CHAPTER

2

CHALLENGES IN STRATEGIC HUMAN RESOURCE MANAGEMENT

IBM has utilized technology to not only improve the delivery of its HR programs to its employees but also to significantly reduce administrative costs. In 1997, IBM created its Human Resource Service Center (HRSC), based in Raleigh, North Carolina. The HRSC utilizes networking technologies to deliver HR information and service to more than 500,000 active and retired employees ("customers") in the United States. The Center handles more than 1.5 million calls and processes more than 2.5 million transactions annually.

The Center services over 20 separate IBM business units in areas including benefits, retirement planning, compensation, employee suggestions, staffing, job posting, orientation, performance management, EEO compliance, employee separations, leaves of absence, and skill development. It is staffed by 80 customer services representatives who act as generalists in helping employees with a wide range of HR-related issues. In addition, 80 "program specialists" handle more complex issues pertaining to particular HR programs (i.e., compensation, tuition reimbursement, short-term foreign service assignments, etc.). In addition, a number of functions are fully automated; for example, employees can set up their own flexible benefit program without even talking to another person. These employees and automated functions are supported by an in-house intranet of more than 5,000 pages.

In establishing the HRSC, IBM sought to capitalize on its belief in the importance of combining people, technology, and customer service, much as it does with its external customers. IBM's strategy to improve employee service and reduce the costs of human resource administration has led to impressive results. Employees seem to value the HRSC; the Center has a customer satisfaction rate that exceeds 90 percent. The Center also allowed IBM to reduce the costs of providing HR services by 40 percent during its initial year, and additional cost efficiencies are gained each year as new services are added.

Adapted from Gonsalves, B., Ellis Y. M., Riffel, P. J. and Yager, D. "Training at IBM's Human Resource Service Center; Linking People, Technology, and HR Processes," *Human Resource Management*, Summer 1999, Vol. 38, No. 2, pp. 135–142.

In addition to the many challenges organizations face in abandoning traditional approaches to managing people as part of adopting an investment perspective to human resources (HR), there are a number of critical trends affecting the employment relationship that further affect how organizations need to manage their employees. Some of these trends pertain to changes taking place in the external environment of the organization; others pertain to some of the ways organizations are responding internally to such trends. The four major arenas of change are technological advancement, increasing attention to ethical behavior, demographics and diversity, and globalization. Globalization will be discussed separately in Chapter 14.

IMPACT OF TECHNOLOGY

One of the most significant trends affecting HR and people in organizations is technology. Simply defined, an organization's technology is the process by which inputs from an organization's environment are transformed into outputs.[1] Technology includes tools, machinery, equipment, work procedures, and employee knowledge and skills. All organizations, be they manufacturing or service, public or private, large or small, employ some form of technology to produce something for the open marketplace or for a specific group of constituents.

With constant advances in technology and work processes, organizations are under increased competitive pressure to implement, if not develop on their own, more efficient means of operations. However, the financial considerations of whether to adopt a new technology must be balanced with a number of strategic issues and, more specifically, a number of specific strategic HR issues, as shown in Exhibit 2-1. The specifics of these issues will be discussed in greater detail in Chapter 6 but are presented here to give the reader a sense of how technological initiatives need to be considered from a holistic perspective that transcends the

EXHIBIT 2-1: ISSUES FOR INTEGRATING NEW TECHNOLOGIES

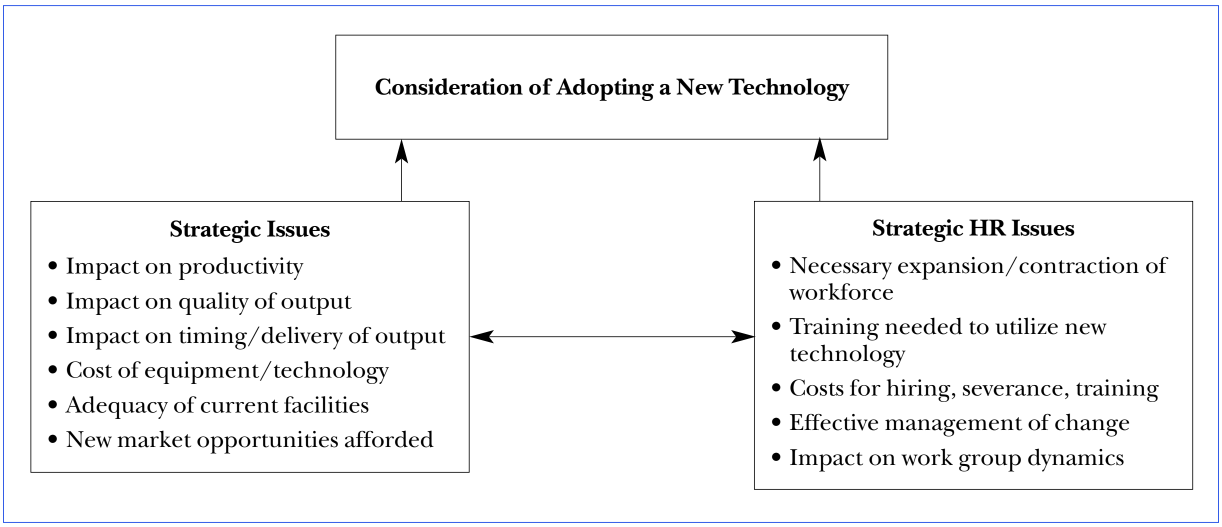


EXHIBIT 2-2: IMPACT OF TECHNOLOGY ON ORGANIZATIONS

- Requires changes in skills and work habits of employees
- Elimination of some lower-level positions and layers of management
- Less hierarchy, more collaboration

sole consideration of economic costs. At this juncture, we will address three ways in which work is changing, as illustrated in Exhibit 2-2.

As newer technologies are developed and implemented, the skills and work habits required of employees change as well. There is a much greater need to continue to upgrade existing employee skills today than there has ever been at any time in the past. Gone are the days when employees utilized the same skills and equipment to perform their jobs for decades at a time.

At the same time that technological change is creating demand for workers with more sophisticated training and skills, a significant number of new workforce entrants have limited technical skills and, in some cases, little or no training beyond basic literacy. For at least the first decade of the 21st century, immigrants will represent the largest increase in the workforce in the United States.[2] This is compounded by the fact that the growth in our economy and the greatest number of jobs being created are in the service sector, particularly services related to information processing. Service organizations are relatively easy to establish and expand, and they provide significant entrepreneurial opportunities. However, service sector employees need different skills than those utilized in manufacturing.[3] Rather than manual dexterity, service sector employees need strong interpersonal and communication skills as well as the ability to be flexible in handling a variety of problems relating to serving clients. Customers of service organizations need much more "customized" or individualized output. For example, the clients of a real estate brokerage do not all wish to purchase the same kind of housing. However, many organizations are finding it quite challenging to bridge the gap between the skills new workforce entrants possess and those required in the marketplace in an expedious, efficacious manner.

The implementation of advanced technologies has also resulted in many organizations eliminating lower-level positions held by employees who performed tasks that can now be accomplished through automation. This has resulted in reduced employee headcounts with those remaining employees having higher levels of training and skills. Automated technologies require more technically trained employees who act as troubleshooters to repair, adjust, or improve existing processes.[4] Consequently, organizations have been able to reduce and, in some cases, eliminate layers of management and move toward "flatter" organization structures with fewer levels in the hierarchy. At the same time, because these technical workers have advanced training, the power bases in many organizations have been rearranged from management to technical workers. It is not uncommon today for managers to have limited understanding of the technical dimensions of their subordinates' work. This is a dramatic departure from traditional supervision and creates unprecedented challenges for managers.

Technological change has resulted in hierarchical distinctions being blurred and more collaborative teamwork where managers, technicians, and analysts work together on projects. This, in part, is reflected in the growing trend for organizations to offer total quality management (TQM) initiatives for employees that focus on collaborative attempts to improve organizational processes to ensure continual improvement in the quality of the organization's product or service. Similarly, technology has created more flexible, dynamic organization structures that facilitate change and adaptation to changes in the organization's environment. These alternative structures take the form of unbundled corporations, autonomous groupings or subsidiaries, or smaller, streamlined units designed to be more responsive to changing customer needs and competitive pressures.[5]

HR ISSUES AND CHALLENGES RELATED TO TECHNOLOGY

In addition to impacting how work is organized and organization structure, technology has created three new areas of concern for HR and organizations: telecommuting, workplace monitoring and surveillance, and e-HR.

Telecommuting

Telecommuting, the process by which employees work from home, is increasing dramatically in popularity in both small and large organizations. The key factors that have facilitated this trend are the advances taking place in information processing and telecommunications technologies. Telecommuting involves more than merely an agreement between employees and supervisors that the subordinate can work at home. It involves a management system that allows employees a tremendous amount of discretion as to how they fulfill their job responsibilities.

The number of Americans working from their home at least part of the workweek grew dramatically, from 3.4 million in 1990 to 19.6 million by the beginning of 2000. Two thirds of *Fortune 100* companies currently have telecommuting programs, half of which were implemented over the past three years. Of the remaining *Fortune 100* organizations, 60 percent are planning to implement a telecommuting program.

Telecommuting programs can provide a number of benefits. Stringent environmental regulations, such as the Clean Air Act, have put pressure on many urban areas to reduce employee commuting on roadways. It is estimated that if 5 percent of Los Angeles commuters worked from home once a week, 9.5 million gallons of gasoline would be saved annually, and 94 million fewer tons of pollutants would be dumped into the atmosphere. Telecommuting can be used as a retention aid, as a more flexible work environment can allow an employee to balance multiple roles. Telecommuting can help employers to retain their investment in employees in situations where the employee needs to relocate for personal reasons, as well as when the organization needs to relocate and the employee is unable to do so. Telecommuting also creates flexibility in recruiting, and allows employers to hire from a broader prospective applicant pool. Organizations can gain significant savings relative to real estate costs, which are often high in larger urban areas. Additional studies also show that telecommuting can significantly increase productivity.

Despite these benefits, there is often strong resistance to telecommuting from direct supervisors of workers who would telecommute, primarily over the issue of measuring performance and monitoring progress of employees who are working remotely. Although the criteria for performance and accountability standards need not be different for those who telecommute vis-à-vis those employees who do not, the fact that there is no face-to-face contact is disconcerting to many supervisors.

A clear performance measurement system is the key component of a successful telecommuting program. The telecommuting employee should have a clearly defined set of measurable objectives, which can be integrated into a telecommuting agreement. Organizations such as Hewlett-Packard and Cisco Systems have successfully implemented objectives-based performance management programs that have facilitated telecommuting arrangements.

A second issue is deciding how many, and which, employees will be offered participation in the telecommuting program. Care has to be exercised to avoid creating resentment or morale problems among nonparticipants. A key factor to be considered is the extent to which an individual's job responsibilities can be performed effectively away from the office. Attention also must be paid to individual employee characteristics. Telecommuting generally requires employees to have strong organizational and time management skills, as well as to be self-motivated.

Another consideration is the expense of purchasing equipment for the employee's home office. Similarly, liability for injuries incurred while working at home must be factored in. Because the home workspace is considered an extension of the company's, the liability for job-related injuries continues to rest with the employer.

A final issue is that many managers are just not comfortable having their direct reports away from the office. Unfortunately, this is due to the fact that many managers have had no prior telecommuting experience themselves. Training programs aimed at both telecommuters and those who supervise such employees that cover issues such as goal setting, time management, and project reporting could help mitigate some of these concerns.

Attention also needs to be paid to the investment that a networking system will require and the capacity of that system to support the volume of remote access from telecommuters. A technological feasibility assessment is as important as ensuring that the appropriate employees are allowed to participate in the program.

One study has shown that a well-designed and implemented telework program can reduce turnover by an average of 20 percent, boost productivity by up to 22 percent, and reduce absenteeism by nearly 60 percent.[6] ▼

Telecommuting at Merrill Lynch

Financial services giant Merrill Lynch did not rush into the decision to offer its employees the option to telecommute. The program was the product of four years of study, research, and planning that resulted in a well-designed, strategized approach to telecommuting that fits the organization's strategic objectives and culture. A 21-page manager's guide was developed that explained the nature and benefits of alternative work arrangements. Workshops are required in which employees and managers confront issues that could be affected by telecommuting, including productivity

▶Reading 2.1, While telework provides numerous benefits to employers and employees alike, it has presented one unique and unprecedented challenge with which organizations are wrestling. This challenge, managing virtual work teams, is addressed in Reading 1.1, "Five Challenges to Virtual Team Success: Lessons from Sabre, Inc."

measurement, time management, coworker communication, and career planning. Prior to allowing an employee to start telecommuting, a two-week "simulation lab" experience is required, during which prospective telecommuters work in isolation from their managers and coworkers. During that time, communication is allowed by phone or e-mail only as it would be if the employee were working at home. Employees also receive training in troubleshooting problems with computer hardware and software that will be used at home. During the first year of the program, productivity among telecommuters increased 15 to 20 percent, turnover declined by 6 percent, and fewer sick days were used by telecommuters. The program has also been used effectively as a recruiting tool and allowed the organization to retain many workers it would have lost when it moved its headquarters.[7]

Employee Surveillance and Monitoring

Most employers and employees agree that technology, particularly access to the Internet, has enhanced employees' abilities to do their jobs. The dizzying array of information available on demand on the Internet allows more comprehensive and faster data collection when addressing issues and problems at work. Online technology also makes it far easier for employees to work at home via either telecommuting or on the employee's own time. As employees perform more of their job responsibilities on "nonwork" time, they may feel much more free to take care of their personal needs during work hours, as long as their job responsibilities are being fulfilled. One study found that 90 percent of employees admitted to visiting nonwork-related Web sites while at work, spending an average of more than 2 hours per week taking care of personal work and needs.[8] Much of this activity centers around banking, bill paying, and shopping, but there is also significant employee visits to adult Web sites, chat rooms, dating sites, and gaming sites during the working day.

