead of listening to someone else.

**passive listening**

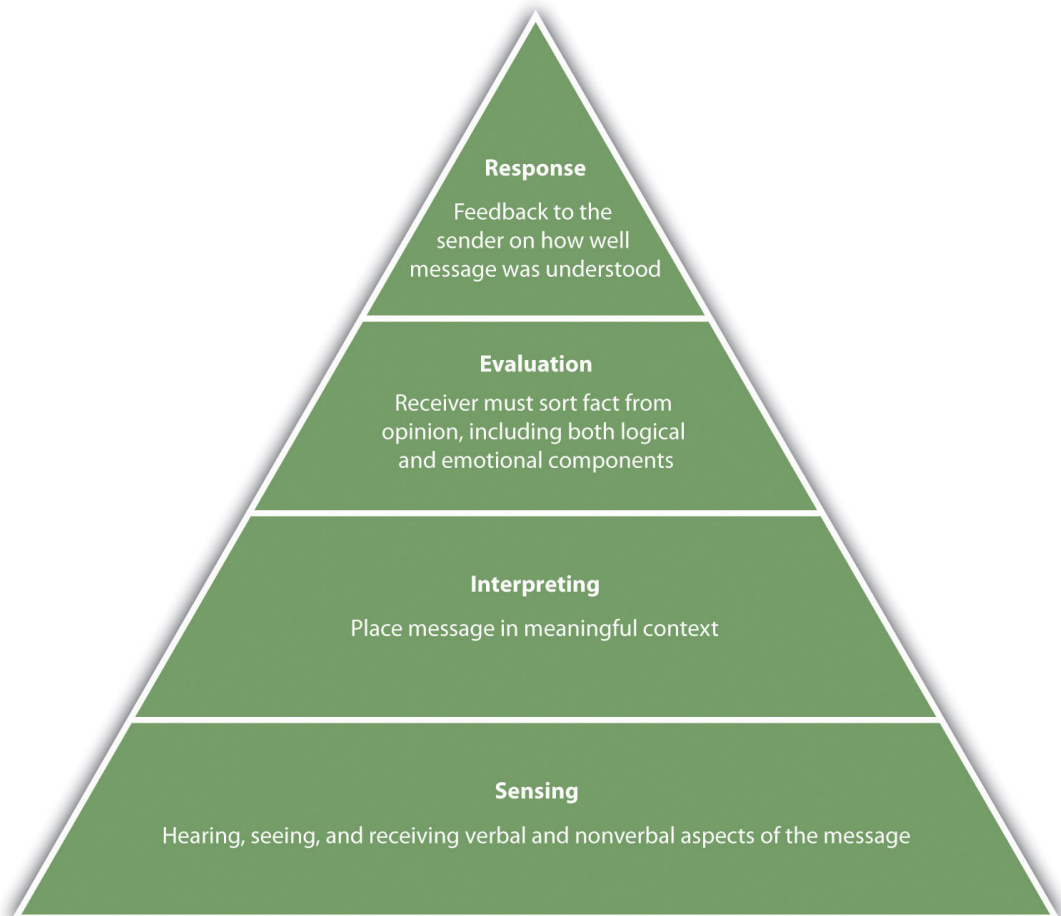
A type of listening in which we are interested in hearing the other person and assume we hear and understand what the person says correctly, without verifying.

**active listening**

A type of listening in which we are interested in what the other person has to say and check our understanding with the speaker.

Listening is obviously an important part of communication. There are three main types of listening. **Competitive or combative listening** happens when we are focused on sharing our own point of view instead of listening to someone else. In **passive listening**, we are interested in hearing the other person and assume we hear and understand what the person says correctly, without verifying. In **active listening**, we are interested in what the other person has to say and we are active in checking our understanding with the speaker. For example, we may restate what the person has said and then verify our understanding is correct. The feedback process is the main difference between passive listening and active listening.

**FIGURE 9.3 Active listening involves four phases.**<sup>[6]</sup>



## KEY TAKEAWAYS

- *Emotional intelligence* can be improved over time, unlike IQ, which stays stable throughout life.
- Emotional intelligence includes knowing and managing your emotions, motivating yourself, recognizing and understanding other people's emotions, and managing relationships.
- There are four types of communication at work: *downward*, *upward*, *horizontal*, and *diagonal*. All types of communication can happen at once, especially with the use of blogs and social networking sites.
- Companies that use good communication tend to have less turnover and less absenteeism.
- There are four main types of communication styles: *expresser*, *driver*, *relater*, and *analytical*. The better we can understand our own style of communication and the communication styles of others, the easier it will be to communicate with them.
- Passive, aggressive, and passive-aggressive behaviors are not healthy ways of communicating. Assertive behavior, on the other hand, respects one's own rights and the rights of others.
- *Nonverbal communication* is one of the most important tools we can use to communicate how we feel. Watching others' body language can give us signals as to how they may really feel.
- Listening is also an important part of communication. *Active listening* occurs when we are interested in what the other person has to say, and we check with the speaker to make sure we understand what they have said. *Competitive or combative listening* is when we are focused on sharing our own point of view. *Passive listening* is when we listen to someone, but do not verify that we understand what someone is saying.

## EXERCISES

1. Learn more about your EI by going to [http://www.queendom.com/tests/access\\_page/index.htm?idRegTest=1121](http://www.queendom.com/tests/access_page/index.htm?idRegTest=1121) and taking the test. Then answer the following questions:
  - a. What did the test say about your EI?
  - b. What are some things you can do to improve your EI? What strategies might you use to improve your EI?
2. Which communication style, the expresser, driver, relater, or analytical, do you typically use? How can you get better at understanding other people's style and get comfortable communicating in their style?
3. Do you tend to be passive, assertive, or aggressive? Give an example of when you used each style and discuss the result.
4. Take a few hours and watch the body language of the people in your workplace or personal life. Pay careful attention, really being aware of body language. What was the situation? What kinds of body language did they show?

## 2. MANAGEMENT STYLES

## LEARNING OBJECTIVES

1. Define the various types of management styles.
2. Explain how we can determine which style to use in a variety of situations.

Management style ties in very closely with communication style. There isn't necessarily one management style that is better than another; they are simply different and might be used in a variety of situations. HR managers can provide training on each of these areas since management style impacts the ability and motivation of employees to do their jobs. This is addressed in Chapter 7.

### Fortune 500 Focus

One of the most famous *Fortune 500* management styles is the GE Way, which has been discussed in numerous books and articles. In fact, GE has traditionally been the recruiting ground for other companies' CEO searches. When Jack Welch, the famous GE CEO known for several books on his management style, including *Winning*, retired and was replaced, it took less than a week for the two runners-up for his job to be offered jobs at other *Fortune 500* companies. Home Depot recruited Robert Nardella and 3M recruited W. James

McNearney.<sup>[7]</sup> However, the command-and-control management style responsible for the success of GE did not work out well for several former GE executives. Command-and-control style is based on military management. The idea is to get people to do what you tell them to do, and if they don't, there are major penalties, similar to an autocratic style. Many say that Nardellia was unsuccessful at Home Depot because of this ingrained management style learned at GE.<sup>[8]</sup> For example, Nardellia insisted that shelves be stocked during off hours, and he instituted formal inventory control. Unfortunately, he didn't understand most employees were not looking to rise within the organization, so the extra work didn't provide any upside for the individuals, causing high turnover. An autocratic style may work well in some organizations, well enough for numerous books to be written, but management style isn't always transferable to other organizations, as Nardellia found out at Home Depot.

Management styles are one of the most challenging topics we can deal with in a work setting. Everyone is different; everyone has a preference for which style motivates them the best in a variety of situations. Often-times managers make the mistake of using the same style for everyone, regardless of ability or motivation. In this section, we will discuss some of the main management styles and how to know which one to use in a specific situation.

## 2.1 Task Style versus People-Centered Style

When we look at the styles of management, we see that most styles fall into one of two categories, a task-oriented management style or a people-centered style.

A manager with a **task-oriented style** will focus on the technical or task aspects of the job. The concern for this manager is that employees know what is expected of them and have the tools needed to do their job.

A **people-oriented style** is more concerned with the relationships in the workplace. The manager emphasizes the interpersonal relations, as opposed to the task. The manager is most concerned about the welfare of the employee and tends to be friendly and trusting.

Understanding these two main differences in management style, we will now look at other possible styles a manager might use.

## 2.2 Participatory, Directing, or Teamwork Styles

Utilization of a **participatory management style** involves both a task-oriented style and a people-centered style. This style emphasizes how the employee's assigned task fits into the bigger picture. This style will provide support and input where needed. As a result, the focus is on the task but also on the person and the relationships required to get the task done. This style might be used when the employees are experienced and the deadlines reasonable enough to provide the time needed to focus both on the task and the person. If more hands-on management is required,<sup>[9]</sup> a **directing management style** might be appropriate. Consider a very tight deadline or an emergency situation in which someone needs to be calling the shots. For example, in your doggie treats business, you just received an order for one hundred dog cookies by later this afternoon. You might consider using a directing style to make sure it gets done on time. This style doesn't focus on the person, but rather focuses on getting the task done; hence it tends to be more of a task-oriented style.

A manager who uses a **teamwork management style** believes there is a value (or necessity) in having people work in teams. As a result, this style tends to require a people-centered approach. Relationships are most important, and assuming the individuals work well together, the task will be successfully accomplished. The advantage to this style, given the type of task and situation, is that as a manager you are able to pool resources and abilities from several different people. Use of a team style can also provide big benefits for the company. For example, Google uses a teamwork approach it calls "**grouplets**." Google believes that individuals should be able to spend time on something that interests them and is also company related. Engineers at Google spend 20 percent of their time on this endeavor. As a result, grouplets are formed, and the grouplet works on their idea with no specific budget. Some of the best ideas from Google have come through this teamwork process. Gmail, in fact, was developed using a grouplet.<sup>[10]</sup>

### task-oriented style

A management style that tends to focus on the details of what must get done.

### people-oriented style

A management style mostly concerned with the interpersonal relationships within the organization.

### participatory management style

A management style that focuses on task-centered and people-oriented styles. This style is supportive.

### directing management style

A management style in which the manager tends to direct rather than allow for feedback.

### teamwork management style

A highly people-centered approach to management in which relationships are most important.

### grouplets

A specific teamwork management style approach used by many organizations.

