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## **HR TRAINING TOPICS FOR NEW MANAGERS & EXPERIENCED ONES TOO**

## MANAGERS IN TODAY'S WORKPLACE

According to a 2007 report by the Pacific Research Institute, around 2.2% of the gross domestic product of the United States is spent on lawsuits. Increased compliance requirements and the risk of litigation is costly for businesses – especially small and mid-size organizations.

Are your managers and supervisors aware of the anti-discrimination laws? Do they know what the protected classes are and how they apply to the workplace? Do they know what their responsibilities are for compliance with these laws and their protected classes? Many managers and supervisors are aware that sexual harassment is illegal, and that the ADA stands for the Americans with Disabilities Act but, they often don't have enough depth or breadth to their knowledge to know how to prevent problems from happening or promptly correct them if they do.

Our managers don't have to be experts – that's where human resources comes in – however, as a first-time manager it's important to understand and know current employment laws, practices, and regulations set by federal, state, and local governments in order to avoid any legal liability.

## WHAT WE WILL DISCUSS

In this eBook we'll discuss the main legal pitfalls that new managers need to avoid and what their legal responsibilities are as a manager.

- The challenges faced by new managers.
- The risk and costs associated with not training managers on employment law.
- Legal responsibilities of managers including:

**Anti-harassment, Disability**

**Substance Abuse, Privacy**

**Family Medical Leave, Fair Labor**

**Standards, Workplace Violence**

“The transition from **individual contributor** to manager represents a profound psychological adjustment — a **transformation** — as managers contend with their new responsibilities. New managers must learn how to **lead others, to win trust and respect, to motivate,** and to strike the right **balance** between delegation and control. It is a transition many new managers fail to make.”

Linda Hill, **Associate Professor**  
Harvard Business School

## THE CHALLENGES

Ok – so what’s so profound about this transition from individual contributor to manager? The transition is profound for many reasons. First, newly promoted managers no longer focus on completing tasks. The focus shifts to interactions with others, such as delegating, motivating and leading. Second, the newly promoted manager must come to grips with belonging to a wholly new set of peers – fellow managers. Last, the regulatory patchwork of federal, state and local laws that impact organizations are no longer abstractions that somebody else has to worry about. Newly promoted managers are now accountable to the organization, their peers, and to the employees they lead to ensure compliance with applicable laws, regulations and rules.

Unfortunately, it’s a transition many managers never successfully make. The daunting challenges of managing others can be overwhelming.

The shift from one set of peers to another can be unsettling. The responsibility for regulatory compliance can be debilitating and costly. The only way to prevent failure is to educate and train. There are no shortcuts.



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## THE COSTS

When we start to look at compliance from the employer's perspective, we'll see costs, litigation, litigation avoidance, expenses, and a real nuisance.

From an employer's perspective, settlement costs to resolve an EEOC claim fade in the face of additional, often unrecorded, costs to the employer's organization.

According to President and CEO of ELT, Inc., Shanti Atkins, Esq., a company that specializes in ethics and compliance training, the rising costs of EEOC suits include:

- The **distraction** of an organization's staff for months as documents are gathered and prepared, an internal investigation is conducted, and time is invested in fighting the claim.
- The loss of **employee morale** while under the constant pressure of a lawsuit.
- The potential loss of an employer's **reputation** as an employer of choice for recruiting and retaining desirable employees, whether found guilty or innocent.
- Attorneys' fees which can **cost** as much or more than an eventual settlement, if the employer is found guilty.

In addition to the hard-to-quantify costs the **average single claimant lawsuit results in defense costs of \$250,000 and a jury verdict of \$200,000.**

But – as these figures illustrate – these costs are quite real and very serious.



**\$38.6**  
MILLION

In 2013 the EEOC reported that it secured more than \$38.6 million in monetary benefits for individuals.

**93,727**

The EEOC received 93,727 complaints in FY2013

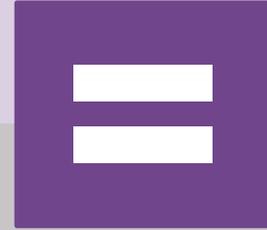
## ANTI-HARASSMENT / DISCRIMINATION

The workplace requirements surrounding discrimination are well-established and have been for more than a generation. Further, we have a “gold standard” fixed for employee and manager training for harassment and discrimination prevention with the enactment of AB1825 in California in 2004.