In response, an increasing number of employers have implemented electronic monitoring of their employees, using software to track employee Internet use. More than 80 percent of large employers are now utilizing such technology, which can monitor not only Internet usage but also e-mails, computer files, and voice-mail and telephone usage. Such monitoring raises serious concerns about employee rights to privacy and can also have a detrimental effect on employee morale and loyalty. As heightened job demands require employees to spend more and more time at the office and to do work-related business at home, the line between work and personal life blurs. Hence, employers have to balance the need for employee productivity with employees' rights to privacy and their need to maintain a balance between work and personal life.

Employees actually have very limited privacy rights in the area of workplace monitoring. The Electronic Communications Privacy Act (ECPA), passed in 1986, is the only federal law that addresses employer monitoring of electronic communications in the workplace. While ECPA prohibits the intentional interception of employees' oral, wire, and electronic communications, it contains two important workplace exceptions. The first is the "business purpose exception," which allows the monitoring and interception of employee communications as long as the employer can show a legitimate business reason for doing so. The second is the "consent exception," which allows for monitoring of employee communications when employees have provided the employer with their permission to do so, thereby relinquishing employee claims for invasion of privacy.

ECPA also provides that employers may monitor oral telephone communications if they normally do so within the course of their business. This is important for telemarketing and customer service operations where employers have particular concerns related to professionalism, productivity, and quality control. However, ECPA requires that employers refrain from listening to employee telephone conversations the moment they determine that such calls are personal in nature.

Because many employers have taken punitive action against employees for their use of technology for personal purposes during working hours, there is the potential for increased tension between employees and employers surrounding the use of telecommunications technology. Employers who chose to monitor employee use of telecommunications equipment should implement a clear and succinct policy and communicate this policy to all employees. Monitoring should be kept to a minimum and be consistent with "business necessity" or with performance problems or deficiencies dealt with as part of the employer's performance management system. As employee loyalty continues to decline, employers need to ensure that their policies do not create additional distrust on the part of their employees.

e-HR

Technological advances have also provided HR with an incredible opportunity to deliver many of its transactional types of services online, freeing HR staff to work on more strategic issues. Payroll, employee benefits, scheduling, recruiting, training, and career development are just some of the areas that are being delivered in a self-service format to employees. While there are many examples of how various employers are using e-HR to benefit both employees and the organization, the examples provided here illustrate the range of HR activities that are being delivered electronically, as well as the scope of how "deep" such delivery can go.

Time Warner Cable, Inc., in Houston has more than 1,660 employees, spread out over 27 locations. The majority of these employees work a great distance from any HR office or staff. In response to the mandate for better delivery of HR services, Time Warner installed kiosks at its remote locations to provide better service to installers and service center personnel in these locations. Initially designed to facilitate the delivery of HR programs and services, many other departments in the organization soon wanted to become a part of the communications vehicle. Employees can now do everything from participate in open enrollment for benefits to learn about the activities of the public affairs department via the kiosks.[9]

In 2003, the city of Dallas stopped issuing paychecks to its employees. This was not due to the inability of the city to pay its employees but rather was a result of the full elimination of paper paychecks. Many employees had been receiving their pay through direct deposit, but for those without bank accounts, the city began issuing debit cards. The distribution of paper paychecks was expensive and time-consuming for the city; the move to "electronic pay" resulted in a $150,00 annual savings, in addition to the freed-up time of human resource staff. Payroll debit cards can be used to obtain cash at automated teller machines as well as to purchase goods from most retailers. In addition to the Dallas city government, employers such as Little Caesars pizza, Sears, Office Depot, and Chicago's public school system have eliminated the use of paper paychecks in lieu of plastic.[10]

American Airlines, Inc., was one of the early pioneers in using the Internet for customer service. It has since expanded its use of online technology for managing its more than 100,000 employees worldwide. American has a highly mobile workforce, with more than 25 percent in the air at any time and more than 50 percent with no office. Consequently, it needed an effective means to communicate with employees at a time and place that was convenient for each employee. A program was launched to assist employees with the purchase of low-cost personal computers to facilitate the implementation of American's "Jetnet" program. Under this program, employees and retirees can complete benefits enrollment and book travel. Pilots and flight attendants, who bid for monthly flight schedules through a preference system, saw the time required for this activity reduced from four to five hours monthly to less than 30 minutes. Jetnet has allowed American not only to greatly reduce costs but also to provide its mobile workforce with a tremendous added time-saving convenience.[11]

One of the most comprehensive examples of electronic delivery of human resource services can be seen at General Motors. GM sees itself not as the world's largest manufacturer of automobiles but rather as an e-commerce organization that just happens to manufacture cars. A special unit of GM, e-GM, has been created to produce consumer Web sites and business-to-business portals, and to deliver e-HR services. The delivery of e-HR, through GM's "Employee Service Center," is designed to allow HR to move away from transactional issues and focus more on strategic issues. The ESC allows different information to be displayed to different employee groups, in line with each group's needs. Access to the center is not limited to the workplace; employees can access it anywhere through the Internet. The site receives more than 15 million hits per month and allows employees to enroll in classes online, develop a career development plan that can be reviewed with their supervisor, view job postings, manage their benefits, and review their employment history. GM has rolled out its ESC to its international divisions and sees the project as continuous, with an updated re-release of the site planned every six months.[12]

ETHICAL BEHAVIOR

The recent series of corporate bankruptcies, scandals, and business meltdowns has reinvigorated the discussion and debate about ethical behavior in organizations. Ethics, however, go far beyond issues related to financial reporting and disclosure. Many areas of operations, as well as aspects of how employees are treated, leave a tremendous amount of discretion for employers relative to their practices and policies. Many executives report that an organization's reputation is a paramount concern in deciding whether to accept an offer of employment. A recent survey found that 65 percent of executives reported that they would thoroughly investigate the culture and value system of any prospective employer.[13] This same survey found that 40 percent of executives had resigned from an organization at least once because of the employer's perceived unethical business practices. Of this group, 75 percent reported that they did not expose the behavior at the time but 33 percent stated that, given recent corporate scandals, they would disclose and report the behavior if faced with the situation again.

There are numerous dimensions of the employment relationship where ethical decisions need to be made by senior management. The challenge faced by these individuals rests with the fact that ethics are not universally defined but rather subject to personal values and convictions. Ethical behavior is subjectively assessed as right or wrong, appropriate or inappropriate, and, in some cases, moral or immoral.

One area of ethical concern for HR is employee off-duty behavior. Winn-Dixie Stores, Inc., faced a very challenging situation when it terminated a truck driver with a 20-year history of exemplary service and performance when it was discovered he was a cross-dresser in his private life. The truck driver, dressed as a woman and assuming a female identity, accompanied his wife and family in public. Concerns about the company image caused Winn-Dixie to terminate his employment.

He sued on the grounds that he was terminated for something that had nothing to do with his employment and job performance, but there is no law that universally protects employee's off-duty behavior. Winn-Dixie did win in court, but may have lost significantly in the court of public opinion. The story generated tremendous media attention that provided a good deal of support for the driver, from both the general public and his Winn-Dixie coworkers.[14]

The Winn-Dixie's example pertains to only one area of off-duty conduct. Employers also face dilemmas about off-duty behavior involving tobacco, alcohol and drug use, political and religious activity, and prior arrests and/or convictions. The majority of jobs are considered to be "at-will," which will be discussed in depth in Chapter 7, and employees have very limited protection at the federal level from arbitrary dismissal from their jobs. However, there has been a movement toward providing greater protection for employees in regard to their off-duty behavior. At this juncture, four states—New York, California, North Dakota, and Colorado—protect all off-duty, legal activity of employees.

Another increasingly important area of ethical consideration for employers is ownership of work. Given that a good deal of employee work in a knowledge economy involves the application of knowledge and skills in the development of new and improved products, services, and processes, conflicts have arisen concerning intellectual property rights. Employers have used nondisclosure and noncompete agreements to ensure that the work developed by its employees stays with the employer when employees leave. This is serious business for large and small employers alike. It is estimated that *Fortune 1000* organizations incur losses exceeding $45 billion annually from trade-secret theft.[15] Technology has made it much easier for such confidential information to be transmitted. No longer are documents stored in locked file cabinets in secure rooms; now they are contained on hard drives and diskettes that can be accessed more easily.

A related ethical dilemma is the "fairness" of noncompete clauses, which may address the employee going to work for a competitor or starting her or his own business. When accountants, consultants, attorneys, physicians, or other trained professionals decide to start their own business, do they have a right to bring clients with them and/or actively recruit former clients? Noncompete agreements have received mixed reviews in the courts. Some courts have found them to be binding legal contracts and hold former employees to their obligations. Other courts have found them to be invalid and unnecessarily restrictive of free enterprise and the right to compete. The ethical concern involves balancing the rights of employers to "own" work that was done for compensation by employees versus the rights of individuals to work for whom they chose, including themselves.

Intrapreneurship at Intel

One very unique approach to balancing ownership rights has been developed by Intel. Given the demand for services and products provided in Intel's markets, many employees have opted to start their own businesses, which then have competed against Intel. In lieu of requiring that employees sign noncompete agreements, Intel created a New Business Initiative (NBI) division that actively solicits new business proposals from its employees. The NBI functions as a kind of internal venture capital operation. It operates autonomously: Its staff receives proposals from employees and makes recommendations for start-up funding for those ventures it deems worthy. NBI has proven to be a highly successful retention tool and has afforded Intel the opportunity to avoid the often antagonistic work environment that results from noncompete agreements.[16]

In response to the accounting scandals that rocked the U.S. economy in the early part of the decade, Congress passed the Sarbanes-Oxley Act of 2002. The act was passed to eliminate both deception in accounting and management practices by increasing government oversight of financial reporting and holding senior executives more directly responsible for violations. As a result, organizations need to respond seriously to, and investigate, employee complaints of possible wrongdoing or fraud. Much of the responsibility will fall with HR to create policies and procedures to communicate anonymous, confidential concerns and to establish a review mechanism for such reports.[17]

An important provision of Sarbanes-Oxley is the protection it provides to "whistle-blowers," employees who provide information and/or assistance to investigators that assists in the review of potential violations of federal laws related to fraud against shareholders. Such whistle-blowers are protected only when information is provided to one of three sources: a federal regulatory or law enforcement agency; any member or committee of Congress; and a person with supervisory authority over the employee who has the authority to investigate such allegations. Reporting such activity to the media or even an HR manager may fall outside of the protection offered by the act. An employee is protected as long as he or she "reasonably believes" that the reported conduct is a violation, regardless of the outcome of any investigation. ▾▾

Given the increased concern for ethical behavior and accountability, it is clearly in an organization's best interest to establish some kind of Code of Ethics. Currently, more than 90 percent of Forbes 500 organizations have such codes and more than 82 percent have recently revised them.[18] Exhibit 2-3 presents the Code of Ethical and Professional Standards in Human Resource Management developed by the Society for Human Resource Management for its members and profession. Such industry-specific standards can greatly assist executives in developing an in-house code, but an organization's formal code needs to address a variety of issues specific to the organization. Frank Ashen, executive vice president for Human Resources at the New York Stock Exchange, has developed some guidelines for an organization's Code of Ethics that are presented in Exhibit 2-4.[19]

EXHIBIT 2-3: SOCIETY FOR HUMAN RESOURCE MANAGEMENT CODE OF ETHICAL AND PROFESSIONAL STANDARDS IN HUMAN RESOURCE MANAGEMENT

Society for Human Resource Management

CODE PROVISIONS

Professional Responsibility

Core Principle

As HR professionals, we are responsible for adding value to the organizations we serve and contributing to the ethical success of those organizations. We accept professional responsibility for our individual decisions and actions. We are also advocates for the profession by engaging in activities that enhance its credibility and value.

Intent

- To build respect, credibility and strategic importance for the HR profession within our organizations, the business community, and the communities in which we work.
- To assist the organizations we serve in achieving their objectives and goals.

▸▸Reading 2.2, "The Employment Law Impact of the Sarbanes-Oxley Act," provides a more complete discussion of the affect the act will have on employment law.