## 2.3 Autocratic, Participative, and Free-Reign Styles

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An **autocratic style** of management involves the task-oriented style. The focus is on getting things done, and relationships are secondary. This type of manager tends to tell people what to do and takes a “my way or the highway” approach. Another description for this type of manager is a taskmaster. This person uses his or her authority and makes all the decisions as to who does what, how it is done, and when it should get done.

On the other hand, a **participative style** constantly seeks input from the employees. Setting goals, making plans, and determining objectives are viewed as a group effort, rather than the manager making all the decisions.

At the other extreme, a **free-rein style** gives employees total freedom to make decisions on how things will get done. The manager may establish a few objectives, but the employees can decide how those objectives are met. In other words, the leader tends to be removed from the day-to-day activities but is available to help employees deal with any situation that may come up.

## 2.4 Path Goal Model for Leadership

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The path goal theory says that the role of a leader is to define goals and lay down the path for the employees to meet those goals. Aspects include clarification of the task and scope of the process. Clarification of the employee’s role and clarification around how the success of the task will be measured are key aspects in this model. The leader also is involved in guidance and coaching surrounding the goal and removes obstacles for employees that might affect the completion of the task. The path goal theory says that if employees are satisfied by the leadership style, they will be motivated toward the goals of leadership. Part of the model also stresses that the skills, experience, and environmental contingencies of the job play a role in the success of the leader.

### **autocratic style**

A management style that takes a task-only focus and tends to make most of the decisions for the department.

### **participative style**

A management style that seeks input from employees.

### **free-rein style**

A management style that gives employees freedom to make decisions.

FIGURE 9.4 Path Goal Model for Leadership



## 2.5 Applying Management Styles

It is great to talk about management style, but application of that management style, especially in an HR environment, is just as important as knowing the management styles. In this section, we will discuss how and when you might use each style when managing people.

Another way we can view leadership is through the **situational leadership model**.<sup>[11]</sup> This model, developed by Ken Blanchard (author of the *One Minute Manager* series of books), does a good job explaining how we might use one type of management style versus another.

The model looks at three areas: the relationship behavior of the manager, the task behavior of the manager, and the readiness of employees. The relationship behavior means how supportive the manager needs to be in helping employees. Task behavior refers to the type of style the manager should use when managing employees, based on their readiness level. Readiness includes the willingness and skills to perform the task at hand. Depending on where the employees fall in each of these areas, you might use a different management style:

- D4—High Competence, High Commitment—Experienced at the job and comfortable with their own ability to do it well. May even be more skilled than the leader.
- D3—High Competence, Variable Commitment—Experienced and capable, but may lack the confidence to go it alone or the motivation to do it well/quickly.

### situational leadership model

A method of viewing the application of management styles, as developed by Ken Blanchard.

- D2—Some Competence, Low Commitment—May have some relevant skills but won't be able to do the job without help. The task or the situation may be new to them.
- D1—Low Competence, High Commitment—Generally lacking the specific skills required for the job at hand but has the confidence and/or motivation to tackle it.

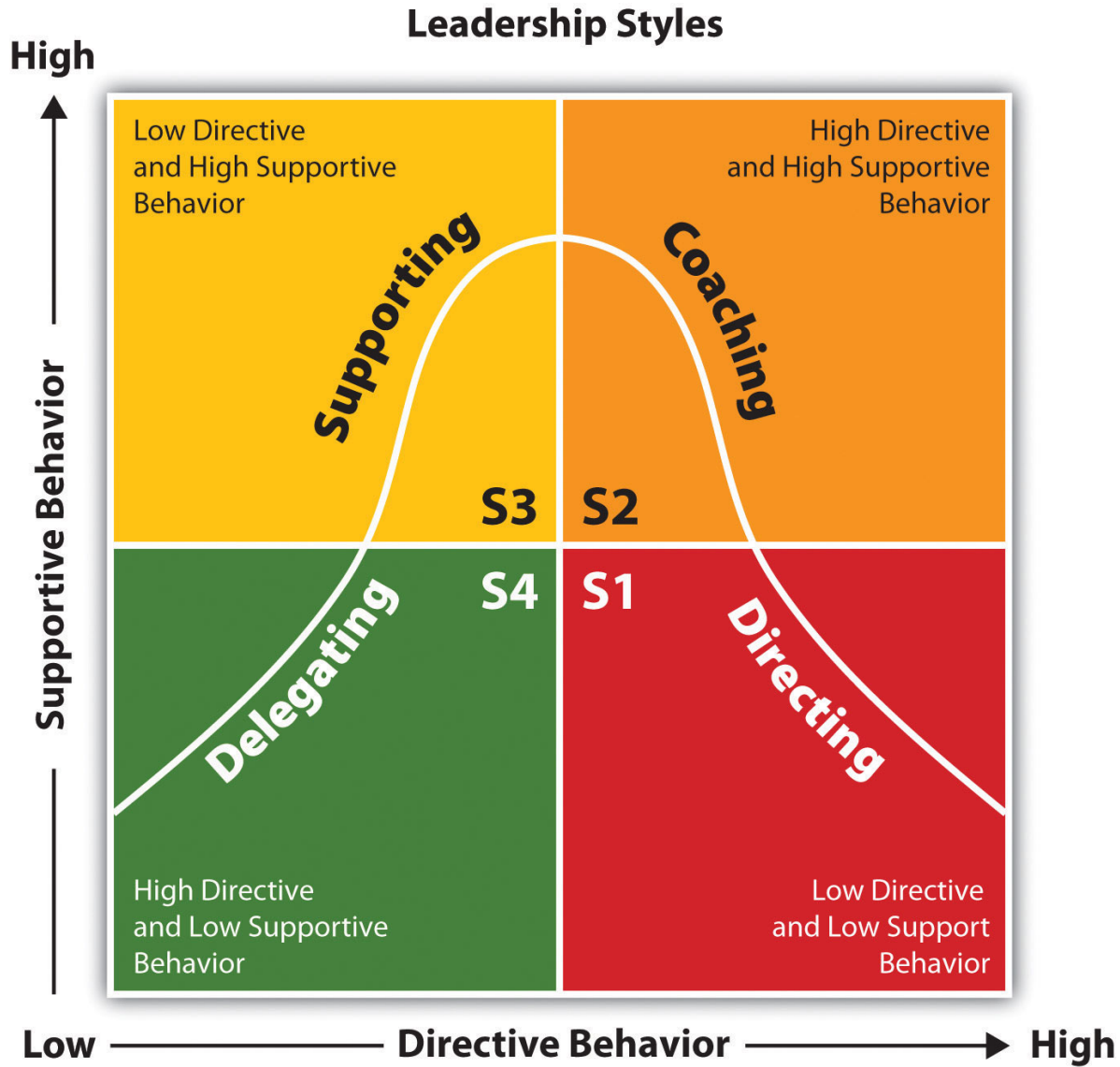
Based on the readiness and commitment of the employee, the leader can see what management style and level of support the employee should experience.<sup>[12]</sup>

- S1—Telling/Directing—High task focus, low relationship focus—Leaders define the roles and tasks of the “follower” and supervise them closely. Decisions are made by the leader and announced, so communication is largely one way. This style can be used with people who lack competence but are enthusiastic and committed and who need direction and supervision to get them started.
- S2—Selling/Coaching—High task focus, high relationship focus—Leaders still define roles and tasks but seek ideas and suggestions from the follower. Decisions remain the leader's prerogative, but communication is much more two-way. This approach can be used with people who have some competence but lack commitment and who need direction and supervision because they are still relatively inexperienced. These individuals may also need support and praise to build their self-esteem and involvement in decision making to restore their commitment.
- S3—Participating/Supporting—Low task focus, high relationship focus—Leaders pass day-to-day decisions, such as task allocation and processes, to the follower. The leader facilitates and takes part in decisions, but control is given to the follower. This style can be used with people who have the necessary competence but lack confidence or motivation. These individuals may need little direction because of their skills, but support is necessary to bolster their confidence and motivation.
- S4—Delegating—Low task focus, low relationship focus—Leaders are still involved in decisions and problem solving, but control is with the follower. The follower decides when and how the leader will be involved. This style would work with people who have both competence and commitment and who are able and willing to work on a project by themselves with little supervision or support.

The bottom line when discussing management style is that no one style works best in all situations. We may be more comfortable with one style versus another, but we need to change our management style depending on the person and task we are working with. For example, if you have an employee who is brand new, you will likely work with that person using a more directive style. As she develops, you might change to a participative style. Likewise, someone who does good work and has lots of experience may prefer a free-rein style. Many managers make the mistake of trying to use the same style with every person in every situation. To be a great manager, we must change our styles based on the situation and the individual involved.



FIGURE 9.5 Blanchard’s Situational Leadership Model



Developed ← ————— → Developing  
**Development Level of the Individual**

How does this relate to human resources? First, in HR, we are the “go to” people when there are communication issues or issues between management and employees. By understanding these styles ourselves, it will be easier to communicate with and provide solutions for the people we work with. We might even be able to use this information to develop management training, which can result in better communication and higher productivity.

## Human Resource Recall

What kind of management style does your supervisor use? Is it effective?



### The Three Types of Bad Managers

This video discusses several ways to deal with a poor manager.



View the video online at: <http://www.youtube.com/v/uW6oJ988OJ8>

## KEY TAKEAWAYS

- Just like in communication, a different management style should be used depending on the employee.
- *Task styles* focus on getting the job done, while *people-centered styles* focus on relationships.
- A *participatory* style involves both task-oriented and people-centered styles. A *directing style* is focused on the task and doesn't allow for employee participation. A *teamwork style* focuses on teamwork and is a people-oriented style. The advantage of this style is the ability to use strengths from everyone on the team.
- An *autocratic* style doesn't allow much room for employee decision making; the focus is on getting the task done. A *participative* style constantly requires input from employees. The *free-rein* style gives employees freedom to make decisions on how things will get done.
- The *situational leadership model*, which looks at relationship behavior, task behavior, and the readiness of employees, is used to recommend different management styles.
- No one management style works in all situations. Just like with communication, you will likely want to vary your approach based on the situation to get the best results.