Now California, Connecticut, and Maine require private employers train their managers on preventing workplace harassment, especially sexual harassment. **A.B. 1825 goes beyond the relatively straightforward requirements** of these other states by significantly regulating the subject matter, quality, and delivery method of training. The impact of AB1825 is that organizations all over the country now essentially face a harassment prevention training mandate for managers and supervisors.

But the whole area of discrimination is being stood on its head recently by the confusing mess of state laws, federal and state court decisions, executive actions, and general political rhetoric surrounding gay marriage. The reality for organizations is that this issue creates very real issues in terms of how HR teams and management teams will react to and handle a whole host of issues from family medical leave to benefits administration.

**A good rule of thumb, until the whole issue is finally settled, is to educate our managers on sensitivity to sexual orientation issues, and to teach sound management fundamentals to do our best to ensure that every employee is treated as fairly as possible.** In other words, management best practices will likely trump any other form of risk avoidance or mitigation efforts.



### Defense of Marriage Act (DOMA)

On June 26, 2013, the United States Supreme Court ruled in *Windsor v. United States* that Section 3 of the so-called Defense of Marriage Act, the 1996 law that denies legally married same-sex couples over 1,100 protections and responsibilities of marriage, is unconstitutional. By striking down Section 3 of DOMA, the Supreme Court has affirmed that all loving and committed couples who marry deserve equal legal respect and treatment.

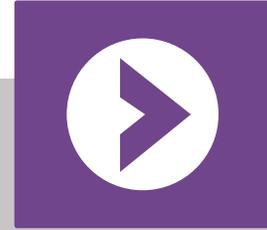
## AMERICANS WITH DISABILITIES ACT - ADA

The Americans with Disabilities Act (ADA) bars discrimination against the disabled. The term **disability** means having a physical or mental impairment that substantially limits one or more major life activities of such individual, having a record of such an impairment, or being regarded as having such an impairment.

Managers are allowed to tell a job applicant that the job he/she is pursuing has certain physical or mental requirements and they must do so for all applicants for the same position. Managers can then ask the applicant if he/she is willing and able to perform those duties. Most companies today make every effort to accommodate the needs of the disabled, considering it a vital part of their role as responsible members of the community.

The ADA contains many traps for managers, it's virtually impossible to list them all here. It's also tempting to make a common training and education mistake in training your managers about the ADA – try and teach them the law. Don't do that. The best way to ensure your managers keep your organization in compliance with the ADA is to do the following:

- Teach sound management and supervisory fundamental skills
- Establish AND follow clear, and easy to understand procedures for reporting employee absences and requests for time off. Part of such a process **MUST** include recording the reasons provided by the employee for asking for time off, AND for reporting these requests to HR.
- Train and educate HR on the intricacies of the ADA
- Set and follow clear procedures for effective follow-up when employee absences or requests for time off **MIGHT** involve a request in which the ADA might come into play



### HR Law for Managers Series: ADA



This video is part of The HR Law for Managers Series. This series provides a comprehensive resource that will orient managers to components of key employment laws; provide details, relevant to managers, for each of these laws; and explain in practical terms, how to apply the laws in context with specific situations as relate to a manager's duties.

## SUBSTANCE ABUSE

Most companies have employee handbooks that list behaviors that, if committed by an employee on work premises, are cause for immediate dismissal. Using drugs or alcohol is usually on the top of that list. However, **drug and alcohol abusers are considered to be physically handicapped under the Federal Rehabilitation Act of 1973 and are thereby protected from discrimination.** Your managers should be aware of the following:

1. They can't accuse someone of being intoxicated or on drugs. They can ask an employee if she has been drinking or abusing drugs. If the employee denies it, they are legally required to describe the symptoms that led to the question in the first place.
2. Don't share information about employees who have suspected drug or alcohol problems.
3. The manager and the organization have the responsibility under most state laws of finding avenues for an employee's rehabilitation or an employee-assistance program.

But what about states that have recently legalize marijuana use? What will these laws do to substance abuse policies? How should managers react?

The reality of the situation is that we don't have all of the answers – yet. Most likely, existing policies will work very well, especially when existing policies prohibit being at work while intoxicated. After all, the use of alcohol is legal all over the US. The smartest move is probably to approach this entire area of **manager from the perspective of “impairment.”**

The thornier issue is what to do about employees who've visited a state where the use of marijuana is legal, return to work in a state where using marijuana is not, and then fail a random drug test. A court case on this scenario is only a matter of time.



In 2012, Colorado and Washington became the first U.S. states -- and the first political jurisdictions anywhere in the world -- to approve measures legalizing and regulating marijuana similar to alcohol. In an October 2013 study by Gallup, 58% of Americans said that marijuana should be legalized – in contrast to the 12% in favor the first time Gallup asked the question in 1969.