- To inform and educate current and future practitioners, the organizations we serve, and the general public about principles and practices that help the profession.
- To positively influence workplace and recruitment practices.
- To encourage professional decision-making and responsibility.
- To encourage social responsibility.

Guidelines

1. Adhere to the highest standards of ethical and professional behavior.
2. Measure the effectiveness of HR in contributing to or achieving organizational goals.
3. Comply with the law.
4. Work consistent with the values of the profession.
5. Strive to achieve the highest levels of service, performance, and social responsibility.
6. Advocate for the appropriate use and appreciation of human beings as employees.
7. Advocate openly and within the established forums for debate in order to influence decision-making and results.

PROFESSIONAL DEVELOPMENT

Core Principle

As professionals we must strive to meet the highest standards of competence and commit to strengthen our competencies on a continuous basis.

Intent

- To expand our knowledge of human resource management to further our understanding of how our organizations function.
- To advance our understanding of how organizations work ("the business of the business").

Guidelines

1. Pursue formal academic opportunities.
2. Commit to continuous learning, skills development and application of new knowledge related to both human resource management and the organizations we serve.
3. Contribute to the body of knowledge, the evolution of the profession and the growth of individuals through teaching, research, and dissemination of knowledge.
4. Pursue certification such as CCP, CEBS, PHR, SPHR, etc. where available, or comparable measures of competencies and knowledge.

ETHICAL LEADERSHIP

Core Principle

HR professionals are expected to exhibit individual leadership as a role model for maintaining the highest standards of ethical conduct.

Intent

- To set the standard and be an example for others.
- To earn individual respect and increase our credibility with those we serve.

Guidelines

1. Be ethical; act ethically in every professional interaction.
2. Question pending individual and group actions when necessary to ensure that decisions are ethical and are implemented in an ethical manner.
3. Seek expert guidance if ever in doubt about the ethical propriety of a situation.
4. Through teaching and mentoring, champion the development of others as ethical leaders in the profession and in organizations.

FAIRNESS AND JUSTICE

Core Principle

As human resource professionals, we are ethically responsible for promoting and fostering fairness and justice for all employees and their organizations.

Intent
To create and sustain an environment that encourages all individuals and the organization to reach their fullest potential in a positive and productive manner.

Guidelines
1. Respect the uniqueness and intrinsic worth of every individual.
2. Treat people with dignity, respect, and compassion to foster a trusting work environment free of harassment, intimidation, and unlawful discrimination.
3. Ensure that everyone has the opportunity to develop their skills and new competencies.
4. Assure an environment of inclusiveness and a commitment to diversity in the organizations we serve.
5. Develop, administer, and advocate policies and procedures that foster fair, consistent, and equitable treatment for all.
6. Regardless of personal interests, support decisions made by our organizations that are both ethical and legal.
7. Act in a responsible manner and practice sound management in the country(ies) in which the organizations we serve operate.

CONFLICTS OF INTEREST

Core Principle
As HR professionals, we must maintain a high level of trust with our stakeholders. We must protect the interests of our stakeholders as well as our professional integrity and should not engage in activities that create actual, apparent, or potential conflicts of interest.

Intent
To avoid activities that are in conflict or may appear to be in conflict with any of the provisions of this Code of Ethical and Professional Standards in Human Resource Management or with one's responsibilities and duties as a member of the human resource profession and/or as an employee of any organization.

Guidelines
1. Adhere to and advocate the use of published policies on conflicts of interest within your organization.
2. Refrain from using your position for personal, material, or financial gain or the appearance of such.
3. Refrain from giving or seeking preferential treatment in the human resources processes.
4. Prioritize your obligations to identify conflicts of interest or the appearance thereof; when conflicts arise, disclose them to relevant stakeholders.

USE OF INFORMATION

Core Principle
HR professionals consider and protect the rights of individuals, especially in the acquisition and dissemination of information while ensuring truthful communications and facilitating informed decision-making.

Intent
To build trust among all organization constituents by maximizing the open exchange of information, while eliminating anxieties about inappropriate and/or inaccurate acquisition and sharing of information.

Guidelines
1. Acquire and disseminate information through ethical and responsible means.
2. Ensure only appropriate information is used in decisions affecting the employment relationship.
3. Investigate the accuracy and source of information before allowing it to be used in employment-related decisions.
4. Maintain current and accurate HR information.
5. Safeguard restricted or confidential information.
6. Take appropriate steps to ensure the accuracy and completeness of all communicated information about HR policies and practices.
7. Take appropriate steps to ensure the accuracy and completeness of all communicated information used in HR-related training.

EXHIBIT 2-4: GUIDELINES FOR DEVELOPING A CODE OF ETHICS/CONDUCT

- Need for Personal Integrity—a statement about dealing with individuals both inside and outside of the organization
- Compliance and Laws—addressing intolerance for violating employment, labor, or any other laws that affect the organization
- Political Contributions and Activity—a statement concerning the employer's policy in this domain, including solicitation of personal and/or financial support
- Confidential Information—a statement that identifies what is considered confidential and how such information should be treated, including a statement on employee expectations of privacy
- Conflicts of Interest—a statement that employees are expected to act in the employer's interests in carrying out their job duties along with disclosure requirements
- Books and Records—a statement stressing the practice of using accurate and accepted standards for financial reporting, as well as a prohibition against falsification
- Employment Policies—a general statement on how employees are to be treated, including issues of fairness, discrimination, and safety
- Securities Transactions—a statement on any restrictions that might exist relative to the purchase or sale of stock, as well as a statement and policy directed at insider trading
- Use of Company Assets—a statement that assets will be used only for business, rather than personal interests and needs
- Gifts, Gratuities, and Entertainment—a statement about such relationships and exchanges with clients, with further guidance provided for employees who deal with individuals from other countries where customs, laws, and business practices may differ from those domestically
- The Environment—a statement about the organization's relationship to its environment, if the area of business has an impact on the environment
- Compliance—a statement concerning how the Code of Ethics is to be communicated, certified, implemented, and enforced

Codes of ethics/conduct can be effective only if communicated to all employees and reinforced through the behaviors of senior managers and the organization's reward system. Codes that are developed, then exist, isolated from specific business practices and rewards are likely to have little impact on employees' behavior. Senior managers need to lead by example, modeling the kinds of behaviors expected of employees at all levels of the organization. Finally, such codes can succeed only if a mechanism exists to enforce compliance with their terms, including follow-up and corrective action.

WORKFORCE DEMOGRAPHIC CHANGES AND DIVERSITY

Demographic changes in society and the composition of the workforce are also creating a number of challenges for management of human resources. Diversity has become and continues to be one of the principal buzzwords for both public and private organizations, as recognizing and promoting diversity is seen as critical for organizational success. The motivation behind diversity initiatives can vary from organization to organization. Some employers have a commitment to understanding and appreciating diversity, whereas others implement diversity initiatives simply to ensure compliance with federal, state, and local employment laws.

Congress has passed numerous laws that prohibit discrimination in employment in both private and public sector organizations. Title VII of the Civil Rights Act of 1964 prohibits discrimination based on race, color, religion, gender, and national origin. Subsequently, numerous federal laws such as the Pregnancy Discrimination Act, Age Discrimination in Employment Act, and Americans with Disabilities Act have been passed that protect employees. Each of these federal laws will be discussed in Chapter 7. In addition, many individual states and municipalities have passed additional laws that protect certain groups of employees. The processes and

EXHIBIT 2-5: DIFFERENCES BETWEEN LEGAL COMPLIANCE AND MANAGING DIVERSITY

	Compliance with EEO laws	Managing Diversity
Impetus	Mandatory, forced, external	Voluntary, internal
Focus	Productivity, compliance	Understanding
Elements	Usually limited to race, gender, ethnicity	All elements of diversity
Company Culture	Fitting employees into existing culture	Creating a culture that is fluid, adaptive
Outcomes	Preferences, quotas	Equality
Time Frame	Short-term, one-shot	Continuous and ongoing
Scope	Independent of other HR activities and company strategy	Fully integrated with other HR activities and company strategy

outcomes associated with diversity initiatives that are rooted in compliance differ greatly from those that truly embrace diversity. These differences are presented in Exhibit 2-5.

Generational Diversity

Advances in health care are allowing us, as a society, to live longer, remain healthier longer, and remain in the workplace longer. Census data show 13 percent of the United States population is age 65 or older, with that percentage expected to grow to 20 percent, or 70 million individuals, by 2030.[20] As baby boomers continue to live longer and remain healthy, 80 percent of this group plan to continue working past the age of 65.[21] Such "working retirements" suggests a very different type of employment relationship and a very different kind of lifestyle than that chosen by previous generations. A benefit to society is that these individuals' continued self-sufficiency may result in their being far less dependant on cash-strapped government pensions and health care programs. Organizations clearly benefit through the knowledge and contacts these individuals have developed through their years of professional experience.

This "graying of the workforce" can create a number of challenges, both real and perceived. Older workers are often perceived to be more resistant to change, particularly in implementing radically new programs and utilizing new technology that break from long-established ways of doing things. They may also have increased health care costs relative to their younger counterparts. As older workers remain in the workplace longer, fewer advancement opportunities are made available for younger workers and, in many instances, older workers command higher salaries despite the fact that they may have skills and training that are less current than those of younger workers, particularly relative to technology.

At the same time, it is important to remember that older workers can be as productive, if not more productive, than younger employees. The United States is a society that tends to devalue its older citizens and such biases and predispositions are often found in organizational settings. However, older workers may have much more loyalty to their employers than their younger counterparts. They also can provide significant knowledge of the organization and industry, as well as key contacts within their professional networks.

A number of employers have developed incentive programs for early retirement and then, in many cases, hired retirees back on a part-time basis or as consultants to take advantage of their knowledge and experience. Such programs need to be implemented carefully, however, as federal laws prohibit the setting of a mandatory retirement age in the overwhelming majority of occupations as well as using coercion to "encourage" older workers to retire.

Baby boomers, or those born between 1945 and approximately 1962, are now in their midcareer years and employers are finding that the supply of workers in this age bracket exceeds the demand for them in the middle and senior management-level ranks. As one moves up the management hierarchy, there are fewer and fewer positions available and the competition for senior management positions among boomers has become intense. Ironically, technology often plays a role here, as many middle and senior-level management positions have been eliminated because of flatter organizational structures and the increased use of information technology to perform functions previously done by middle managers. Many of these individuals will never progress beyond middle management. This can be greatly disconcerting for those who have been long-term employees of an organization and seen their pre-boomer predecessors and coworkers rewarded and promoted for performance. Consequently, this creates a new HR challenge in managing these "plateaued" workers. Organizations need to find ways to retain them and keep them motivated despite the fact that they may have mastered their current responsibilities and aspire to advance in their careers. Slower and alternative career paths have become the norm for many of these workers. An increasing number are choosing to go out and start their own businesses.

Consequently, baby busters, those born during the declining birthrate years from approximately 1963 to the mid-1970s, also need to have lower expectations relative to the pace of their careers. The baby boomers of the previous generation have essentially created a bottleneck in the management hierarchy that busters find themselves behind. Until the baby boom generation has retired, there may be fewer opportunities in larger organizations for baby busters.

At the same time, this baby bust generation, which is assuming low- and some mid-level management positions, often receives higher wages than some of the baby boomers due to the forces of supply and demand. There are far fewer individuals in this lower age bracket and in many industries, particularly rapidly growing ones like multimedia and the Internet, these workers have skills and training that the previous generation lacks and therefore command significant incomes in their early career years. In many organizations workers in their thirties may be making as much as or more than coworkers twenty and thirty years their senior. The combination of limited supply of younger workers, high illiteracy among many new workforce entrants, and demand for skills fueled by technological change has resulted in a whole new workplace dynamic for this generation.