## EXERCISES

1. Why is it important to understand management style if you are an HR professional or manager? Discuss at least three points.
2. What combinations of management style might you use in each of these situations and why?
  - a. You are considering a major change in the way your company does business. Your staff has an excellent record of achieving goals, and your relationship with them is trusting and supportive.
  - b. Your employees do a great job. A situation has developed in which you need to make quick decisions and finish a project by the end of the week.
  - c. Your employees are having trouble getting the job done. Their performance as a whole is less than expected.
  - d. You have an employee who is very motivated but has little experience.

## 3. CASES AND PROBLEMS

### Chapter Summary

- *Emotional intelligence* can be improved over time, unlike IQ, which stays stable throughout life.
- Emotional intelligence includes knowing and managing your emotions, motivating yourself, recognizing and understanding other people's emotions, and managing relationships.
- There are four types of communication at work: *downward*, *upward*, *horizontal*, and *diagonal*. All types of communication can happen at once, especially with the use of blogs and social networking sites.
- Companies that use good communication tend to have less turnover and less absenteeism.
- There are four main types of communication styles: *expresser*, *driver*, *relater*, and *analytical*. The better we can understand our own style of communication and the communication styles of others, the easier it will be to communicate with them.
- Passive, aggressive, and passive-aggressive behaviors are not healthy ways of communicating. Assertive behavior, on the other hand, respects one's own rights and the rights of others.
- *Nonverbal communication* is one of the most important tools we can use to communicate how we feel. Watching others' body language can give us signals as to how they may really feel.
- Just like in communication, a different management style should be used depending on the employee.
- Task styles focus on getting the job done, while people-centered styles focus on relationships.
- A *participatory style* involves both task-oriented and people-centered styles. A *directing style* is focused on the task and doesn't allow for employee participation. A teamwork style focuses on teamwork and is a people-oriented style. The advantage of this style is the ability to use strengths from everyone on the team.
- An *autocratic style* doesn't allow much room for employee decision making; the focus is on getting the task done. A *participative style* constantly requires input from employees. The *free-rein style* gives employees freedom to make decisions on how things will get done.
- The *situational leadership model*, which looks at relationship behavior, task behavior, and the readiness of employees, is used to recommend different management styles.
- No one management style works in all situations. Just like with communication, you will likely want to vary your approach based on the situation to get the best results.

### Summary

The author provides a video summary of the chapter.



View the video online at: <http://app.wistia.com/embed/medias/0d394b7729>

### Chapter Case

#### Management Style, Applied

You recently completely overhauled several aspects of employee benefits, including health insurance and compensation packages. You have also developed clear succession plans and career development plans to assist in the retention of your current employees. You are pretty excited about the changes and feel they are better for the employees, while costing your organization less money. These plans came from your development of a strategic plan and goals set last year. You think these plans will result in lower turnover.

However, in four recent exit interviews, the former employees mentioned the lack of communication from your department on the changes you made. They said they did not feel well informed and are disappointed they were not notified. In addition, they complained of micromanagement on the part of two particular managers. They said they spend half of their day responding to their managers with project updates, instead of working on the projects themselves. As you begin to think about these exit interviews, you realize that development of the strategic plan and implementing it simply isn't enough; you must communicate the changes to employees as well. You also have a bit of concern about the management styles mentioned and think it might be a good time to offer training on effective management to your entire company.

1. Using concepts from this chapter and other HRM chapters, develop an outline for a training program on effective management.
2. Discuss some of the ways you can communicate the following topics to the employees: changes to benefits, training opportunities, compensation plans, and succession plans.

### **Team Activity**

1. In groups of three to five, prepare a presentation you could give to a team of managers on management style and communication. In your presentation, address how management style affects employee retention.

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## CHAPTER 10

# Managing Employee Performance

### A DILEMMA

You have been the store manager for a large coffee shop for three years but have never had this type of problem employee to handle before, and you schedule a meeting to speak with your HR manager about it. Jake, one of your best employees, has recently begun to have some problems. He is showing up to work late at least twice per week, and he missed the mandatory employee meeting on Saturday morning. When you ask him about it, he says that he is having some personal problems and will try to get better.

For a bit of time, Jake does get better, comes to work on time, and is his normal, pleasant self when helping customers. However, the situation gets more serious two weeks later when Jake comes to work smelling of alcohol and wearing the same clothes he wore to work the day before. You overhear some of the employees talking about Jake's drinking problem. You pull Jake aside and ask him what is happening. He says his wife kicked him out of the house last night and he stayed with a friend, but he didn't have time to gather any of his belongings when he left his house. You accept his answer and hope that things will get better.

A week later, when Jake arrives for his 10–7 shift, he is obviously drunk. He is talking and laughing loudly, smells of alcohol, and has a hard time standing up. You pull him aside and decide to have a serious talk with him. You confront him about his drinking problem, but he denies it, saying he isn't drunk, just tired from everything happening with his wife. You point out the smell and the inability to stand up, and Jake starts crying and says he quit drinking ten years ago but has recently started again with his impending divorce. He begs for you to give him another chance and promises to stop drinking. You tell him you will think about it, but in the meantime, you send him home.

The meeting with HR is this afternoon and you feel nervous. You want to do what is right for Jake, but you also know this kind of disruptive behavior can't continue. You like Jake as a person and he is normally a good employee, so you don't want to fire him. When you meet with the HR manager, he discusses your options. The options, he says, are based on a discipline process developed by HR, and the process helps to ensure that the firing of an employee is both legal and fair. As you review the process, you realize that ignoring the behavior early on has an effect on what you can do now. Since you didn't warn Jake earlier, you must formally document his behavior before you can make any decision to let him go. You hope that Jake can improve so it doesn't come down to that.



## Managing Employee Performance

The author introduces the chapter on employee performance.



View the video online at: <http://app.wistia.com/embed/medias/f11b504dfa>

## 1. HANDLING PERFORMANCE

### LEARNING OBJECTIVES

1. Explain the types of performance issues that occur in the workplace, and the internal and external reasons for poor performance.
2. Understand how to develop a process for handling employee performance issues.
3. Be able to discuss considerations for initiating layoffs or downsizing.

As you know from reading this book so far, the time and money investment in a new employee is overwhelming. The cost to select, hire, and train a new employee is staggering. But what if that new employee isn't working out? This next section will provide some examples of performance issues and examples of processes to handle these types of employee problems.

### 1.1 Types of Performance Issues

One of the most difficult parts of managing others isn't when they are doing a great job—it is when they aren't doing a good job. In this section, we will address some examples of performance issues and how to handle them.

1. **Constantly late or leaves early.** While we know that flexible schedules can provide a work-life balance, managing this flexible schedule is key. Some employees may take advantage and, instead of working at home, perform nonwork-related tasks instead.
2. **Too much time spent doing personal things at work.** Most companies have a policy about using a computer or phone for personal use. For most companies, some personal use is fine, but it can become a problem if someone doesn't know where to draw the line.
3. **Inability to handle proprietary information.** Many companies handle important client and patient information. The ability to keep this information private for the protection of others is important to the success of the company.
4. **Family issues.** Child-care issues, divorce, or other family challenges can cause absenteeism, but also poor work quality. Absenteeism is defined as a habitual pattern of not being at work.
5. **Drug and alcohol abuse.** The US Department of Labor says that 40 percent of industrial fatalities and 47 percent of industrial injury can be tied to alcohol consumption. The US Department of Labor estimates that employees who use substances are 25–30 percent less productive and miss work three times more often than nonabusing employees.<sup>[1]</sup> Please keep in mind that when we talk about substance abuse, we are talking about not only illegal drugs but prescription drug abuse as well. In fact, the National Institute on Drug Abuse says that 15.2 million Americans have taken a prescription pain reliever, tranquilizer, or sedative for nonmedical purposes at least



once.<sup>[2]</sup> Substance abuse can cause obvious problems, such as tardiness, absenteeism, and nonperformance, but it can also result in accidents or other more serious issues.

6. **Nonperforming.** Sometimes employees are just not performing at their peak. Some causes may include family or personal issues, but oftentimes it can mean motivational issues or lack of tools and/or ability to do their current job.
7. **Conflicts with management or other employees.** While it is normal to have the occasional conflict at work, some employees seem to have more than the average owing to personality issues. Of course, this affects an organization's productivity.
8. **Theft.** The numbers surrounding employee theft are staggering. The American Marketing Association estimates \$10 billion is lost annually owing to employee theft, while the FBI estimates up to \$150 billion annually.<sup>[3]</sup> Obviously, this is a serious employee problem that must be addressed.
9. **Ethical breaches.** The most commonly reported ethical breaches by employees include lying, withholding information, abusive behavior, and misreporting time or hours worked, according to a National Business Ethics study.<sup>[4]</sup> Sharing certain proprietary information when it is against company policy and violating noncompete agreements are also considered ethical violations. Many companies also have a nonfraternization policy that restricts managers from socializing with nonmanagement employees.
10. **Harassment.** Engagement of sexual harassment, bullying, or other types of harassment would be considered an issue to be dealt with immediately and, depending on the severity, may result in immediate termination.
11. **Employee conduct outside the workplace.** Speaking poorly of the organization on blogs or Facebook is an example of conduct occurring outside the workplace that could violate company policy. Violating specific company policies outside work could also result in termination. For example, in 2010, thirteen Virgin Atlantic employees were fired after posting criticisms about customers and joking about the lack of safety on Virgin airplanes in a public Facebook group.<sup>[5]</sup> In another example, an NFL Indianapolis Colts cheerleader was fired after racy Playboy promotional photos surfaced (before she became a cheerleader) that showed her wearing only body paint.<sup>[6]</sup>

While certainly not exhaustive, this list provides some insight into the types of problems that may be experienced. As you can see, some of these problems are more serious than others. Some issues may only require a warning, while some may require immediate dismissal. As an HR professional, it is your job to develop policies and procedures for dealing with such problems. Let's discuss these next.

### Fortune 500 Focus

To handle attendance problems at many organizations, a no-fault attendance plan is put into place. In this type of plan, employees are allowed a certain number of absences; when they exceed that number, a progressive discipline process begins and might result in dismissal of the employee. A no-fault attendance policy means there are no excused or unexcused absences, and all absences count against an employee. For example, a company might give one point for an absence that is called in the night before work, a half point for a tardy, and two points for a no-call and no-show absence. When an employee reaches a certain number determined by the company, he or she is disciplined. This type of policy is advantageous in industries in which unplanned absences have a direct effect on productivity, such as manufacturing and production. Another advantage is that managers do not need to make judgment calls on what is an excused versus an unexcused absence, and this can result in fairness to all employees.