## PRIVACY

Whether you are a public or a private employer, these days you know how important it is, even critical, to make sure you are protecting the privacy rights of both employees, and applicants, at every step of the employment cycle. When you use 3rd parties to conduct background checks or Google or Facebook to rule out applicants, or when you administer a drug test, you could be butting up against the rights of the individual you are looking into.

**Most companies have the legal right to inspect an employee's work area, listen to voicemails, or look at emails and computer files, if they feel they have just cause.**

Nevertheless, our society considers every person to have a right to a reasonable level of privacy. Therefore, you need to find out what information about an employee you can and cannot disclose to other parties.

For example, you cannot disclose drug test results, payroll information, or credit information such as consumer loans. On the other hand, you can give references to a future employer. But in most companies these days, a signed statement from the past employee is needed.



### **Course Title:**

Managing Your Privacy Settings on Facebook  
This short video provides an overview of Facebook's personal privacy settings and how to adjust the visibility of your profile and posts.



### **Emerging Issue: Social Media Passwords**

Legislators believe a disturbing trend is under foot... do you employ this practice? It's requesting job applicant's social media login credentials for background check purposes.

They've asked both the Department of Justice and the Equal Employment Opportunity Commission to investigate and weigh in on this issue - with the ultimate goal of reducing this dangerous practice. What do you think? Should this practice be legal or illegal?

## FAMILY MEDICAL LEAVE - FMLA

The Family and Medical Leave Act was signed into law in 1993. It was one of the first major new laws signed by President Bill Clinton during his first term of office.

The purpose of the Family and Medical Leave Act (FMLA) is to allow employees to **balance the needs of their family against their work obligations**. Generally, the law ensures that all workers are able to take reasonable extended leaves of absence from work to handle family issues or illness without fear of being terminated from their jobs or forced into a lesser job upon their return from leave. Currently, the law applies only to organizations with fifty or more employees. Under the law, an employer must grant an eligible employee unpaid leave:

- For the birth and care of a newborn child of the employee
- For placement with the employee of a son or daughter for adoption or foster care
- To care for a spouse, son, daughter, or parent with a serious health condition
- To take medical leave when the employee is unable to work because of a serious health condition
- For qualifying circumstances arising out of the fact that the employee's spouse, son, daughter, or parent is on active duty or has been called to active duty status as a member of the National Guard or Reserves
- Under law, an employee's job or a similar position is guaranteed upon his return.

Employees are also entitled to receive all their health benefits while on family leave. An employee must have worked for an organization for approximately twelve months before he or she is eligible to apply. There are many other specifics to the law that your human resources team will know.



### HR Law for Managers Series: FMLA



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## FAIR LABOR STANDARDS ACT - FLSA

The Fair Labor Standards Act, or FLSA, was passed by Congress back in 1938 with some significant changes made in 2004, specifically to the definition of an "exempt" employee.

Virtually all employers, both private and public, with one or more employees, are subject to the Fair Labor Standards Act (FLSA). In a nutshell, the FLSA establishes standards for minimum wage, overtime pay for eligible employees, the employment of minors, and record-keeping.

Many claims fall into two major categories: misclassification of workers as exempt, and unpaid overtime.

In the 1930's Congress passed the **National Labor Relations Act** (NRLA) to protect employees who seek to start or join a union, as well as, protect non-union employees who engage in concerted protected activity like discussing or complaining about wages, hours or working conditions. **The 1930's – how is that relevant??**

The law still carries heavy weight and is being applied to things that employees say in and out of the workplace, such as posts on Facebook or Twitter.



[Learn more](#) in this BizLibrary collection video: **Discipline okay for Facebook/Twitter posts?**



HR Law for Managers Series: FLSA



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## WORKPLACE VIOLENCE

Each year, nearly 2 million employees report having been the victims of workplace violence. You can only imagine how many of these cases go unreported. Examples of workplace violence include threats, verbal abuse, bullying, shoving, pushing, passive-aggressive behavior such as accessing and damaging the computer system, and use of a dangerous or lethal weapon. Every organization and manager needs to demonstrate that they are doing everything possible to maintain an environment free of violence.