A different workplace dynamic is being created by what are known as "Generation X" employees. "Generation X" was born from the mid-1960s to the late 1970s. Many of these individuals were raised in families of divorce and may have developed a tolerance for upheaval and readjustment. They witnessed firings and layoffs of family members, which may greatly influence their limited loyalty to an employer. They also have been using computers and other advanced technologies all of their lives and, since birth, have been exposed to near-constant change in their everyday lives. More important, they bring attitudes and perceptions about work that differ significantly from those of preceding generations. These include an expectation of increased employee self-control; perceptions of themselves as independent contractors or consultants, rather than as employees; less interest in job security; no expectations of long-term employment; and a demand for opportunities for personal growth and creativity.[22]

"Generation Y" employees, sometimes called the "Baby Boom Echo," are those born after 1979. They are just beginning to enter the workforce and represent a cohort that is as large as the baby boom generation. Like the Generation X cohort, they have high comfort levels with technology, but also tend to bring a more global and tolerant outlook on life to the workplace, having been raised in more culturally diverse environments and been exposed to cultural differences through the media. Twenty-five percent live in a single-parent household.[23] They often are very entrepreneurial in nature and, on average, have shorter attention spans. They also may fail to see the need to work from an office or for a particular employer, opting for more transient and variable project work.[24]

Sexual orientation has been an area of diversity that increasingly has been embraced by both large and small and public and private employers. Nine of the 10 largest corporations in the United States, as well as nearly 400 of the *Fortune 500* employers, now prohibit discrimination on the basis of sexual orientation.[25] More than 200 of these employers offer full benefits for domestic partners of employees regardless of sexual orientation, although extension of benefits to domestic partners was prompted by demands from gay and lesbian employees for equality in benefits. While there is no federal law that prohibits discrimination in employment based on sexual orientation, a number of states and municipalities have passed nondiscrimination laws and ordinances. Canadian organizations and employers those that are members of European Union countries are prohibited by statute from discriminating in employment on the basis of sexual orientation. In addition to feelings about equality, some organizations are motivated to address sexual orientation issues because of the bottom line. Surveys have shown 70 percent of gay and lesbian consumers to be brand-loyal to those companies that have progressive employment policies regarding sexual orientation. This gay and lesbian consumer market is estimated at $500 billion annually.[26]

Individuals with disabilities are protected from discrimination in employment under the Americans with Disabilities Act of 1990, as will be discussed in Chapter 7. Nonetheless, individuals with disabilities often are not included in diversity initiatives, nor have they experienced full eradication of employment discrimination. There are 54 million Americans with disabilities; of those nearly 70 percent who are capable of working are unemployed, making individuals with disabilities the demographic group with the highest rate of unemployment in the United States.[27] Many technological innovations are increasing the ability for individuals were severe disabilities to be employed, closing the gap between physical limitations and productivity. However, the lack of employment opportunities for individuals with disabilities has less to do with ability than with the fact that many supervisors do not understand the needs of employees with disabilities, and stereotypes about disabilities believed by supervisors and coworkers prevent individuals with disabilities from being fully integrated into the workplace.[28] Hence, diversity initiatives need to pay particular attention to misperceptions surrounding individuals with disabilities.

Diversity at Hasbro

Several years ago, Pawtucket, Rhode Island–based toy manufacturer Hasbro, Inc., rolled out a diversity initiative that was offered as a half-day workshop to all of its 8,000 employees. Called "D@H = p3," which stands for "diversity at Hasbro equals people, products and productivity," the program received an award from the Society for Human Resource Management. The program involves a series of three exercises related to diver-

sity. The first, a variation of the game show "Who Wants to Be a Millionaire," focuses on the benefits diversity can have for a business. The second, an adaptation of Hasbro's Pokeman trading card game, facilitates an understanding of how cultural and individual differences impact an organization. The third uses Hasbro-manufactured toys, such as Lincoln Logs, to illustrate community-building and an individual's place as a responsible member of her or his community. The program was designed to allow participants to better understand diversity as a business and competitive issue for Hasbro, understand each individual's frame of reference relative to diversity, and identify opportunities for development and increased effectiveness that can be achieved through diversity. The response to the program was overwhelming, with individuals asking to be involved with future workshops about diversity.[29]

Diversity at Texas Instruments

In approaching diversity, Texas instruments (TI) eschewed the conventional strategy of bringing in external consultants for mandatory training and instead focused on an approach that attempted to embed the ideals of inclusion throughout the organization. This approach involved the establishment of "business resource groups," which include groups formed on the basis of religion, race, gender, sexual orientation, and single-parent status. These groups' distinctions relative to traditional "affinity groups" supported by other employers, is that the primary function of business resource groups at TI is business, rather than social. All business resource groups are open to all employees, regardless of background. The diversity within these groups helps to make them unique relative to those found in other organizations. Under the mentorship of an executive-level sponsor, the groups focus not only on career issues but also on business issues as each group is required to contribute to the company's success in some measurable way.[30]

One of the most notable consequences of these new workplace dynamics is that there is now an increased emphasis on the management of professionals. With fewer and fewer nonprofessional employees in organizations, situations often arise where a highly skilled/trained employee reports to a direct supervisor who is not familiar with the nature of the work being performed by subordinates. These technical workers need and want more autonomy in their responsibilities and seek greater input and participation in their work activities. In response to this, some organizations have established two separate career tracks: technical/professional and managerial/administrative. However, managers who have oversight of technical areas in which their skills are not as well developed as those of their subordinates require us to reevaluate the nature of supervision and develop alternative strategies for managing employees.

The use of project teams helps to address this issue. Here, a technical employee often reports to a technical supervisor yet is assigned to a project team, overseen by a project or engagement manager. This model, which has been used for many years in accounting, management consulting, and advertising, often involves technical workers being responsible to both the technical and project managers and can provide enhanced opportunities for employee skill and career development. This dual reporting relationship, however, can be extremely frustrating for the technical employee who may receive conflicting requests from technical and project supervisors as well as for those supervisors who do not have full authority over their subordinates.

The employees of today, both younger workers and their older peers, have values and attitudes that stress less loyalty to the company and more loyalty to oneself and one's career than those exhibited by employees in the past. This is not surprising in light of the waves of corporate downsizing and layoffs and the manner in which they have eroded employee loyalty and commitment. Workers are generally staying with employers for far shorter periods than they did previously and are moving on to other opportunities, particularly those with smaller start-up organizations in the same industry or with clients. Employees with higher levels of training, education, and skills demand more meaningful work and more involvement in organizational decisions that affect them. Employees are becoming much more proactive and taking their career management into their own hands rather than leaving this responsibility with their employer. Larger employers who wish to retain the experience and skills of their employees need to develop creative retention strategies to prevent the flight of employees who may be attractive to competitors. For example, both Charles Schwab and Solectron provide employees with stock options that vest only after the employee has been with the company for a given number of years. Both of these organizations have employees who have experiences that make them highly marketable. Requiring a certain length of service in order to receive full vesting benefits allows not only better retention but facilitates human resource planning efforts; both Schwab and Solectron can anticipate dates key employees might be more likely to consider separation.

Personal and family life dynamics continue to evolve and create challenges for organizations as well. The increased incidence of single-parent families and dual-career couples creates issues around child and elder care, relocation, and "parental stigma" where employees, particularly managerial employees, who devote significant time to family issues are seen as less promotable and less committed to their careers and employers. This stigma has presented particular challenges for women. Nontraditional family arrangements, where opposite or same-sex partners share their lives and living expenses, place increased pressure on organizations to offer domestic partner benefits to employees equal to those that the organization provides to employees with legal spouses. Although the provision of domestic partner benefits has increased dramatically in both large and small organizations, political and religious groups continue to lobby against and fight such efforts and to call for boycotts of companies that provide benefits to nonmarried couples.

An increasing number of employees are opting for nontraditional work relationships, often in the form of part-time work, independent consulting, or contingent or temporary employment. Workers opting for such arrangements often seek to enjoy more flexibility in their lives as well as the opportunity to have time to pursue other endeavors. Organizations encourage these arrangements, which allow them to enjoy lower costs in employing these workers and the added ease of being able to expand or contract their workforce as necessary. These workers, however, generally receive few or no benefits and obviously have little job security. Consequently, they tend to be less loyal to their employers than permanent, full-time employees. There is a growing trend for organizations to outsource or contract certain functions or activities outside of the organization, which simultaneously creates numerous entrepreneurial opportunities for individuals. Many plateaued baby boomers have, in fact, left their organizations and then taken their former employers on as clients.

Given the changes that have been taking place in the composition of the workforce and employee values and attitudes, it is not surprising that in recent years organizations have become much more concerned about managing diversity.

Understanding and appreciating diversity is critical for organizations as the increasing proportions of various ethnic and minority groups in the American consumer population make it imperative for organizations to understand the needs and wants of these groups if they hope to effectively market goods and services to them. Consider the following United States Census Bureau predictions:

- By 2050, close to 50 percent of the United States population will be non-Caucasian.
- By 2005, the ethnic minority share of the workforce will be 28 percent, up from 22 percent in 1990 and 18 percent in 1980.
- By 2025, African-Americans will represent 14 percent of the population, up from 12 percent in 1994.
- By 2025, Hispanics will represent 17 percent of the population, up from 10 percent in 1994.
- By 2025, Asians and Pacific Islanders will represent 8 percent of the population, more than doubling from 3 percent in 1994.[31]

Diversity Initiatives at Intel

Intel, one of the world's leading manufacturers of computer chips, understands the importance of diversity in the workplace. In an industry where demand for trained professionals greatly exceeds supply, Intel has developed a creative program for recruiting and developing minority employees.

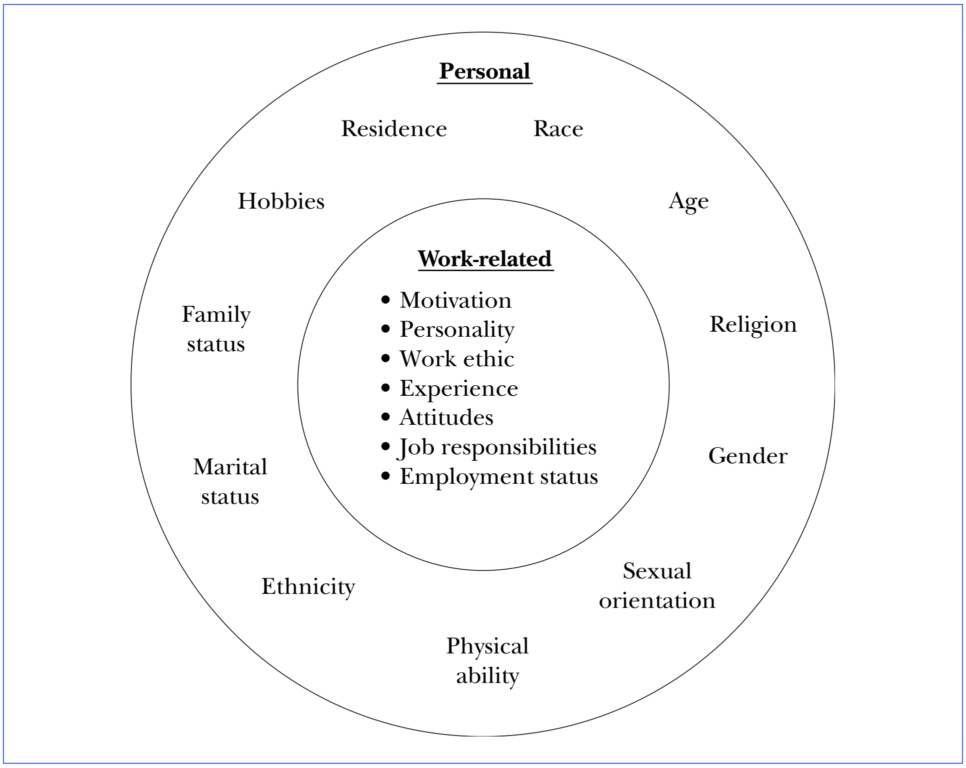
To assist with recruiting, Intel hired a leading consulting firm to assist it in identifying the ten colleges and universities with the highest minority enrollments in the field of circuitry design. Intel has also established an undergraduate minority scholarship fund that awards in excess of $1 million annually to undergraduate students. Though recipients are not required to work for Intel after graduation, a significant number of them opt to do so.

Intel has also established a college internship program whereby students are identified as high-potential employees as early as their sophomore year. Interns receive employment and are matched with mentors for their entire college careers. Those who choose to stay on board after graduation are assigned to supervisors who provide specific training that will allow their proteges to develop a variety of skills that can be applied to different jobs within the organization and will willingly allow employees to transfer within the company in order to retain their services. As a result, Intel has seen the proportion of ethnic minorities in management positions jump from 13 percent to 17 percent in a four-year period, despite efforts by its competitors to recruit its talent away.[32]

There is probably no better way to understand and market to these groups than to have them represented as employees at all levels of the organization. In addition to this, diversity initiatives help to ensure that personal differences that have nothing to do with job performance are less likely to impact hiring, promotion, and retention decisions. Intense competition and tight labor market conditions make it imperative that such decisions result in the hiring and promotion of the most qualified individuals.

As a result, diversity management programs have become quite popular. In fact, an entire industry has developed around helping organizations manage diversity. However, many diversity initiatives are ill-conceived, not integrated with the organization's mission and objectives, and can create additional challenges above those for which

EXHIBIT 2-6: INDIVIDUAL DIMENSIONS OF DIVERSITY



they were designed to respond. Key decision makers in organizations need to ask themselves what benefits diversity specifically provides their organization. There are numerous ways to implement diversity initiatives and different levels on which to understand diversity. There is no one best way to manage diversity in organizations; the optimal way is contingent upon the organization, its people, its mission, and its culture. Diversity initiatives also have to make the critical decision about where to draw the line, meaning which elements of diversity will be incorporated into the initiative and which will be excluded.