One such company with a no-fault attendance policy is Verizon Communications. However, the Equal Employment Opportunity Commission (EEOC) investigated this policy and announced that Verizon will pay \$20 million to resolve a disability discrimination lawsuit.<sup>[7]</sup> The lawsuit said that the company, through use of the no-fault attendance policy, denied reasonable accommodations required by the Americans with Disabilities Act (ADA). As a result, hundreds of Verizon employees were disciplined or fired. In this case, the EEOC cites paid or unpaid leave as one way for an employer to provide reasonable accommodations for an employee with a disability. The policy specified there would be no exceptions made to the no-fault attendance policy to accommodate employees with ADA disabilities. When discussing the case, the EEOC chair justified the agency's position by saying, "Flexibility on leave can enable a worker with a disability to remain employed and productive, a win for the worker, employer, and the economy. By contrast, an inflexible leave policy may deny workers with disabilities a reasonable accommodation."<sup>[8]</sup> Part of the settlement also involved additional training to Verizon employees on ADA and how to administer the attendance plan. This successful lawsuit shows that even the most seemingly clear performance expectations must be flexible to meet legal obligations.

## Human Resource Recall

What would you do if you saw a coworker taking a box of pens home from the office?

### 1.2 What Influences Performance?

When an employee isn't performing as expected, it can be very disappointing. When you consider the amount of time it takes to recruit, hire, and train someone, it can be disappointing to find that a person has performance issues. Sometimes performance issues can be related to something personal, such as drug or alcohol abuse, but often it is a combination of factors. Some of these factors can be internal while others may be external. Internal factors may include the following:

1. Career goals are not being met with the job.
2. There is conflict with other employees or the manager.
3. The goals or expectations are not in line with the employee's abilities.
4. The employee views unfairness in the workplace.
5. The employee manages time poorly.
6. The employee is dissatisfied with the job.

Some of the external factors may include the following:

1. The employee doesn't have correct equipment or tools to perform the job.
2. The job design is incorrect.
3. External motivation factors are absent.
4. There is a lack of management support.
5. The employee's skills and job are mismatched.

All the internal reasons speak to the importance once again of hiring the right person to begin with. The external reasons may be something that can be easily addressed and fixed. Whether the reason is internal or external, performance issues must be handled in a timely manner. This is addressed in Section 1. We discuss performance issues in greater detail in Chapter 11.

### 1.3 Defining Discipline

If an employee is not meeting the expectations, discipline might need to occur. **Discipline** is defined as the process that corrects undesirable behavior. The goal of a discipline process shouldn't necessarily be to punish, but to help the employee meet performance expectations. Often supervisors choose not to apply discipline procedures because they have not documented past employee actions or did not want to take the time to handle the situation. When this occurs, the organization lacks consistency among managers, possibility resulting in motivational issues for other employees and loss of productivity.

To have an effective discipline process, rules and policies need to be in place and communicated so all employees know the expectations. Here are some guidelines on creation of rules and organizational policies:

1. All rules or procedures should be in a written document.
2. Rules should be related to safety and productivity of the organization.
3. Rules should be written clearly, so no ambiguity occurs between different managers.
4. Supervisors, managers, and human resources should communicate rules clearly in orientation, training, and via other methods.
5. Rules should be revised periodically, as the organization's needs change.

Of course, there is a balance between too many "rules" and giving employees freedom to do their work. However, the point of written rules is to maintain consistency. Suppose, for example, you have a manager in operations and a manager in marketing. They both lead with a different style; the operations manager has a more rigid management style, while the marketing manager uses more of a laissez-faire approach. Suppose one employee in each of the areas is constantly late to work. The marketing manager may not do anything about it, while the operations manager may decide each tardy day merits a "write-up," and after three write-ups, the employee is let go. See how lack of consistency might be a problem? If this employee is let go, he or she might be able to successfully file a lawsuit for wrongful termination, since another employee with the same performance issue was not let go. **Wrongful**

#### discipline

The process that corrects undesirable behavior.

#### wrongful termination

When an employer has fired or laid off an employee for illegal reasons, such as violation of antidiscrimination laws or violation of oral and/or written employee agreements.

**termination** means an employer has fired or laid off an employee for illegal reasons, such as violation of antidiscrimination laws or violation of oral and/or written employee agreements. To avoid such situations, a consistent approach to managing employee performance is a crucial part of the human resources job.

## 1.4 The Role of the Performance Appraisal in Discipline

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Besides the written rules, each individual job analysis should have rules and policies that apply to that specific job. We discuss performance appraisal in further detail in Chapter 11, but it is worth a mention here as well. The performance appraisal is a systematic process to evaluate employees on (at least) an annual basis. The organization's performance appraisal and general rules and policies should be the tools that measure the employee's overall performance. If an employee breaks the rules or does not meet expectations of the performance appraisal, the performance issue model, which we will discuss next, can be used to correct the behavior.

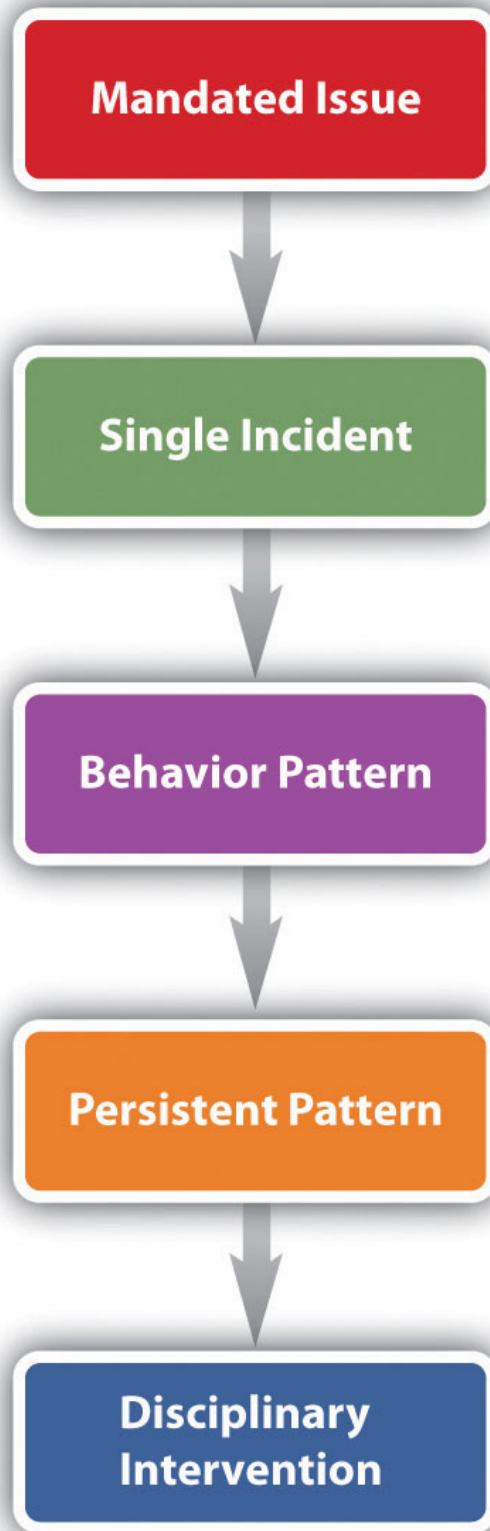
## 1.5 Performance Issue Model

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Because of the many varieties of performance issues, we will not discuss how to handle each type in detail here. Instead, we present a model that can be used to develop policies around performance, for fairness and consistency.

We can view performance issues in one of five areas. First, the mandated issue is serious and must be addressed immediately. Usually, the mandated issue is one that goes beyond the company and could be a law. Examples of mandated issues might include an employee sharing information that violates privacy laws, not following safety procedures, or engaging in sexual harassment. For example, let's say a hospital employee posts something on his Facebook page that violates patient privacy. This would be considered a mandated issue (to not violate privacy laws) and could put the hospital in serious trouble. These types of issues need to be handled swiftly. A written policy detailing how this type of issue would be handled is crucial. In our example above, the policy may state that the employee is immediately fired for this type of violation. Or, it may mean this employee is required to go through privacy training again and is given a written warning. Whatever the result, developing a policy on how mandated issues will be handled is important for consistency.

The second performance issue can be called a single incident. Perhaps the employee misspeaks and insults some colleagues or perhaps he or she was over budget or late on a project. These types of incidents are usually best solved with a casual conversation to let the employee know what he or she did wasn't appropriate. Consider this type of misstep a development opportunity for your employee. Coaching and working with the employee on this issue can be the best way to nip this problem before it gets worse.

**FIGURE 10.1** The Process for Handling Performance Issues

Often when single incidents are not immediately corrected, they can evolve into a behavior pattern, which is our third type of performance issue. This can occur when the employee doesn't think the incident is a big deal because he hasn't been correct before or may not even realize he is doing something wrong. In this case, it's important to talk with the employee and let him know what is expected.

If the employee has been corrected for a behavior pattern but continues to exhibit the same behavior, we call this a persistent pattern. Often you see employees correct the problem after an initial

discussion but then fall back into old habits. If they do not self-correct, it could be they do not have the training or the skills to perform the job. In this phase of handling performance issues, it is important to let the employee know that the problem is serious and further action will be taken if it continues. If you believe the employee just doesn't have the skills or knowledge to perform the job, asking him or her about this could be helpful to getting to the root of the problem as well. If the employee continues to be nonperforming, you may consider utilizing the progressive discipline process before initiating an employee separation. However, investigating the performance issue should occur before implementing any sort of discipline.

## 1.6 Investigation of Performance Issues

When an employee is having a performance issue, often it is our responsibility as HR professionals to investigate the situation. Training managers on how to document performance failings is the first step in this process. Proper documentation is necessary should the employee need to be terminated later for the performance issue. The documentation should include the following information:

1. Date of incident
2. Time of incident
3. Location (if applicable) of incident
4. A description of the performance issue
5. Notes on the discussion with the employee on the performance issue
6. An improvement plan, if necessary
7. Next steps, should the employee commit the same infraction
8. Signatures from both the manager and employee

With this proper documentation, the employee and the manager will clearly know the next steps that will be taken should the employee commit the infraction in the future. Once the issue has been documented, the manager and employee should meet about the infraction. This type of meeting is called an **investigative interview** and is used to make sure the employee is fully aware of the discipline issue. This also allows the employee the opportunity to explain his or her side of the story. These types of meetings should always be conducted in private, never in the presence of other employees.