Workplace violence doesn't have to rear its ugly head in your workplace though... it can be minimized, even prevented. But it's up to you to do something before there's a problem - such as implementing a violence prevention program. You should consider including the following in your program:

- Anti-harassment
- Understanding the risk factors
- Build a culture of respect
- Educate on bullying
- How to recognize the signs of violence
- Zero tolerance policy



### Course Title:

Employee Awareness Series: Violence in the Workplace (2014 Edition)

Employees expect employers to provide a safe work environment. Most employers rely on feedback from employees about unusual or suspicious behavior. It is imperative, for the safety of yourself and others, to learn the symptoms of violence-prone behavior.



### Why Do Bullies Bully?

Bullying. It's no longer just a conversation for our schools. We're hearing about and having to deal with this workplace epidemic more and more. Bullying, true bullying is just as bad as, if not worse than, harassing or even discriminatory conduct. It's more personal. The question is, why do bullies bully?



Review the recommended video to find out the one main reason that emerges, time after time, as the answer to this bothersome question.

## IGNORANCE IS BLISS...

We've all seen or heard this old saying, or some variation of it for quite a while. It may, in some circumstance be true. Unfortunately, there is another saying that ignorance of the law is no excuse. So we might be blissfully ignorant and legally liable at the same time, and that is nobody's idea of an acceptable outcome when it comes to managing our businesses.

**The simple fact of the matter is that our front line managers frequently hold the key to a wide range of legal liability questions for organizations of every type and size.**

From a management perspective, we do not need to turn our managers and supervisors into "mini-lawyers" or legal experts, but we do need to train and educate our managers. The challenge is how to train and educate our managers to accomplish two important objectives.

- We have to build foundational management and supervisory skills.
- We have to train managers and supervisors to avoid exposing the organization and themselves to legal liability.

Unfortunately, many organizations approach these training objectives as though these objectives cannot be met with the same training and development curriculum. So front line managers and supervisors end up with training content that is heavy on the "alphabet soup" of legal compliance on the one hand, and confusing, and sometimes even contradictory management and supervisory training and professional development content on the other. We do not have to approach these dual objectives this way.

**Focus on teaching managers the best practices of foundational management and supervisory skills first.** This will form an outstanding foundation for everything you need from your front-line managers, and will help avoid most litigation risks. For areas where specialized knowledge is required, don't try and turn managers in legal experts. Teach them the basics, make sure they know when to call HR, and you should be in great shape.



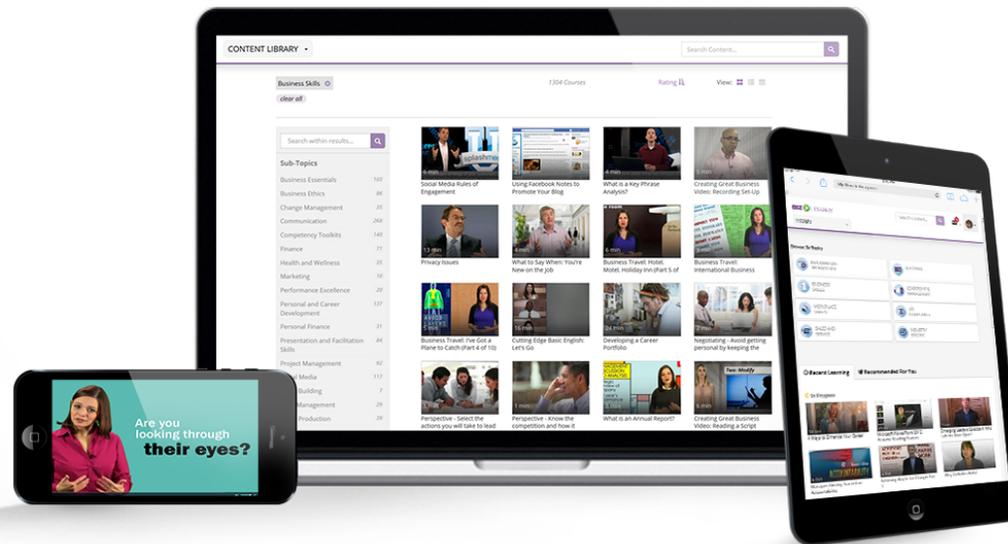
### About BizLibrary

BizLibrary is a leading provider of online employee training solutions. Our award-winning online training library contains more than 5,000 micro-video lessons, video courses, interactive videos, and elearning courses covering a wide variety of topic areas and includes additional support materials to further increase learning retention.

Our learning technology platform is powerful and easy to use. All of our online training solutions are mobile-ready, allowing learners unlimited access to training content on any device, anytime and anywhere for true just-in-time learning. Engage your employees and drive business results by improving the way your employees learn with BizLibrary.

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