Diversity initiatives can present organizations with a complicated mosaic. Exhibit 2-6 presents a model of some of the individual dimensions of diversity. Both work-related and personal sources of diversity are presented. While most diversity initiatives cover some combination of personal dimensions, managers must remain cognizant of the work-related dimensions of diversity in ensuring that workers are managed and given job assignments that allow for both maximum satisfaction and productivity. ▾▾▾

An understanding of and appreciation for diversity is both necessary and desirable for all organizations. However, it is important that those responsible for diversity initiatives realize that diversity can be a double-edged sword. Prior to undertaking any diversity issues, an organization needs to strategize its approach in dealing with diversity. This involves consideration of six issues, as illustrated in Exhibit 2-7.

▸▸▸Reading 2.3, "Employee Satisfaction," addresses how demographic changes and diversity are requiring more attention to the complexities surrounding job satisfaction.

EXHIBIT 2-7: THE STRATEGIC MANAGEMENT OF DIVERSITY

1) Determine why diversity is important for the organization
2) Articulate how diversity relates to the mission and strategic objectives of the organization
3) Define diversity and determine how inclusive its efforts will be
4) Make a decision as to whether special efforts should be extended to attract a diverse workforce
5) Assess how existing employees, customers, and other constituencies feel about diversity
6) Determine specific types of diversity initiatives that will be undertaken

CONCLUSION

The contexts in which human resources are managed in today's organizations are constantly changing. The larger environments in which organizations operate can be in a state of constant change. Nowhere is this more evident than in the areas of technology, ethics, workforce composition, and globalization. Organizations of the 21st century cannot expect to be successful without an understanding of and response to these trends and changes. No longer do organizations utilize one set of manufacturing processes, employ a homogeneous group of loyal employees for long periods of time, or develop one set way of structuring how work is done and supervisory responsibility is assigned. Constant, if not continuous, changes in who organizations employ and what these employees do require HR practices and systems that are well-conceived and effectively implemented to ensure high performance and continued success.

More important, HR practices must constantly be reviewed and evaluated to allow an organization to respond to changes taking place in its environment. Nothing should be accepted as a "given." Failure to allow HR to assess and drive change initiatives can greatly compromise an organization's ability to remain competitive in an everchanging marketplace and society.

CRITICAL THINKING

1. What are the most important societal trends affecting HR today?
2. What are the most important workplace trends affecting HR today?
3. How well do you feel HR as a profession responds to these trends?
4. Predict societal changes that you believe might take place within the next ten years. What challenges will these changes present to organizations?
5. Predict workplace changes that you believe might take place within the next ten years. What challenges will these changes present to organizations?
6. How will HR be impacted by these changes? How can HR help organizations become more effective in meeting the challenges these changes present?

Reading 2.1

7. Select an industry outside of the travel industry and apply Sabre's model for managing virtual teams to an organization in this industry. What aspects of

Sabre's program are generic to all industries? What other kinds of challenges in managing virtual teams manifest themselves in other industries?

Reading 2.2

8. What specific policies would you recommend that an organization implement in-line with the Sarbanes-Oxley Act of 2002? What areas of the law might be ambiguous and could present challenges to organizations as they try to develop compliance guidelines?

Reading 2.3

9. Identify different employee groups and discuss the ways each might seek to gain satisfaction from their employment. What particular challenges does this present for human resource management?

EXPERIENTIAL EXERCISES

1. In small groups, identify and discuss the significant trends related to technology, ethics, and diversity that impact your college, university, or employer. What challenges do these trends present? What initiatives have been established thus far to meet these challenges?

INTERNET EXERCISES

1. Visit the Web site of the United States Bureau of Labor Statistics (http://www.bls.gov). What trends do you see taking place in the data presented? What information at the site is most useful for organizations in assessing workforce trends?

CHAPTER REFERENCES

1. Perrow, C. "A Framework for the Comparative Analysis of Organizations," *American Sociological Review*, 32 (1967), pp. 194–208; Rousseau, D. M. "Assessment of Technology in Organizations: Closed versus Open Systems Approaches," *Academy of Management Review*, 4, (1979), pp. 531–542.
2. Harvey, B. H. "Technology, Diversity and Work Culture—Key Trends in the Next Millennium," *HR Magazine*, 45, (7), July 2000, p. 59.
3. Bowen, D. E. and Lawler, E. III. "The Empowerment of Service Workers; What, Why, How and When," *Sloan Management Review*, Spring 1992, pp. 31–39.
4. Daft, R. L. *Organization Theory and Design*, 6th ed. Cincinnati: South-Western College Publishing, 1998, pp. 126–130.
5. Ibid.
6. Wells, S. J. "Two Sides to the Story," *HR Magazine*, October 2001, p. 41.
7. Wells, S. J. "Making Telecommuting Work," *HR Magazine*, October 2001, pp. 34–45.
8. Society for Human Resource Management, *Workplace Visions*, No. 5, 2001, p. 5.
9. Robb, D. "Kiosks Bring HR Services to All Employees," *HR Magazine*, October 2002, pp. 109–114.
10. Demby, E. R. "Plastic Paychecks," *HR Magazine*, April 2003, pp. 89–94.
11. Roberts, B. "Portal Takes Off," *HR Magazine*, February 2003, pp. 95–99.
12. Jossi, F. "Taking the E-HR Plunge," *HR Magazine*, September 2001, pp. 96–103.

13. Leonard, B. "Corporate Scandals Will Slow the Pace of Executive Recruitment," *HR Magazine*, October 2002, pp. 27–28.
14. Hirschman, C. "Off Duty, Out of Work," *HR Magazine*, February 2003, pp. 51–56.
15. Society for Human Resource Management, *Workplace Visions*, No. 5, 2001, p. 4.
16. Ibid.
17. Fitzgerald, P. W., Warren, S., Bergman, J., Teeple, M. and Elrod, G. B. "Employment Law Implications of the Sarbanes-Oxley Act of 2002: What Should Human Resource Managers Do Now?" Paper presented at the Academy of Legal Studies in Business Annual Meeting. Nashville, TN, 2003.
18. Ashen, F. Z. "Corporate Ethics—Who Is Minding the Store?" Society for Human Resource Management White Paper. www.shrm.org/hrresources/whitepapers_published/CMS_00248.asp
19. Ibid.
20. Society for Human Resource Management, *Workplace Visions*, No. 4, 2001.
21. Ibid.
22. Harvey, B. H. "Technology, Diversity and Work Culture—Key Trends in the Next Millennium," *HR Magazine*, 45, (7), July, 2000, p. 59.
23. Society for Human Resource Management, *Workplace Visions*, No. 2, 2001.
24. Robinson, K. "Get Ready to Mediate among Generations, Speakers Advise," *HR News*, December 2002.
25. Human Rights Campaign Workplace Project. www.hrc.org
26. Cadrain, D. "Equality's Last Frontier," *HR Magazine*, 48, (3), March 2003, pp. 64–68.
27. Cohen, S. "High-Tech Tools Lower Barriers for the Disabled," *HR Magazine*, October 2002, pp. 60–65.
28. Gray, C. "Employees A-Plenty: The Emerging Workforce of People with Disabilities," Society for Human Resource Management, *Mosaics*, 8, (1), 2002.
29. Leonard, B. "Reflecting the Wide World of HR," *HR Magazine*, July 2002, pp. 50–56.
30. Frase-Blunt, M. "Thwarting the Diversity Backlash," *HR Magazine*, June 2003, pp. 137–143.
31. Minehan, M. "The Fastest Growing U.S. Ethnic Groups," *HR Magazine*, 42, (5), May 1997.
32. Adams, M. "Diversity: Building a Rainbow One Stripe at a Time," *HR Magazine*, 43, (8), August 1998.

READING 2.1

Five Challenges to Virtual Team Success: Lessons from Sabre, Inc.

Bradley L. Kirkman, Benson Rosen, Cristina B. Gibson, Paul E. Tesluk, and Simon O. McPherson,
Academy of Management Executive

Off the coast of Mexico, a team of five people struggles to stay afloat on a raft they assembled on shore. Waves crash around them, their raft begins to tip over, and two members fall into the sea. A third member helps the submerged members back onto the raft. Finally, the raft is righted and the team paddles furiously onward.

While this might sound like a scene from a reality TV show, these events are actually part of team-building at Sabre, Inc. for its virtual teams. The crashing waves symbolize unanticipated and rapid change, the construction of the raft from everyday materials demonstrates creativity and resourcefulness, and the entire exercise shows that you either sink or swim as a team. Just one year earlier, virtual team members at Sabre had spent three days in face-to-face team-building activities designed to launch a division-wide virtual teams initiative. This raft exercise reinforced the knowledge and skills learned in earlier teambuilding. We examine the challenges of building and managing virtual teams and present five important lessons learned from Sabre's experience.

Virtual Teams: Origins and Trends

While work teams were used in the U.S. as early as the 1960s, the widespread use of teams and quality circles began in the Total Quality Management movement of the 1980s. In the late 1980s and early 1990s, many companies implemented self-managing or empowered work teams. To cut bureaucracy, reduce cycle time, and improve service, line-level employees took on decision-making and problem-solving responsibilities traditionally reserved for management. By the mid-1990s, increasing numbers of companies such as Goodyear, Motorola, Texas Instruments, and General Electric had begun exporting the team concept to their foreign affiliates in Asia, Europe, and Latin America to integrate global human resource practices.[1] Now, due to communication technology improvements and continued globalization, virtual teams have increased rapidly worldwide.

Virtual teams are groups of people who work interdependently with shared purpose across space, time, and organization boundaries using technology to communicate and collaborate.[2] Virtual team members may be located across a country or across the world, rarely meet face-to-face, and include members from different cultures.[3] Many virtual teams are cross-functional and emphasize solving customer problems or generating new work processes.[4] Virtual work allows organizations to combine the best expertise regardless of geographic location.[5]

Due to employee travel restrictions resulting from the 2001–2002 recession and the events of September 11, 2001, virtual teaming will likely increase exponentially. This increase will parallel that of telecommuters, or employees who work from remote locations and communicate electronically.[6] Two out of three Fortune 500 companies currently employ telecommuters.[7] The United States Labor Department reported that 19 million people worked from home online or from another location in 2001,[8] and the GartnerGroup estimated that by 2002 over 100 million people worldwide will be working outside traditional offices.[9] While many organizations have embraced virtual teaming, little is known, beyond anecdotal evidence and conventional wisdom, about what makes virtual teams work or even how they differ from face-to-face teams.

Anthony Townsend and colleagues (August 1998) first discussed in detail the concept of virtual teams for *The Executive*.[10] The authors defined virtual teams, specified why they have become popular, discussed communication technologies, and provided preliminary guidelines for building virtual teams. More recently in *The Executive* (August 2000), Wayne Cascio examined virtual workplaces more generally, discussing the disadvantages of virtual teaming and methods for training team members and leaders.[11] Building on and extending this work, we examined specific challenges encountered by virtual team leaders and members. Much of the previous virtual-teams research emanated from anecdotal evidence or case studies.[12] We comprehensively studied a large number of cross-functional virtual teams in a high-technology company to challenge the prevailing conventional wisdom regarding virtual teams. To extract important lessons, we drew on our experiences with 65 cross-functional virtual teams at Sabre.

Sabre, Inc.: Business at Internet Speed

In 1960, Sabre began as the computerized reservation system of American Airlines and is the inventor of electronic commerce for the travel industry. In March 2000, Sabre spun off from AMR (the parent company of American Airlines) and became 100 percent publicly traded. Headquartered in Dallas/Fort Worth, the company currently employs over 6,000 employees in 45 countries. Sabre processes over 400 million travel bookings annually (40 percent of the world's travel reservations) and is used by over 60,000 travel agents in 114 countries. Sabre also owns Travelocity.com, the world's leading online business-to-customer travel site; and it owns GetThere, the world's leading supplier of Web-based business-to-business travel reservation systems. Sabre's competitors include: Galileo (owned by Cendant Corporation), Worldspan (owned by Delta, Northwest, and TWA), and Amadeus (majority owned by Air France, Iberia, and Lufthansa). Major competitors of Sabre's Travelocity.com include Expedia.com and Orbitz.com.

Our research focused on executives, vice presidents, and virtual team leaders and members in Sabre's North American Sales and Service, Operations, and Financial Services Division. Sabre's 65 virtual teams are cross-functional, based in the U.S. and Canada, and often span several states or provinces. With over 500 members, they average about eight members per team. Virtual team members are located in both field and employee home offices and in the company's Texas headquarters. On each team, account executives sell reservation systems, field service technicians install systems, training representatives teach travel agents how to use the systems, installation operations coordinators schedule installation and training appointments, account management specialists handle customer billing and collection, and customer service representatives field inquires throughout the process. Clearly, Sabre's virtual teams are highly interdependent. To coordinate activities, members communicate using e-mail, telephone, video conferencing, and Web-based conferencing.

Sabre switched from functionally based work teams to market-based, cross-functional virtual teams in 1999 to integrate different functions to improve customer responsiveness. Functional silos were limiting Sabre's ability to satisfy customers. For instance, from 1996 to 1998, Sabre's North American customer satisfaction ratings fell from a 79 percent satisfaction rate to 68 percent, while competitor ratings remained unchanged. The purpose of virtual teams was to strengthen customer focus to increase productivity, market share, and profitability.