In unionized organizations, however, the employee is entitled to union representation at the investigative interview. This union representation is normally called **interest based bargaining**<sup>[9]</sup> referring to a National Labor Relations Board case that went to the United States Supreme Court in 1975. Recently, Weingarten rights continued to be protected when Alonso and Carus Ironworks was ordered to cease and desist from threatening union representatives who attempted to represent an employee during an investigative interview.<sup>[10]</sup>

## 1.7 Options for Handling Performance Issues

Our last phase of dealing with employee problems would be a disciplinary intervention. Often this is called the **progressive discipline process**. It refers to a series of steps taking corrective action on nonperformance issues. The progressive discipline process is useful if the offense is not serious and does not demand immediate dismissal, such as employee theft. The progressive discipline process should be documented and applied to all employees committing the same offenses. The steps in progressive discipline normally are the following:

1. First offense: Unofficial verbal warning. Counseling and restatement of expectations.
2. Second offense: Official written warning, documented in employee file.
3. Third offense: Second official warning. Improvement plan (discussed later) may be developed. Documented in employee file.
4. Fourth offense: Possible suspension or other punishment, documented in employee file.
5. Fifth offense: Termination and/or alternative dispute resolution.

### University of Iowa's Progressive Discipline Process

The chart below shows the typical progressive discipline process at the University of Iowa:

#### investigative interview

When a discipline procedure takes place, the interview with the employee is used to make sure the employee is fully aware of the discipline issue and allows the employee the opportunity to explain his or her side of the story.

#### interest based bargaining

A type of bargaining, mutual interests are brought up and discussed, rather than each party coming to the table with a list of demands.

#### progressive discipline process

Refers to a series of steps taking corrective action on nonperformance issues.

<p><b>Counseling and Restatement of Expectations</b></p>	<p><b>Counseling and Restatement of Expectations</b> Counseling by the immediate supervisor is the initial step to mentor or coach performance.</p> <ul style="list-style-type: none"> <li>• Meet with the staff member and affirm expectations regarding performance.</li> <li>• Discuss the performance deficit or behavioral concern.</li> <li>• Provide a timeline and resources for improvement.</li> <li>• Report consequences for no improvement.</li> <li>• Document for an anecdotal file.</li> </ul>
<p><b>Written Reprimand</b></p>	<p><b>Written Reprimand</b> At this time, the immediate supervisor may want to consult a Human Resources representative. After an investigation, follow the procedure outlined above for the counseling process, with the exception of providing documentation to the employee in a letter of reprimand. The letter should outline previous informal efforts and the current problem. Send copies of the signed letter to the department personnel file, proper University authority, and the respective Union, if applicable.</p>
<p><b>Short Suspension (or Equivalent)*</b></p> <p><b>Long Suspension (or Equivalent)*</b></p>	<p><b>Suspension or Equivalent</b> Fully investigate the concern, followed by discussion with the employee. Summarize previous progressive discipline and the current problem, and specify the timeframe for suspension in writing. Identify further discipline and possible termination as a potential consequence for not meeting and maintaining standards for improvement. Provide copies as for the written reprimand.</p>
<p><b>Termination</b></p>	<p><b>Termination</b> Termination may be necessary when discipline is not successful in improving performance. Review the work history and record of progressive discipline with proper University authority. Schedule a final meeting with the employee and conduct a meeting at which a letter of termination is provided. If necessary, the termination notice may be sent via certified mail. Provide copies as for previous disciplinary measures.</p>

**\*Salary reduction cannot be imposed on professional and scientific and faculty staff, due to union contracts**

### The Seven Tests of Just Cause

The seven test[s] of just cause represent a practical and effective way to determine whether a proposed disciplinary action is firmly and fairly grounded. It is fair to assume that these tests will be applied by arbitrators in the event that disciplinary actions are challenged, and it is therefore good practice to apply them prospectively when considering the imposition of progressive discipline.

#### Seven tests:

##### 1. Notice

- Prior to imposition of discipline, employee must have notice of rules and expectations.
- Establish through:
  - New employee orientation
    - Orientation checklists
    - Receipts for departmental handbooks
- Periodic reinforcement/coaching

##### 2. Reasonable Rules and Orders

- Cannot be inconsistent with collective bargaining agreement(s)
- Cannot be arbitrary or capricious
- Must be reasonably related to business necessity

### 3. Investigation

- Must be thorough; consider all evidence, pro and con.
- Must be timely:
  - Should be completed expeditiously
  - Occurs before discipline imposed
- Give accused opportunity to respond (*Loudermill* hearing).
- Allow union representation (*Weingarten* rights).

### 4. Fair Investigation

- Result must not be forgone conclusion.
- Test assumptions/bias.

### 5. Proof

- Level of proof is normally substantial evidence.
- Greater proof required for more serious allegations.

### 6. Equal Treatment

Equal treatment must be balanced against just application:

- Rules must be applied even-handedly and without discrimination.
- Rules must be applied justly.
- ***Don't blindly apply the same rule to all situations—managers/supervisors are expected to exercise judgment.***

### 7. Penalty

- Must be fair, not arbitrary and capricious, or based on emotional response.
- Factor in length of service, prior performance history, and previous progressive discipline.

Source: Reprinted from the University of Iowa's Office of the Vice President for Research, <http://research.uiowa.edu/pimgr/?get=discipline> and <http://research.uiowa.edu/pimgr/?get=7steps> (accessed September 15, 2011).

Another option for handling continued infractions is to consider putting the employee on an improvement plan, which outlines the expectations and steps the employee should take to improve performance. We address this in greater detail in Chapter 11. The plan is detailed and outlined and ensures both parties understand the specific expectations for improvement. If the improvement plan does not work, a progressive discipline process might be used.



### Sample of a Performance Improvement Plan

#### Sample Performance Improvement Plan

This email is written as a [30/60/90] Day Performance Improvement Plan designed to focus your attention on substantially improving your performance in several key areas.

As was discussed in your most recent performance review dated \_\_\_\_\_, your performance has been unsatisfactory in several aspects:

1. (list here)
- 2.
- 3.
- 4.
- 5.

This being the case, I have outlined the following Performance Improvement Plan which sets forth objectives that you must accomplish in order to bring your performance up to minimal acceptable standards. The plan is as follows:

- 1.
- 2.
- 3.
- 4.
- 5.

You have [30/60/90] days from today to meet these objectives. I will meet with you twice over the next [30/60/90] days to discuss your progress. Our first meeting will be on \_\_\_\_\_ at \_\_\_\_\_ and the second meeting will be on \_\_\_\_\_ at \_\_\_\_\_. Both meetings will be in my office.

It is your responsibility to contact me at anytime during this time period regarding your performance and to seek assistance in removing roadblock(s) you may come up against which may impede your progress.

In addition to meeting the specific objectives outlined in this plan, during this [30/60/90] day period, and then thereafter on an ongoing basis, you must demonstrate a commitment to your job and to the Company's values. This commitment must be reflected by continuing to perform your job in a satisfactory fashion, and it must also include working with enthusiasm, creativity and a positive attitude.

If you fail to make the required improvement in the areas identified, you will be terminated at the end of your plan period. However, the Company reserves the right to terminate your employment during the period if it becomes clear you are not making sufficient progress, or for business reasons unrelated to your performance (e.g. misconduct, lack of work). If you make the required improvement, you must continue to perform at a satisfactory level after the performance plan period ends, or you will be terminated.

I acknowledge these performance issues and agree to participate in this Performance Improvement Plan.

\_\_\_\_\_  
Employee Name

\_\_\_\_\_  
Date

Whichever direction is taken with disciplining of the employee, documentation is key throughout the process to avoid wrongful termination issues.

## 1.8 Alternative Dispute Resolution

Another option in handling disputes, performance issues, and terminations is **alternative dispute resolution (ADR)**. This method can be effective in getting two parties to come to a resolution. In ADR, an unbiased third party looks at the facts in the case and tries to help the parties come to an agreement. In **mediation**, the third party facilitates the resolution process, but the results of the process are not binding for either party. This is different from **arbitration**, in which a person reviews the case and makes a resolution or a decision on the situation. The benefits of ADR are lower cost and flexibility, as opposed to taking the issue to court. We discuss these types of systems in greater detail in Chapter 12.

Some organizations use a **step-review system**. In this type of system, the performance issue is reviewed by consecutively higher levels of management, should there be disagreement by the employee in a discipline procedure. Some organizations also implement a **peer resolution system**. In this type of system, a committee of management and employees is formed to review employee complaints or discipline issues. In this situation, the peer review system normally involves the peer group reviewing the documentation and rendering a decision. Another type of ADR is called the **ombudsman system**. In this system, a person is selected (or elected) to be the designated individual for employees to go to should they have a complaint or an issue with a discipline procedure. In this situation, the ombudsman utilizes problem-solving approaches to resolve the issue. For example, at *National Geographic Traveler Magazine* an ombudsman handles employee complaints and issues and also customer complaints about travel companies.



### Example of Mediation in Action

This longer video shows an example of dispute mediation between two employees.



View the video online at: <http://www.youtube.com/v/LO3OMVWN8Ik>

#### alternative dispute resolution (ADR)

A third-party resolution method used in conflict with the goal to obtain a resolution that works for the two parties involved.

#### mediation

A type of ADR in which the third party facilitates the resolution process, but the results of the process are not binding for either party.

#### arbitration

A type of ADR in which a third party reviews the case and imposes a resolution.

#### step-review system

A system in which a performance issue is reviewed by consecutively higher levels of management, should there be disagreement by the employee in a discipline procedure.

#### peer resolution system

A system in which a committee of management and employees is formed to review employee complaints or discipline issues.

#### ombudsman system

A system in which a person is selected (or elected) to be the designated individual for employees to go to should they have a complaint or an issue with a discipline procedure.

#### absconding

When an employee decides to leave the organization without resigning and following the normal process.

## 1.9 Employee Separation

Employee separation can occur in any of these scenarios. First, the employee resigns and decides to leave the organization. Second, the employee is terminated for one or more of the performance issues listed previously. Lastly, **absconding** is when the employee decides to leave the organization without resigning and following the normal process. For example, if an employee simply stops showing up to work without notifying anyone of his or her departure, this would be considered absconding. Let's discuss each of these in detail. Employee separation costs can be expensive, as we learned in Chapter 7. In the second quarter in 2011, for example, Halliburton reported \$8 million in employee separation costs.<sup>[11]</sup>



## Employee Separations and Layoffs

This video shows the progressive discipline process and the termination of an employee when he continually failed to meet expectations.



View the video online at: <http://www.youtube.com/v/kt5DVFTJ3Ek>

### resignation

When an employee chooses to leave the organization.

**Resignation** means the employee chooses to leave the organization. First, if an employee resigns, normally he or she will provide the manager with a formal resignation e-mail. Then the HR professional usually schedules an exit interview, which can consist of an informal confidential discussion as to why the employee is leaving the organization. If HR thinks the issue or reasons for leaving can be fixed, he or she may discuss with the manager if the resignation will be accepted. Assuming the resignation is accepted, the employee will work with the manager to determine a plan for his or her workload. Some managers may prefer the employee leave right away and will redistribute the workload. For some jobs, it may make sense for the employee to finish the current project and then depart. This will vary from job to job, but two weeks' notice is normally the standard time for resignations.

If it is determined an employee should be terminated, different steps would be taken than in a resignation. First, documentation is necessary, which should have occurred in the progressive discipline process. Performance appraisals, performance improvement plans, and any other performance warnings the employee received should be readily available before meeting with the employee. It should be noted that the reliability and validity of performance appraisals should be checked before dismissing an employee based upon them. Questionable performance appraisals come from the real-world conditions common to rating situations, particularly because of limitations in the abilities of the raters.<sup>[12]</sup> Reliability and validity of performance appraisals are discussed in detail in Chapter 11.

### severance package

Includes pay, benefits, or other compensation to which employees are entitled upon leaving the organization.

Remember that if the discipline process is followed as outlined prior, a termination for nonperformance should never be a surprise to an employee. Normally, the manager and HR manager would meet with the employee to deliver the news. It should be delivered with compassion but be direct and to the point. Depending on previous contracts, the employee may be entitled to a severance package. A **severance package** can include pay, benefits, or other compensation for which an employee is entitled when they leave the organization. The purpose of a severance plan is to assist the employee while he or she seeks other employment. The HR professional normally develops this type of package in conjunction with the manager. Some considerations in developing a severance package (preferably before anyone is terminated) might include the following:

1. How the severance will be paid (i.e., lump sum or in x equal increments)
2. Which situations will pay a severance and which will not. For example, if an employee is terminated for violation of a sexual harassment policy, is a severance still paid?
3. A formula for how severance will be paid, based on work group, years with the organization, etc.
4. Legal documents, such as legal releases and noncompete agreements
5. How accrued vacation and/or sick leave will be paid, if at all

The last topic that we should discuss in this section is the case of an absconded employee. If an employee stops showing up to work, a good effort to contact this person should be the first priority. If after three days this person has not been reachable and has not contacted the company, it would be prudent to stop pay and seek legal help to recover any company items he or she has, such as laptops or parking passes.

Sometimes rather than dealing with individual performance issues and/or terminations, we find ourselves having to perform layoffs of several to hundreds of employees. Let's address your role in this process next.

## 1.10 Rightsizing and Layoffs

**Rightsizing** refers to the process of reducing the total size of employees, to ultimately save on costs. Downsizing ultimately means the same thing as rightsizing, but the usage of the word has changed in that rightsizing seems to define the organization's goals better, which would be to reduce staff to save money, or rightsize. When a company decides to rightsize and, ultimately, engage in layoffs, some aspects should be considered.

First, is the downturn temporary? There is nothing worse than laying people off, only to find that as business increases, you need to hire again. Second, has the organization looked at other ways to cut expenses? Perhaps cutting expenses in other areas would be advisable before choosing to lay people off. Finally, consideration should be given to offering temporary sabbaticals, voluntary retirement, or changing from a full- to part-time position. Some employees may even be willing to take a temporary pay cut to reduce costs. Organizations find they can still keep good people by looking at some alternatives that may work for the employee and the organization, even on a temporary basis.

If the company has decided the only way to reduce costs is to cut full-time employees, this is often where HR should be directly involved to ensure legal and ethical guidelines are met. Articulating the reasons for layoffs and establishing a formalized approach to layoffs is the first consideration. Before it is decided who should get cut, criteria should be developed on how these decisions will be made. Similar to how selection criteria might be developed, the development of criteria that determines which jobs will be cut makes the process of cutting more fair, albeit still difficult. Establishing the criteria ahead of time can also help avoid managers' trying to "save" certain people from their own departments. After development of criteria, the next phase would be to sit down with management and decide who does or doesn't meet the criteria and who will be laid off. At this point, before the layoffs happen, it makes sense to discuss severance packages. Usually, when an employee signs for a severance package, the employee should also sign a form (the legal department can help with this) that releases the organization from all future claims made by the employee.

After criteria have been developed, people selected, and severance packages determined, it's key to have a solid communication plan as to how the layoffs will be announced. Usually, this involves an initial e-mail to all employees, letting them know of impending layoffs. Speak with each employee separately, then announce which positions were eliminated. The important thing to remember during layoffs is keeping your employees' dignity; they did not do anything wrong to lose their job—it was just a result of circumstances.

### rightsizing

Refers to the process of reducing the total size of employees, to ultimately save on costs.



### Announcing Layoffs

We know that communicating a layoff announcement is important. This video, starring Kermit the Frog, is a good example of how not to announce layoffs—even on Sesame Street.



View the video online at: <http://www.youtube.com/v/69tFfdNTNg4>

## KEY TAKEAWAYS

- Performance issues in the workplace are common. Examples of performance issues might include constant tardiness, too much time at work handling personal issues, mishandling of proprietary information, family issues, drug and alcohol problems, nonperformance, theft, or conflicts in the workplace.
- Employees choose to leave organizations for internal and external reasons. Some of these may include a mismatch of career goals, conflict, too high expectations, time-management issues, and mismatch of job and skills.
- HR professionals should develop a set of policies that deal with performance issues in the workplace. The advantage of having such a policy is that it can eliminate *wrongful termination* legal action.
- A mandated issue is usually one that deals with safety or legal issues that go beyond the workplace. An infringement of this type of issue requires immediate attention.
- A single incident may include a misstep of the employee, and he or she should immediately be spoken with to ensure it doesn't happen again.
- A behavior pattern occurs when an employee consistently exhibits a performance issue. This type of issue should be discussed with the employee and plans taken, such as more training, to ensure it does not continue. A persistent pattern occurs when an employee consistently exhibits a performance issue and does not improve, despite HR's talking with him or her.
- At some point during the persistent pattern, disciplinary action will likely need to be taken. It is important to develop consistent procedures on how to record and handle disciplinary issues. Most employers use a *progressive discipline process* to accomplish this goal.
- Employee separation occurs in one of three ways. First, the employee *resigns* from the organization. Second, the employee is terminated for performance issues, and third, an employee *absconds*. *Absconds* means the employee abandons his or her job without submitting a formal resignation.
- In some cases, a severance package may be offered to the employee upon his or her departure from the organization.
- *Rightsizing* is a term used when an organization must cut costs through layoffs of employees. Development of criteria for layoffs, communication, and severance package discussion are all parts of this process.

## EXERCISES

1. What are some considerations before developing a severance package? What are the advantages of offering a severance package to your departing employees?
2. What are some common performance issues? What is HR's role in handling these issues?
3. What process should you use to initiate layoffs?

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## 2. EMPLOYEE RIGHTS

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## LEARNING OBJECTIVES

1. Be able to explain employee rights.
2. Define unions and explain their relation to the HRM function.

Employee rights is defined as the ability to receive fair treatment from employers. This section will discuss employee rights surrounding job protection, privacy, and unionization.

## 2.1 Job Protection Rights

If HR doesn't understand or properly manage employee rights, lawsuits are sure to follow. It is the HR professional's job to understand and protect the rights of employees. In the United States, the **employment-at-will principle (EAW)** is the right of an employer to fire an employee or an employee to leave an organization at any time, without any specific cause. The EAW principle gives both the employee and employer freedom to terminate the relationship at any time. There are three main exceptions to this principle, and whether they are accepted is up to the various states:

1. **Public policy exception.** With a **public policy exception**, an employer may not fire an employee if it would violate the individual state's doctrine or statute. For example, in *Borse v. Piece Goods Shop* in Pennsylvania, a federal circuit court of appeals ruled that Pennsylvania law may protect at-will employees from being fired for refusing to take part in drug test programs if the employee's privacy is invaded. Borse contended that the free speech provisions of the state and of the First Amendment protected the refusal to participate. Some public policy exceptions occur when an employee is fired for refusing to violate state or federal law.
2. **Implied contract exception.** In a breach of an **implied contract**, the discharged employee can prove that the employer indicated that the employee has job security. The indication does not need to be formally written, only implied. In *Wright v. Honda*, an Ohio employee was terminated but argued that the implied contract exception was relevant to the employment-at-will doctrine. She was able to prove that in orientation, Honda stressed to employees the importance of attendance and quality work. She was also able to prove that the language in the associate handbook implied job security: "the job security of each employee depends upon doing your best on your job with the spirit of cooperation." Progress reports showing professional development further solidified her case, as she had an implied contract that Honda had altered the employment-at-will doctrine through its policies and actions.
3. **Good faith and fair dealing exception.** In the **good faith and fair dealing exception**, the discharged employee contends that he was not treated fairly. This exception to the employment-at-will doctrine is less common than the first two. Examples might include firing or transferring of employees to prevent them from collecting commissions, misleading employees about promotions and pay increases, and taking extreme actions that would force the employee to quit.

### employment-at-will principle (EAW)

The right of an employer to fire an employee or an employee to leave an organization at any time, without any specific cause.

### public policy exception

An exception to employment at will, in which an employer may not fire an employee if it would violate the individual state's doctrine or statute.

### implied contract

An exception to employment at will in which the discharged employee can prove the employer indicated that the employee has job security.

### good faith and fair dealing exception

An employment-at-will exception in which the discharged employee contends that he or she was not treated fairly.