Cross-functional virtual teams represent a specific, albeit common, type of virtual team. Indeed, there are many types of virtual teams, each presenting unique management challenges. For example, global virtual teams must overcome cultural and communication barriers.[13] Virtual teams assigned to accomplish specific projects often have high start-up costs. Some research on cross-functional teams has shown that as teams become more cross-functional, both positive team processes (e.g., information sharing, team task and strategy agreement, and flexibility) and outcomes such as unit performance decrease.[14] The challenge for Sabre was to recognize obstacles confronting teams that are both cross-functional and virtual. Lessons learned from Sabre should apply to cross-functional virtual teams and other virtual teams that create synergies based on the special expertise of members in distant locations.

The Dimensions of Virtuality

Sabre's virtual teams are only moderately, and not completely, virtual. A virtual relationship is one that is primarily conducted using technology, but virtual teams vary in the degree to which this is the case.[15] In fact, degree of virtuality is a complex multidimensional construct.[16] One dimension of virtuality is the proportion of time that team members work face-to-face compared to virtually. A second dimension is the proportion of team members at any one location. Along this dimension, the highest degree of virtuality would be when all members work at distant locations. A third dimension is the proportion of time members devote to a virtual team compared to time spent on other duties. In some instances, individuals may work only a few hours a month on a virtual team project, while devoting most of their time to activities unrelated to virtual work.

Sabre's virtual teams meet face-to-face only once a year. While about 15 percent of the members work at the same location, most teammates work at distant locations. Virtual team activity is the primary focus of each member. Accordingly, our findings could apply to other cross-functional virtual teams.

Five Challenges of Virtual Teams

From our interviews with over 75 executives, team leaders, and team members, we uncovered some surprising insights about meeting the challenges of managing and working in virtual teams (we summarize our interview methodology in the Appendix). For each of the five challenges, we first present the conventional wisdom (i.e., what consultants and researchers are saying), we then highlight Sabre's innovative responses, and finally we extract the lessons learned from Sabre that should help other organizations using virtual teams. Table 1 presents

TABLE 1: CONVENTIONAL WISDOM, VIRTUAL TEAM CHALLENGES, AND LESSONS LEARNED FROM SABRE

Conventional Wisdom	Virtual Team Challenge	Lessons Learned from Sabre
Building trust in virtual teams is extremely difficult, given the limited face-to-face interaction.	Establishing trust based on performance consistency rather than social bonds.	• Rapid responses to virtual teammates foster trust. • Establishing norms around communication patterns is key. • Team leaders play important roles in reinforcing timeliness and consistency of team interaction. • Levels of trust based on performance compensate for lack of social interaction.
Virtual teams will struggle with creating synergy.	Overcoming group-process losses associated with virtual teams.	• Extensive training in virtual teamwork helps overcome process loss. Training in virtual team leadership, conflict management, and meetings management is particularly valuable for overcoming process loss. • Adaptation of decision-making software facilitates problem solving and decision-making.
Virtual team members experience isolation and detachment.	Creating a virtual environment of inclusiveness and involvement.	• Consider individual differences in preferences for working virtually when selecting virtual team members. • Give virtual team members a realistic preview of the potential for feeling detached. • Team leaders play a critical role in maintaining continuous contact with remotely situated virtual team members. • Redesign job assignments to provide virtual team members with occasional face-to-face customer contact to reduce isolation. • Convene face-to-face meetings for virtual team members at company-sponsored conferences.

TABLE 1: CONVENTIONAL WISDOM, VIRTUAL TEAM CHALLENGES, AND LESSONS LEARNED FROM SABRE

Because of the need to communicate via information technology, selection of virtual team members overemphasizes technical skills and underemphasizes interpersonal and teamwork skills.	Identifying virtual team members who have a healthy balance of technical and interpersonal skills.	• Use behavioral interviewing techniques and simulations as part of the selection process. • Use panels of current virtual team members to help recruit and select new team members and ensure the appropriate balance of technical and interpersonal skills. The panel approach has the additional benefit of building support and facilitating socialization of the newly selected virtual team member.
Assessment and development of virtual team members is very limited in the virtual team environment.	Establishing the appropriate quantitative and qualitative data for accurate assessment of virtual team members.	• Use of a comprehensive "balanced scorecard" approach provides valuable quantitative data on team performance. • Monitor group communication archives to assess subjective factors, including idea generation, leadership, and problem-solving skills.
	Developing creative approaches for providing feedback, coaching, and support for virtual team members.	• Use team-member peer reviews to assess contributions to team effectiveness. • Use "richer" communication media, including video conferencing, for performance evaluation feedback. • Identify on-line training and development resources to address virtual team members' knowledge, skills, and abilities in need of further improvement.

a summary of conventional wisdom, virtual team challenges, and lessons learned.

CHALLENGE 1: BUILDING TRUST WITHIN VIRTUAL TEAMS

Conventional wisdom: Most consultants and researchers agree that building trust is the greatest challenge in creating successful virtual teams and organizations.[17] Trust has been called the glue of the global workplace.[18] As Charles Handy, author of "Trust and the Virtual Organization," stated,

> Most of our organizations tend to be arranged on the assumption that people cannot be trusted or relied upon, even in tiny matters. . . . It is unwise to trust people whom you do not know well, whom you have not observed in action over time, and who are not committed to the same goals. . . . Trust needs touch . . . high tech has to be balanced by high touch to build high-trust organizations. Paradoxically, the more virtual an organization becomes, the more its people need to meet in person.[19]

In Wayne Cascio's *Executive* article on working virtually, he stated, "Lack of trust can undermine every other precaution taken to ensure successful virtual work arrangements."[20] Furthermore, Sirkka Jarvenpaa and her colleagues have stated, "In virtual organizations, trust requires constant face-to-face interaction—the very activity the virtual form eliminates."[21] The conclusion from conventional wisdom is that trust is very difficult to build and requires frequent face-to-face interaction. Thus, a specific challenge for virtual teams, compared to face-to-face teams, is the difficulty of building trust between team members who rarely, or never, see each other.

Our findings at Sabre, however, question this conventional thinking. Consider the following interview quotes about trust:

> When you are working with people you never see, you can develop trust, but you must respond to that person. Follow through. If

> you tell them you are going to get back to a customer, get back to them.
>
> (Dallas/Fort Worth team member)

> I think trusting someone in a virtual team is linked directly to their work ethic. It is task first. The trust has been built through the task-based relationship that has evolved.
>
> (Account executive)

> You gain the trust in people when they deliver what they promise, when all are contributing to the same idea and goal. I think that on a virtual team you start trusting each other when you start meeting those results and everybody has their role within the team and knows what their responsibility is and takes ownership to achieve results.
>
> (Canadian team member)

We concluded that trust can be built virtually and does not require face-to-face interaction. The key issue is the type of trust developed. For example, in face-to-face teams, members trust their teammates after spending time with them, sharing meals, discussing personal matters, or socializing outside work. People trust others when important information they share stays confidential. Researchers call this type of trust benevolent or interpersonal trust.[22] In contrast, we found that trust in virtual teams grows through team member reliability, consistency, and responsiveness when dealing with teammates and customers, or what is known as ability-based or task-based trust.[23]

Lessons learned: One lesson learned is that building trust requires rapid responses to electronic communications from team members, reliable performance, and consistent follow-through. Unlike face-to-face teams, where trust develops based on social bonds formed by informal chats around the water cooler, impromptu meetings, or after-work gatherings, virtual team members establish trust based on predictable performance.[24] Accordingly, team leaders should coach virtual team members to avoid long lags in responding, unilateral priority shifts, and failure to follow up on commitments.[25] A team charter that explicity identifies important types of team member behaviors (e.g., responding to all e-mails from team members within 24 hours) is a complementary strategy that leaders may use to develop trust among virtual team members. These actions will build strong team norms about types of behavior that foster trust.[26]

Upon first glance, the challenge of building trust may seem typical for any team or organization. However, building trust is a unique challenge for virtual teams because managers cannot rely on past methods of trust-building based on social interaction, face-to-face meetings, and direct observations of fellow team member commitment. Working virtually magnifies and exacerbates trust issues confronting almost all teams. The need for a proactive approach to identifying and facilitating trust based on speed, consistency, and responsiveness of virtual team members is the first important lesson learned from Sabre.

CHALLENGE 2: MAXIMIZING PROCESS GAINS AND MINIMIZING PROCESS LOSSES ON VIRTUAL TEAMS

Conventional wisdom: Many researchers and consultants believe that the group-process gains (positive synergy) produced in face-to-face teams are more difficult to obtain in virtual teams and that process losses (negative synergy) are more likely.[27] Cascio stated, "The major disadvantages of virtual teams are . . . [that] the synergies that often accompany face-to-face communication [are lost]."[28] In discussing telecommuting, Nancy Kurland and Dianne Bailey said, "Managers may find it difficult to create team synergy and to overcome the absence of informal, interactive learning."[29] Beverly Geber stated that in order to convince executives to incur the expense of getting virtual team members face-to-face, "It's best to use the synergy ploy. Remind executives that often a company's best ideas are born out of chance encounters in a hallway or around a water cooler. Letting virtual team members get together sometimes for extended water cooler discussions improves the chances for serendipity."[30] Steve Alexander quotes a manager as saying, "I think virtual teams are less productive in the sense that you're missing out on those corridor talks between the sales and the technical people that sometimes bring about very good results . . . it's not as perfect as having everyone sit in the same building."[31]

This conventional wisdom suggests that generating synergy (and avoiding process losses) is difficult in virtual teams because members rarely interact face-to-face. Thus, another challenge specific to virtual, but not face-to-face, teams is creating synergy without daily physical encounters. In response to this challenge, Sabre invested in teambuilding as part of its virtual team launch. Pre-launch classroom activities included developing team mission statements and core values to help members set objectives, clarify roles, build personal relationships, develop team norms, and establish group identity. Sabre also encourages virtual team members to assemble once or twice yearly. While pre-launch teambuilding and scheduled face-to-face meetings cannot fully compensate for the lack of daily informal interaction, these interventions do help team members establish a common set of goals, expectations, and operating principles.

To further instill shared purposes and goals, every team must complete a business plan outlining its annual goals and objectives. One team member commented, "Virtual teams need to understand much more so than co-located teams what goal they are working towards because you are working in such different areas and, in our case, in different countries. It plays a much stronger role if you know what your ultimate target is going to be. Everyone is working toward the same thing." To help teams run effective virtual meetings, brainstorm solutions, resolve conflicts, and take action, Sabre relies on continuous virtual team training. Each team completes a series of CD-ROM training modules developed by the Hillsboro, Oregon consulting firm The Belgard Group. Nicknamed Tour de Teams by Sabre, the 15 training modules contain exercises and scenarios such as developing a team charter, managing a team meeting, resolving conflicts, and selecting new team members. One team member commented, "When we complete the team training modules, we have a conference call and go over all of the points. We take them very seriously. So when we have virtual meetings, we now have tools to help us stay on track and communicate effectively."

Sabre's experience also shows that working virtually can reduce team process losses associated with stereotyping, personality conflicts, power, politics, and cliques commonly experienced by face-to-face teams. Diversity research shows that visual cues such as race/ethnicity and gender can decrease team integration and performance in highly diverse teams.[32] Virtual team members may be unaffected by potentially divisive demographic differences when there is minimal face-to-face contact. And, while the research is still relatively new, some researchers have found that electronic collaboration generates more minority participation, which might increase overall integration and level of attachment of minority members.[33] Other studies show that electronic group decision support systems help virtual teams make higher quality decisions than face-to-face teams.[34]

Lessons learned: A critical priority for virtual team leaders is helping their virtual teams maximize process gains and minimize process losses. Sabre's well-trained virtual teams overcome process losses. Sabre's training begins with teambuilding and continues with efforts to help virtual teams create charters and mission statements, clarity goals, and develop operating norms. Sabre sustains virtual team effectiveness with an ongoing virtual training program to build new skills in meetings management, problem solving, decision-making, and other team processes. Sabre's comprehensive training efforts allow virtual teams to create synergy by bridging barriers of time and space and collaborating effectively. Moreover, stereotyping, gossip, politics, and conflict are often minimized in virtual teams like Sabre's.