**TABLE 10.1 State's Acceptance of Employment-at-Will Exceptions**

State	Public-Policy Exception	Implied-Contract Exception	Good Faith and Fair Dealing Exception
Alabama	no	yes	yes
<b>Alaska</b>	<b>yes</b>	<b>yes</b>	<b>yes</b>
<b>Arizona</b>	<b>yes</b>	<b>yes</b>	<b>yes</b>
Arkansas	yes	yes	no
<b>California</b>	<b>yes</b>	<b>yes</b>	<b>yes</b>
Colorado	yes	yes	no
Connecticut	yes	yes	no
Delaware	yes	no	yes
District of Columbia	yes	yes	no
<i>Florida</i>	<i>no</i>	<i>no</i>	<i>no</i>
<i>Georgia</i>	<i>no</i>	<i>no</i>	<i>no</i>
Hawaii	yes	yes	no
<b>Idaho</b>	<b>yes</b>	<b>yes</b>	<b>yes</b>
Illinois	yes	yes	no
Indiana	yes	no	no
Iowa	yes	yes	no
Kansas	yes	yes	no
Kentucky	yes	yes	no
<i>Louisiana</i>	<i>no</i>	<i>no</i>	<i>no</i>
Maine	no	yes	no
Maryland	yes	yes	no
Massachusetts	yes	no	yes
Michigan	yes	yes	no
Minnesota	yes	yes	no
Mississippi	yes	yes	no
Missouri	yes	no	no
Montana	yes	no	no
Nebraska	no	yes	no
<b>Nevada</b>	<b>yes</b>	<b>yes</b>	<b>yes</b>
New Hampshire	yes	yes	no
New Jersey	yes	yes	no
New Mexico	yes	yes	no
New York	no	yes	no
North Carolina	yes	no	no
North Dakota	yes	yes	no
Ohio	yes	yes	no
Oklahoma	yes	yes	no
Oregon	yes	yes	no
Pennsylvania	yes	no	no
<i>Rhode Island</i>	<i>no</i>	<i>no</i>	<i>no</i>
South Carolina	yes	yes	No
South Dakota	yes	yes	no
<b>Bold text indicates a state with all three exceptions.</b>			
<i>Italic text indicates a state with none of the three exceptions.</i>			



State	Public-Policy Exception	Implied-Contract Exception	Good Faith and Fair Dealing Exception
Tennessee	yes	yes	no
Texas	yes	no	no
<b>Utah</b>	<b>yes</b>	<b>yes</b>	<b>yes</b>
Vermont	yes	yes	no
Virginia	yes	no	no
Washington	yes	yes	no
West Virginia	yes	yes	no
Wisconsin	yes	yes	no
<b>Wyoming</b>	<b>yes</b>	<b>yes</b>	<b>yes</b>
<b>Bold text indicates a state with all three exceptions.</b>			
<i>Italic text indicates a state with none of the three exceptions.</i>			

When one of the exceptions can be proven, **wrongful discharge** accusations may occur. The United States is one of the few major industrial powers that utilize an employment-at-will philosophy. Most countries, including France and the UK, require employers to show just cause for termination of a person's employment.<sup>[13]</sup> The advantage of employment at will allows for freedom of employment; the possibility of wrongful discharge tells us that we must be prepared to defend the termination of an employee, as to not be charged with a wrongful discharge case.

Employees also have job protection if they engage in whistleblowing. **Whistleblowing** refers to an employee's telling the public about ethical or legal violations of his or her organization. This protection was granted in 1989 and extended through the Sarbanes-Oxley Act of 2002. Many organizations create whistleblowing policies and a mechanism to report illegal or unethical practices within the organization.<sup>[14]</sup>

Another consideration for employee job protection is that of an implied contract. It is in the best interest of HR professionals and managers alike to avoid implying an employee has a contract with the organization. In fact, many organizations develop employment-at-will policies and ask their employees to sign these policies as a disclaimer for the organization.

A **constructive discharge** means the employee resigned, but only because the work conditions were so intolerable that he or she had no choice. For example, if James is being sexually harassed at work, and it is so bad he quits, he would need to prove not only the sexual harassment but that it was so bad it required him to quit. This type of situation is important to note; should James's case go to court and sexual harassment and constructive discharge are found, James may be entitled to back pay and other compensation.

The **Worker Adjustment and Retraining Notification Act (WARN)** requires organizations with more than one hundred employees to give employees and their communities at least sixty days' notice of closure or layoff affecting fifty or more full-time employees. This law does not apply in the case of unforeseeable business circumstances. If an employer violates this law, it can be subject to back pay for employees.<sup>[15]</sup> This does not include workers who have been with the organization for less than six months, however.

**Retaliatory discharge** means punishment of an employee for engaging in a protected activity, such as filing a discrimination charge or opposing illegal employer practices. For example, it might include poor treatment of an employee because he or she filed a workers' compensation claim. Employees should not be harassed or mistreated should they file a claim against the organization.

## 2.2 Privacy Rights

Technology makes it possible to more easily monitor aspects of employees' jobs, although a policy on this subject should be considered before implementing it. In regard to privacy, a question exists whether an employer should be allowed to monitor an employee's online activities. This may include work e-mail, websites visited using company property, and also personal activity online.

Digital Footprints, Inc. is a company that specializes in tracking the digital movements of employees and can provide reports to the organization by tracking these footprints. This type of technology might look for patterns, word usage, and other communication patterns between individuals. This monitoring can be useful in determining violations of workplace policies, such as sexual harassment. This type of software and management can be expensive, so before launching it, it's imperative to address its value in the workplace.

### wrongful discharge

Discharge as a result of discrimination, an implied contract between the employee and employer, violation of public policy, or lack of good faith if there is a lack of good faith and fair dealing in the firing.

### whistleblowing

The practice of an employee's telling the public about ethical or legal violations of his or her organization.

### constructive discharge

The resignation of an employee due to work conditions so intolerable that he or she had no choice.

### Worker Adjustment and Retraining Notification Act (WARN)

Requires organizations with more than one hundred employees to give employees and their communities at least sixty days' notice of closure or layoff that affects fifty or more full-time employees.

### retaliatory discharge

Punishment of an employee for engaging in a protected activity, such as filing a discrimination charge or opposing illegal employer practices.

Another privacy concern can include monitoring of employee postings on external websites. Companies such as Social Sentry, under contract, monitor employee postings on sites such as Facebook, Twitter, LinkedIn, and YouTube.<sup>[16]</sup> Lawyers warn, however, that this type of monitoring should only be done if the employee has consented.<sup>[17]</sup> A monitoring company isn't always needed to monitor employees' movements on social networking. And sometimes employees don't even have to tweet something negative about their own company to lose their job. A case in point is when Chadd Scott, who does Atlanta sports updates for 680/The Fan, was fired for tweeting about Delta Airlines. In his tweet, he complained about a Delta delay and said they did not have enough de-icing fluid. Within a few hours, he was fired from his job, because Delta was a sponsor of 680/The Fan.<sup>[18]</sup>

The US Patriot Act also includes caveats to privacy when investigating possible terrorist activity. The Patriot Act requires organizations to provide private employee information when requested. Overall, it is a good idea to have a clear company policy and perhaps even a signed waiver from employees stating they understand their activities may be monitored and information shared with the US government under the Patriot Act.

Depending on the state in which you live, employees may be given to see their personnel files and the right to see and correct any incorrect information within their files. Medical or disability information should be kept separate from the employee's work file, per the Americans with Disabilities Act. In addition, the Health Insurance Portability and Accountability Act (HIPAA) mandates that health information should be private, and therefore it is good practice to keep health information in a separate file as well.

Finally, drug testing and the right to privacy is a delicate balancing act. Organizations that implement drug testing often do so for insurance or safety reasons. Because of the **Drug-Free Workplace Act of 1988**, some federal contractors and all federal grantees must agree they will provide a drug-free workplace, as a condition of obtaining the contract. The ADA does not view testing for illegal drug use as a medical examination (making them legal), and people using illegal drugs are not protected under the ADA;<sup>[19]</sup> however, people covered under ADA laws are allowed to take medications directly related to their disability. In a recent case, *Bates v. Dura Automotive Systems*, an auto parts manufacturer had a high accident rate and decided to implement drug testing to increase safety. Several prescription drugs were banned because they were known to cause impairment. The plaintiffs in the case had been dismissed from their jobs because of prescription drug use, and they sued, claiming the drug-testing program violated ADA laws.<sup>[20]</sup> However, the Sixth Circuit Court reversed the case because the plaintiffs were not protected under ADA laws (they did not have a documented disability).

In organizations where heavy machinery is operated, a monthly drug test may be a job requirement. In fact, under the Omnibus Transportation Employee Testing Act of 1991, employers are legally required to test for drugs in transportation-related businesses such as airlines, railroads, trucking, and public transportation, such as bus systems. Medical marijuana is a relatively new issue that is still being addressed in states that allow its use. For example, if the company requires a drug test and the employee shows positive for marijuana use, does asking the employee to prove it is being used for medical purposes violate HIPAA privacy laws? This issue is certainly one to watch over the coming years.

#### **Drug-Free Workplace Act of 1988**

Requires that some federal contractors and all federal grantees agree they will provide a drug-free workplace as a condition of obtaining a contract.

**FIGURE 10.3** Sample Policies on Privacy Relating to Technology

**Employee Privacy at XYZ Company**

**Email Monitoring**

Emails can be monitored without prior notification if the company deems this necessary. If there is evidence that you are not adhering to the guidelines set out in the technology or email policy, the company reserves the right to take disciplinary action, including termination.

**Website Monitoring**

Websites visited during work hours may be monitored without prior notification. If there is evidence that inappropriate websites that violate company policy are visited, disciplinary action may be taken, including termination

**Social Media Monitoring**

As a representative of this organization, all posts on social network sites such as Facebook or Twitter should not mention the organization, its customer or suppliers. Your social media websites may be monitored, and if inappropriate posts are made, disciplinary action may be taken including termination.

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**Signed**

---

**Dated**

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**Department**

**Human Resource Recall**

What does the term *retaliatory discharge* mean?