CHALLENGE 3: OVERCOMING FEELINGS OF ISOLATION AND DETACHMENT ASSOCIATED WITH VIRTUAL TEAMWORK

Conventional wisdom: Regarding isolation in virtual teams, Cascio stated, "The major disadvantages of virtual teams are the lack of physical interaction—with its associated verbal and nonverbal cues," and "Some level of social interaction with supervisors and coworkers is essential in almost all jobs. Without it, workers feel isolated and out of the loop."[35] Charles Handy has stated, "The loneliness of the long-distance executive is well documented. Few are going to be eager advocates of virtuality when it really means that work is what you do, not where you go."[36] Telecommuting researchers Kurland and Bailey stated, "Probably the most commonly expressed challenge of telecommuting is overcoming the isolation caused by the separation of the telecommuter from the social network of the traditional work space."[37] In a separate article, Kurland and Terry Egan said, "Employees' primary reluctance about telecommuting rests on concerns about isolation," and "Employees comment that they miss the informal interaction they garner by being in the presence of colleagues and friends."[38] Finally, Paula Caproni warned, "Many researchers and practitioners are concerned that high-quality relationships may be particularly difficult to achieve in teams in which team members are geographically dispersed."[39]

This conventional wisdom suggests that virtual team members will be less productive and satisfied than people working face-to-face due to feelings of isolation and detachment. Thus, a specific challenge for virtual team leaders that does not confront face-to-face team leaders is overcoming member feelings of isolation. Researchers have long held that people are motivated and satisfied at work, in part, as a result of interactions with coworkers.[40] Colleagues share stories and pictures, have lunch or take breaks together, and celebrate promotions or the birth of children. In face-to-face teams, these activities occur naturally and frequently and build esprit de corps. Team leaders use team-building activities like ropes courses, bowling nights, or barbeques to solidify team cohesion and spirit. In virtual teams, most of these possibilities are lost.

Indeed, some virtual team members have reported feelings of alienation.[41] Consider these comments from Sabre team members:

> We get left off a lot of things because there are meetings we can't go to for cost reasons. We miss out on those opportunities to get together and bond as a group, and that is tough sometimes. And you do feel like stepchildren sometimes.
>
> (Dallas/Fort Worth team member)
>
> I find that by working at home, my work is my home and I miss that interaction. I don't have as many people to network with on issues or successes. Sometimes I can't reach anyone by phone and it's frustrating. When you work in an office, you just look over their cube and there they are.
>
> (Account executive)
>
> As much as we want to go and run the world from our bedrooms, in our slippers, we are humans, we have to be touched, seen, and heard.
>
> (Account executive)

Sabre counteracts feelings of virtual team member isolation first by recognizing individual needs for social interaction or lack of it. While individuals with strong social needs may find virtual teamwork difficult, others desire independent, virtual work. Some Sabre employees welcome minimal social interaction and reductions in gossip, politics, and minor disruptions that often accompany face-to-face work. Others tout the advantages of working from home including reduced travel time, proximity to young children, and flexibility. In selection interviews, Sabre questions candidates on their suitability for virtual teamwork. Sabre uses realistic job previews[42] to counter team-member isolation, which allows candidates to select out of isolating positions. Some virtual team members interact with customers, partially satisfying social needs. Sabre also gives employees options for working from home or an office where they have opportunities to interact with other Sabre employees who may, or may not, be virtual teammates.

Sabre's team-building and training sessions help overcome team-member isolation. Most consultants and researchers believe initial face-to-face meetings are critical for all team members to build personal relationships with teammates.[43] Annual company meetings and occasional special events provide additional opportunities for face-to-face meetings. General managers frequently communicate with individual team members to reduce feelings of isolation. Since regular face-to-face interaction is not feasible, managers communicate with routine phone calls or e-mails to keep isolated team members in the loop. One Canadian manager encourages the most isolated team members to build networks of contacts within the company and to stay in close communication with headquarters. Other general managers have established mentor-protégé relationships giving isolated team members a sense of inclusion. As one manager noted, "I work constantly to counteract the out-of-sight, out-of-mind problems with virtual team members. My goal is to keep everyone fully involved."

Lessons learned: General managers admitted that it took some time to recognize how to deal with virtual team member isolation. Initially, these managers interpreted minimal communication as a signal that all was well. Over time, however, managers recognized that some virtual team members needed more frequent and some almost daily communication. Sabre's experience with isolated virtual team members is that feelings of detachment and alienation, while possible, can be overcome with careful attention to social needs. Psychological testing identifies members with strong social needs, realistic job previews shape expectations of prospective employees, increased client contact and teambuilding meet social needs, and virtual team leaders proactively reach out to far-flung team members. While isolation can hamper team functioning, Sabre uses a variety of techniques to minimize potential problems.

CHALLENGE 4: BALANCING TECHNICAL AND INTERPERSONAL SKILLS AMONG VIRTUAL TEAM MEMBERS

Conventional wisdom: Since face-to-face interaction is minimal, some managers assume that interpersonal skills for virtual team members are less important than for face-to-face teams. For example, Beverly Geber suggests that managers should "select people who are comfortable sharing information and working with computers."[44] Anthony Townsend and colleagues note, "What is different about the virtual team is the amount of technical training that is required to empower the team member to function in the virtual environment. Training to maintain technical proficiency will be an important component of any virtual team member's continuing education program."[45] A manager in Martha Haywood's book *Managing Virtual Teams: Practical Techniques for High-Technology Managers* stated, "I don't care about this guy's feelings. I want to know when he's going to call me back."[46] Such sentiments illustrate the lack of emphasis on interpersonal relations.

Conventional wisdom assumes that virtual team members should be selected almost exclusively for their technical skills. After climbing a steep learning curve, Sabre's experience has been quite different. A divisional vice president captured the importance of striking a balance between technical and interpersonal skills by stating, "In our hiring in the past, we were guided by the level of technical skill, but now we are more sensitive to the level of interpersonal skills an individual brings to the equation, because this is a very key element in how these teams interact. We are more sensitive to a well-rounded person. If the work ethic is there and their ability to work with others is there, we can train them to be very effective at their jobs."

We asked team leaders and members to discuss ideal virtual team member skills. An overwhelming majority mentioned ability to communicate as most important. A close second was desire to support a team and teamwork in general. Team members also listed flexibility and adaptability in playing many different team roles. Other members discussed the importance of giving and receiving feedback. Others mentioned a sense of humor. One Canadian team member commented, "Technical job skills are important, but I tend to look at their ability to be part of a team, how they adjust to working with others, and their people skills." Managers often mentioned working independently, being a self-starter, thinking outside of the box, and taking initiative. Task-relevant skills were low on their lists. One manager commented, "It is not what the job is about. We can teach them the job. It is the right personality and the ability to get along with other team members. I don't care if they know twenty different kinds of software or not. I am more interested in how that person is going to fit into that team."

A significant challenge for virtual team leaders is recruiting, selecting, and retaining team members who have a good balance of technical and interpersonal skills. Clearly, virtual team members must have financial, marketing, or technology skills to carry out specific tasks. Moreover, all employees must be well versed in using the communications technology necessary to coordinate the efforts of a cross-functional virtual team. However, Sabre's experience suggests that virtual team members must also possess excellent interpersonal skills. In response to challenges of recruiting and selecting virtual team members with the right balance of technical and interpersonal skills, managers at Sabre have adjusted their selection procedures. Many use behavioral interviewing and scenario-based questions to assess communication and teamwork skills. For example, a Canadian manager presents this situation: "I will say, 'You haven't seen me for a month. You have been flying around the Northwest Territories. You are out of touch. How are you going to stay connected to us?'"

A second approach to selecting virtual team members is panel interviews. Using teleconferences, prospective future virtual teammates interview job candidates, and virtual team members assess interpersonal skills and team fit. A secondary benefit is the extra effort teammates make to welcome and socialize candidates they have selected. In future years, managers may develop a variety of simulations to aid virtual team candidate assessment.

Lessons learned: At Sabre, clearly the selection of virtual team members involves assessments of both task and interpersonal skills. Contrary to conventional wisdom, just because team members seldom interact face-to-face does not mean interpersonal skills will be less important than task-relevant skills. Indeed, interpersonal skills may be more important as team members attempt to communicate effectively without relying on traditional non-verbal cues.

CHALLENGE 5: ASSESSMENT AND RECOGNITION OF VIRTUAL TEAM PERFORMANCE

Conventional wisdom: Again, Charles Handy put it best when he asked, "How do you manage people whom you do not see?" and "We will . . . have to get accustomed to working with and managing those whom we do not see. . . . That is harder than it sounds."[47] Kurland and Bailey stated. "A major challenge for managers is their inability to physically observe their employees' performance. They question, 'How do you measure productivity, build trust, and manage people who are physically out of sight?' If a manager can't see her subordinates in action, then she can't note where the employee is struggling and where he is strong . . . monitoring and measuring [employee] performance remain problematic and a source of concern."[48] Cascio said, "By far the biggest challenge is performance management."[49]

Conventional wisdom suggests that it is extraordinarily difficult for virtual team leaders to assess member performance and ensure fairness for members they rarely see. At Sabre, however, virtual team evaluations and rewards are a priority. Accordingly, Sabre developed a comprehensive, multi-tiered assessment process. First, Sabre developed a balanced scorecard[50] for each team. At the organizational level, balanced scorecards typically elevate non-financial measures such as employee or customer satisfaction to the level of importance typically held by financial measures such as stock price or return on equity. At the team level, Sabre's balanced scorecard consists of:

- Growth (share of the market);
- Profitability (costs versus revenue generated for each travel booking);
- Process improvement (cycle time, or the time required to order and install customer hardware); and
- Customer satisfaction (assessed with survey data collected from actual customers).

Sabre makes extraordinary efforts to monitor each team's customer satisfaction including setting annual customer service goals. Managers collect survey data quarterly from each team's external customers. Sabre posts team customer service scores on its intranet. Members know exactly where their team stands relative to other teams. Closely monitoring client satisfaction helps Sabre create intense customer service focus. Moreover, virtual team leaders have an external, albeit subjective, basis for evaluating and rewarding virtual teams. One developmental need for virtual teaming at Sabre is allowing more team-member input in setting customer service goals. Presently, management still controls this decision-making aspect.

Another important element of the balanced scorecard is process improvement (i.e., cycle time) or the extent to which team members reduce the time from the placement of an order to the installation of, and training on, a reservation system. Process improvement is an objective measure of team learning at Sabre. Thus, Sabre's teams are responsible for both day-to-day work and continuous improvement of their processes and cycle time.

Managers also assess individual team member performance. Sabre tracks objective individual performance measures such as number of installations, development of new business, number of individuals trained to use a system, accuracy of financial contracts, and customer retention. Because these measures are objective and quantifiable, evaluations are much less susceptible to stereotyping, favoritism, or other contaminating perceptual biases. Ironically, virtual team member evaluations may be more accurate than evaluations of face-to-face team members.[51] Biases induced by demographic differences such as race, gender, and age can lower both individual performance ratings.[52] and team ratings.[53] Contamination of evaluations by perceptual biases is less likely when team leaders have extensive objective data.

In addition to objective measures, general managers track subtle virtual team member behavior such as taking leadership roles during virtual team meetings, suggesting internal quality improvement strategies, coaching new team members off-line, and other intangible actions that enhance team effectiveness. General managers monitor electronic discussions, team e-mails, and other team activities. Managers often have more accurate records of individual contributions to virtual teams than they do from informal observations of face-to-face teams. They also supplement their own evaluations with peer evaluations. Using modified 360-degree performance evaluations, general managers collect peer and even customer input electronically.

General managers also provide timely feedback and resolve performance problems quickly. Some managers emphasize choosing appropriate communications media to deliver constructive feedback. They recommend using two-way communication channels such as teleconferences so feedback delivery can be followed immediately by interactive problem-solving or counseling sessions. Communicating constructive feedback from a distance forces managers to do more research, collect and analyze all of the relevant facts, and carefully craft messages. Knowing that their ability to resolve misunderstandings is constrained, managers emphasize careful preparation. Moreover, managers identify ahead of time resources that teams can tap in responding to problems. Other managers hold regularly scheduled monthly virtual meetings with each team member. One manager said, "It has to be a two-way street. They have to feel comfortable being honest and straightforward with me even with the bad stuff. I find that communicating electronically overcomes some of the interpersonal issues that might have made me hold back in the past."

Lessons learned: Sabre has built a comprehensive performance review system. The balanced scorecard provides an excellent approach for measuring team effectiveness. Sabre assesses individual contributions to team effectiveness by monitoring electronic communications and systematically collecting data from peers and direct reports using 360-degree assessments. Performance data provide a solid foundation for recognizing and rewarding team and individual performance, developing new training programs to assist virtual teams, and identifying individual team members who can benefit from off-line mentoring and coaching. Managers have developed effective techniques to deliver feedback. As one manager stated, "Most everyone's work is measured in the results they produce and through statistics, and it can all be pulled out systematically for each individual." In the virtual workplace, team members can be judged more on what they actually do rather than on what they appear to be doing.

Continuous Improvement at Sabre

While we have focused on positive aspects of Sabre's virtual teams, some lessons were learned only after trial and error. For example, managers said that recognizing the sense of isolation among virtual team members took time. Similarly, some general managers reported initial reluctance to provide strong negative feedback virtually, preferring face-to-face meetings.