**2.3 Labor Unions**

A **union** is an organization of employees formed to bargain with an employer. We discuss labor unions in greater detail in Chapter 12. It is important to mention unions here, since labor contracts often guide the process for layoffs and discipline. Labor unions have been a part of the US workplace landscape since the late 1920s, but the Wagner Act of 1935 significantly impacted labor and management relations by addressing several unfair labor practices. The National Labor Relations Board is responsible for administering and enforcing the provisions outlined in the Wagner Act. The act made acts such as interfering with the formation of unions and discriminating on the basis of union membership illegal for employers. By the 1940s, 9 million people were members of a union, which spurred the passage of

**union**

An organization of employees formed to bargain with an employer.

the Taft-Hartley Act. This act set a new set of standards for fair practices by the unions, within a unionized environment.

The purpose of a union is to give collective bargaining power to a group of individuals. For example, instead of one person negotiating salary, a union gives people the power to bargain as a group, creating a shift from the traditional power model. Issues to negotiate can include pay, health benefits, working hours, and other aspects relating to a job. People often decide to form a union if they perceive the organization or management of the organization is treating them unfairly. Some people also believe that belonging to a union means higher wages and better benefits.

Many employers feel it is not in the best interest of the organization to unionize, so they will engage in strategies to prevent unionization. This is discussed further in Chapter 12. However, the Taft-Hartley Act says that employers can express their views about unions but may not threaten employees with loss of job or other benefits if they unionize. Some of the talking points an organization might express about unions include the following:

1. Less ability to deal more informally with the organization
2. Possibility of strikes
3. Payment of union dues by employees
4. Emphasis on what positive aspects the employer has provided

If employees still unionize, managers and HR professionals alike will engage in the bargaining process. The **collective bargaining process** is the process of negotiating an agreement between management and employees. This process ultimately defines the contract terms for employees. In negotiating with the union, being prepared is important. Gathering data of what worked with the old contract and what didn't can be a good starting point. Understanding the union's likely requests and preparing a counteraction to these requests and possible compromises should be done before even sitting down to the bargaining table. One of the better strategies for negotiating a contract is called **interest-based bargaining**. In this type of bargaining, mutual interests are brought up and discussed, rather than each party coming to the table with a list of demands. This can create a win-win situation for both parties.

Once an agreement has been decided, the union members vote whether to accept the new contract. If the contract is accepted, the next task is to look at how to administer the agreement.

First, the HR professional must know the contract well to administer it well. For example, if higher pay is successfully negotiated, obviously it would be the job of HR to implement this new pay scale. The HR professional may need to develop new sets of policies and procedures when a new agreement is in place. One such procedure HR may have to work with occasionally is the grievance process. As we will discuss in Chapter 12, the **grievance process** is a formal way by which employees can submit a complaint regarding something that is not administered correctly in the contract. Usually, the grievance process will involve discussions with direct supervisors first, discussions with the union representative next, and then the filing of a formal, written grievance complaint. Management is then required to provide a written response to the grievance, and depending on the collective bargaining agreement, a formalized process is stated on how the appeals process would work, should the grievance not be solved by the management response. One such example is the dismissal of members of the National Air Traffic Controller Association (union). In 2011, of the 140 proposed dismissals of air traffic controllers, 58 had penalties rescinded, reduced, or deferred.<sup>[21]</sup> This is because of due-process protections used to prevent mass firings when a new administration comes to power. Federal workers, including controllers, can challenge disciplinary action penalties through a government panel called the Merit Systems Protection Board. The process is described in union contracts and mentions involvement of an arbitrator, if necessary.

#### interest-based bargaining

A type of bargaining in which mutual interests are brought up and discussed, rather than each party coming to the table with a list of demands.

#### grievance process

A formal process by which employees can submit a complaint regarding something that is not administered correctly in the contract.



#### How Would You Handle This?

##### To Join or Not to Join

As the HR manager for a two-hundred-person company, you have always worked hard to ensure that workers received competitive benefits and salaries. When you hear rumors of the workers' wanting to form a union, you are a little distressed, because you feel everyone is treated fairly. How would you handle this?

##### How Would You Handle This?

The author discusses the How Would You Handle This situation in this chapter at: <https://api.wistia.com/v1/medias/1360807/embed>.

## KEY TAKEAWAYS

- The *employment-at-will principle* means that an employer can separate from an employee without cause, and vice versa.
- Even though we have employment at will, a wrongful discharge can occur when there are violations of public policy, an employee has a contract with an employer, or an employer does something outside the boundaries of good faith.
- *Whistleblowing* is when an employee notifies organizations of illegal or unethical activity. Whistleblowers are protected from discharge due to their activity.
- A *constructive discharge* means the conditions are so poor that the employee had no choice but to leave the organization.
- The *Worker Adjustment and Retraining Notification Act (WARN)* is a law that requires companies of one hundred or more employees to notify employees and the community if fifty or more employees are to be laid off.
- A *retaliatory discharge* is one that occurs if an employer fires or lays off an employee owing to a charge the employee filed. For example, if an employee files a workers' compensation claim and then is let go, this could be a retaliatory discharge.
- The privacy of employees is an issue that HR must address. It is prudent to develop policies surrounding what type of monitoring may occur within an organization. For example, some organizations monitor e-mail, computer usage, and even postings on social network sites.
- Drug testing is also a privacy issue, although in many industries requiring safe working conditions, drug testing can be necessary to ensure the safety of all employees.
- A *union* is a group of workers who decide to work together toward a collective bargaining agreement. This agreement allows workers to negotiate as one, rather than as individuals.
- The Wagner Act, passed in 1935, addresses many issues related to workers' unionization.
- The process of *collective bargaining* means to negotiate a contract between management and workers. HR is generally part of this process.
- *Interest based bargaining* occurs when mutual interests are discussed, rather than starting with a list of demands.
- Once an agreement is reached, HR is generally responsible for knowing the agreement and implementing any changes that should occur as a result of the agreement. One such example is understanding the *grievance process*.

## EXERCISES

1. Perform an Internet search and find a union agreement. Discuss how the union agreement handles terminations and grievances.
2. Compare and contrast the differences between a retaliatory discharge and a constructive discharge.

### 3. CASES AND PROBLEMS

#### Chapter Summary

- Performance issues in the workplace are common. Examples of performance issues include constant tardiness, too much time at work handling personal issues, mishandling of proprietary information, family issues, drug and alcohol problems, nonperformance, theft, and conflicts in the workplace.
- Employees choose to leave organizations for internal and external reasons. Some of these may include a mismatch of career goals, conflict, too high expectations, time-management issues, and a mismatch between job and skills.
- HR professionals should develop a set of policies that deal with performance issues in the workplace. The advantage to having such policies is that they can eliminate *wrongful termination* legal action.
- A mandated issue is usually one that deals with safety or legal issues that go beyond the workplace. An infringement of this type of issue requires immediate attention.
- A single incident may include a misstep of the employee, and the employee should immediately be spoken with about it, to ensure it doesn't happen again.



- A behavior pattern occurs when an employee consistently exhibits a performance issue. This type of issue should be discussed with the employee and actions taken, such as providing more training, to ensure it does not continue. A persistent pattern occurs when an employee consistently exhibits a performance issue and does not improve, despite HR's talking with him or her.
- At some point during the persistent pattern, disciplinary action will likely need to be taken. It is important to develop consistent procedures on how to record and handle disciplinary issues.
- Employee separation occurs in one of three ways. First, the employee *resigns* from the organization. Second, the employee is terminated for performance issues, and third, an employee *absconds*. *Absconds* means the employee abandons his or her job without submitting a formal resignation.
- In some cases, a severance package may be offered to the employee upon his or her departure from the organization.
- *Rightsizing* is a term used when an organization must cut costs through layoffs of employees. Development of criteria for layoffs, communication, and severance package discussion are all parts of this process.
- *Employment at will* means that an employer can separate from an employee without cause, and vice versa.
- Even though we have employment at will, a wrongful discharge can occur when there are violations of public policy, an employee has a contract with an employer, or an employer does something outside the boundaries of good faith.
- *Whistleblowing* is when an employee notifies organizations of illegal or unethical activity. Whistleblowers are protected from discharge due to their activity.
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- Once an agreement is reached, HR is generally responsible for knowing the agreement and implementing any changes that should occur as a result of the agreement. One such example is understanding the *grievance process*.

### Summary

The author provides a video summary of this chapter.



View the video online at: <http://app.wistia.com/embed/medias/617240c384>

## Chapter Case

### Who Goes, Who Stays?

The consulting firm you have worked for over the last year is having some financial troubles. The large contracts it once had are slowly going away, and as your company struggles to make payroll, it is clear that layoffs must occur. The sales staff has not been meeting the sales goals set for them, resulting in incorrect budgets.

It has been decided that at least three people in the sales department should be laid off. You create a spreadsheet with pertinent sales employee data:

Name	Title	Years with the company	Last overall rating on performance evaluation (1–5 scale, 5 being highest)	Last year's sales goal met?
Deb Waters	Sales Manager	1		3 N/A as her position is managerial
Jeff Spirits	Account Manager	5		3 Yes, 1% over
Orlando Chang	Account Manager	3		4 Yes, 10% over goal
Jake Toolmeyer	Account Manager	2		4 No, 2% under goal
Audrey Barnes	Account Manager	5		5 Yes, 15% over goal
Kelly Andrews	Account Manager	1		2 No, 20% under goal
Amir Saied	Account Manager	8		5 Yes, 5% over goal
Winfrey Jones	Account Manager	4		2 No, 10% under goal

1. Making reasonable assumptions, develop criteria for the layoffs in the sales department.
2. Develop a plan as to how layoffs will be communicated with the individual as well as within the company.
3. Discuss strategies to motivate those sales employees who stay with the organization.

## Team Activities

1. In a team of three to four people, discuss each of the situations and determine if you think the employee should receive immediate termination or a progressive discipline process, and provide justification for your responses:
  - a. The employee stole one pack of office paper, stating he would be using it at home to perform his job.
  - b. An employee posted how boring her job is on a Facebook status update. You know she is Facebook friends with several clients.
  - c. The employee groped a colleague in the break room.
  - d. You saw the employee's résumé posted on LinkedIn, stating she was looking for a new job.
  - e. The manager has told you the employee is difficult to work with and not liked by his colleagues.
2. In teams of three to four, discuss the following situation: Your marketing manager has just told you she plans to dismiss her administrative assistant for nonperformance and needs help designing a severance package. The administrative assistant was with the organization for two-and-a-half years and his current salary is \$35,670. What would you suggest he be offered? Discuss and be prepared to share your ideas with the class.



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