Our research identified a variety of other problems associated with managing and supporting virtual teams at Sabre. General managers still struggle with finding effective strategies for empowering virtual teams. Human Resources continues to fine-tune the content and delivery of virtual team training. Lastly, Sabre still struggles with the appropriate mix of rewards for individual contributions and team performance. While we have emphasized Sabre's positive lessons learned, these lessons were learned after false starts, stumbles, and reassessments. Moreover, new problems require continuous fine-tuning. Working with similar organizations, we found that this ongoing process of adaptation and adjustment is crucial to maximize virtual team effectiveness. Permanent, inflexible programs or policies such as a rigid structure or one-shot training do not provide adequate support for collaboration such as virtual teaming, in which members themselves are expected to grapple with uncertainty, innovate, and remain flexible.

One key to promoting ongoing adaptation at Sabre is communities of practice[54] (or what Sabre calls Centers for Excellence) where virtual team members in the North American division and beyond (including Sabre employees in Latin America, Europe, and Asia) share best practices. The Centers for Excellence, started in 2001 in the areas of sales, technology, training, and operations, are designed to provide innovative process solutions from Sabre's global operations. An excellent example is Sabre's 24/7 Learning Café. Developed by the technology Center for Excellence, the Café is an on-line training scheduler that allows Sabre employees worldwide to schedule and access virtual training modules such as "Coaching and Developing Others" and "New Product Training." More recently, the operations Center for Excellence developed a standardized product-demonstration tool that allows account executives, regardless of their experience level or location, to provide consistent demonstrations to customers of state-of-the-art reservation systems. The Centers for Excellence allow learning to occur within and across Sabre's virtual teams despite the conventional wisdom that process improvements occur in serendipitous face-to-face encounters in traditional work settings. The ability to establish and re-establish equilibrium between changing needs and requirements is a critical competency for organizations utilizing virtual teams.

Have Virtual Teams Improved Sabre's Bottom-Line Results?

Most of the interviewees at Sabre agreed that the transition from traditional, functional, face-to-face teams to cross-functional, virtual teams improved customer service. Regarding objective measures, after Sabre introduced cross-functional virtual teams, customer satisfaction ratings improved each year from a low of 68 percent in 1997 to 85 percent in 2000. In addition, North American market share increased from 43 percent in 1997 to 50 percent in 2000. Also during this period, Sabre's number of travel bookings increased significantly each year. While we cannot attribute all of these improvements solely to Sabre's implementation of virtual teams, clearly customers have responded positively to the changes at Sabre, which include using virtual teams.

However, benefits such as improved customer service are only half of the equation needed to assess virtual teaming effectiveness. In determining any return on investment, managers must also assess costs of implementing organizational designs. A central issue for virtual teams is the difficulty of assigning monetary values to costs that are not easily quantified.[55] These may include opportunity costs associated with internal resources devoted to the team. Several researchers have suggested calculating costs of team-member time and support-person time based on average salary and time spent with virtual teams.[56] Data regarding costs and benefits of virtual teaming can then be used to compare different virtual efforts using the same metric. The goal of such an analysis is determining if a virtual team's charter is consistent with a company's bottom-line objectives. Given the substantial resources necessary to support virtual teams, these are important questions to address in designing virtual teams and setting them up for success.

Virtual Teams: The Way Business Is Evolving

Using Sabre's experiences, we have highlighted five critical challenges that organizations face when implementing and using virtual teams. As organizations expand globally, the need to tap the talents, experience, and special skills of employees working in distant locations will increase. Most corporate executives predict that technology-mediated communication and virtual teaming will increasingly replace physical travel. However, creating and supporting virtual teams is a very difficult assignment. Identifying challenges ahead and learning from the Sabre experience represent a good place to start. In the words of one Sabre executive, "I think that virtual teams is inevitably the way business is evolving. We are working hard to get ahead of the curve."

Appendix

Summary of Methodology Used to Study Virtual Teams at Sabre

We selected Sabre's North American Sales and Service, Operations, and Financial Services Division based on its extensive use of virtual teams. Our work with other organizations using virtual teams suggests that Sabre's use is representative and comparable to that of the typical organization. From Sabre's 65 cross-functional virtual teams, members of a representative subset of 18 teams (i.e., varying by division, region, size of customer, and country) were selected to participate in face-to-face interviews. From those 18 teams, a representative subset of 58 teams members (34 percent of the total of 169 members) was interviewed based on variance in job function, demographics, and organizational tenure. We also interviewed the 11 team leaders of these 18 teams (some team leaders led more than one team), six divisional vice presidents who supervised the team leaders, and the executive vice president of the North American Division (for a total of 76 interviews). No team members or leaders declined to be interviewed.

Separate interview protocols were developed for each of the three organizational levels, and all interviewees within each level were asked identical questions. Each of the researchers (i.e., the first four coauthors of this paper) interviewed a roughly equal number of team members and leaders. The researchers had no prior relationship with Sabre or any virtual team members before the two entities entered into a research partnership. The researchers traveled from New York to California and from Quebec to British Columbia to meet virtual team members and leaders. Each interview lasted for one hour. The interviews were tape recorded and in some cases videotape recorded. Full transcriptions of each interview were prepared. All of the researchers participated in the divisional and executive vice president interviews via conference call. The interviewees were told that Sabre and the researchers had formed a partnership to examine the key drivers of, and significant obstacles to, virtual team effectiveness. All respondents were assured that their interview and survey responses were the property of the researchers and that only summary data would be returned to Sabre. Thus, their responses were confidential. Total time to conduct and analyze the interviews was six months. Sample virtual team member interview questions included:

- Describe the main differences between the teams you have worked on before in this company and your current virtual team.
- Describe the special challenges you have encountered working virtually.
- If you were involved in the hiring of a new member of your virtual team, what characteristics would you look for?
- What specific behaviors has your team leader (general manager) demonstrated that particularly help the functioning of your virtual team?

Regarding data analysis, all researchers read each interview transcript and created their own categories and themes. Each researcher then collected representative comments under each category. The researchers then met face-to-face to compare the categories. Discrepancies were resolved, and the researchers agreed upon a consensus set of categories. Representative comments were then collated by category. This process allowed us to retain only those themes that were represented by a large number of respondent comments.

Endnotes

1. For more information about global work team implementation, see Kirkman, B. L., Gibson, C. B., & Shapiro, D. L. 2001. "Exporting" teams: Enhancing the implementation and effectiveness of work teams in global affiliates. *Organizational Dynamics*, 30(1): 12–29.
2. Lipnack, J., & Stamps, J. 2000. *Virtual teams: People working across boundaries with technology*. 2nd ed. New York: Wiley. See also, Duarte, D. L., & Snyder, N. T. 2001. *Mastering virtual teams*. 2nd ed. San Francisco: Jossey-Bass.
3. Maznevski, M. L., & Chudoba, K. M. 2000. Bridging space over time: Global virtual-team dynamics and effectiveness. *Organization Science*, 11(5): 473–492; and Montoya-Weiss, M. M., Massey. A. P., & Song, M. 2001. Getting it together: Temporal coordination and conflict management in global virtual teams. *Academy of Management Journal*, 44(6): 1251–1262, for issues involving virtual teams composed of members from different countries.
4. Chase, N. 1999. Learning to lead a virtual team. *Quality*, 38(9): 76; and Geber, B. 1995, Virtual teams. *Training*, 32(4): 36–40; and Bell, B. S., & Kozlowski, S. W. J. 2002. A typology of virtual teams: Implications for effective leadership. *Group & Organization Management*, 27(1): 14–49.
5. Gibson, C. B., & Cohen, S. G., forthcoming. *Virtual teams that work: Creating the conditions for virtual team effectiveness*. San Francisco: Jossey-Bass.
6. See Cooper, R. C. 1997, Telecommuting: The good, the bad, and the particulars. *Supervision*, 57(2): 10–12; McCune, J. C. 1998. Telecommuting revisited. *Management Review*, 87(2): 10–16; and Pearlson, K. E., & Saunders, C. S. 2001. There's no place like home: Managing telecommuting paradoxes. *The Academy of Management Executive*, 15(2): 117–128, for more information on telecommuting.
7. Cascio, W. F. 2000. Managing a virtual workplace. *The Academy of Management Executive*, 14(3): 81–90; Kurland, N. B., & Bailey, D. E. 1999. Telework: The advantages and challenges of working here, there, anywhere, and anytime. *Organizational Dynamics*, 28(2): 53–67; and Kurland, N. B., & Egan, T. D. 1999. Telecommuting: Justice and control in the virtual organization. *Organization Science*, 10(4): 500–513.
8. Pearlson & Saunders, op. cit.
9. Elkins, T. 2000. Virtual teams: Connect and collaborate. *IIE Solutions*, 32(4): 26–32.
10. Townsend, A. M., DeMarie, S. M., & Hendrickson, A. R. 1998. Virtual teams: Technology and the workplace of the future. *The Academy of Management Executive*, 12(3): 17–29.
11. Cascio, op. cit.
12. Maznevski & Chudoba, op. cit.
13. Boudreau, M. C., Loch, K. D., Robey, D., & Straud, D. 1998. Going global: Using information technology to advance the competitiveness of the virtual transactional organization. *The Academy of Management Executive*, 12(4): 120–128: and Maznevski & Chudoba, op. cit.
14. Bunderson J. S., & Sutcliffe, K. M., in press. Comparing alternative conceptualizations of functional diversity in management teams: Process and performance effects. *Academy of Management Journal*; Dougherty, D. 1992. Interpretive barriers to successful product innovation in large firms. *Organization*

Science, 3(2): 179–202; Lovelace, K. Shapiro, D. L., & Weingart, L. R. 2001. Maximizing cross-functional new product teams' innovativeness and constraint adherence: A conflict communication perspective. *Academy of Management Journal*, 44(4): 779–793; Ancona, D. G., & Caldwell, D. F. 1992, Demography and design: Predictors of new product team performance. *Organization Science*, 3(3): 321–341; and Parker, G. M. 1994. *Cross-functional teams: Working with allies, enemies, and other strangers*, San Francisco: Jossey-Bass.
15. Maznevski & Chudoba, op. cit.
16. Gibson & Cohen, op. cit.
17. See, for example, Coutu, D. 1998. Trust in virtual teams. *Harvard Business Review*, 76(3): 20–21; Jarvenpaa, S., & Leidner, D. 1999. Communication and trust in global virtual teams. *Organization Science*, 10(6): 791–815; Jarvenpaa, S. L., Knoll, K., & Leidner, D. E. 1998. Is anybody out there? Antecedents of trust in global virtual teams. *Journal of Management Information Systems*. 14(4): 29–64; Platt, L. 1999. Virtual teaming: Where is everyone? *Journal of Quality & Participation*, September/October: 41–43; Cascio, op. cit.; and Townsend, op. cit.
18. O'Hara-Devereaux, M., & Johansen. B. 1994. *Global work: Bridging distance, culture, and time*. San Francisco: Jossey-Bass; Hart, P., & Saunders, C. 1997. Power and trust: Critical factors in the adoption and use of electronic data interface. *Organization Science*, 8(1): 23–42; and Sheppard, B. H., & Sherman, D. M. 1998. The grammars of trust: A model and general implications. *Academy of Management Review*, 23(3): 422–437.
19. Handy, C. 1995. Trust and the virtual organization. *Harvard Business Review*, 73(9): 40–48.
20. Cascio, op. cit., 83.
21. Jarvenpaa et al., op. cit., 30.
22. For a more complete discussion of trust, see Mayer, R. C., Davis, J. H., & Schoorman, F. D. 1995. An integrative model of organizational trust. *Academy of Management Review*, 20(3): 709–734. For a discussion about the impact of trust on cooperation and teamwork, see Jones, G. R., & George, J. M. 1998. The experience and evolution of trust: Implications for cooperation and teamwork. *Academy of Management Review*, 23(3): 531–546.
23. Mayer et al., op. cit.
24. Geber, op. cit., 39.
25. Gibson, C. B., & Manuel, J., forthcoming. Building trust: Effective multicultural communication processes in virtual teams. In C. B. Gibson & S. G. Cohen (Eds.), *Virtual teams that work: Creating the conditions for virtual team effectiveness*. San Francisco: Jossey-Bass.
26. For more on creating team charters and other team-development tools and interventions, see Fisher, K., Rayner, S., & Belgard, W. 1995. *Tips for teams*. New York: McGraw-Hill.
27. The notion of process gains and losses is explained in more detail in J. R. Hackman's work. See Hackman, J. R. 1987. The design of effective work teams. In J. W. Lorsch (Ed.), *Handbook of organizational behavior*. Englewood Cliffs, NJ: Prentice-Hall: 315–345; and Hackman, J. R. (Ed.), 1990. *Groups that work (and those that don't)*. San Francisco: Jossey-Bass.
28. Cascio, op. cit., 84.
29. Kurland & Bailey, op. cit., 59.
30. Geber, op. cit., 39.
31. Alexander, S. 2000. Virtual teams going global. *Infoworld*, 22(46): 55–56.
32. Ancona & Caldwell, op. cit. See also, Lichtenstein, R., Alexander, J. A., Jinnett, K., & Ullman. E. 1997. Embedded intergroup relations in interdisciplinary teams: Effects on perceptions of level of team integration. *Journal of Applied Behavioral Science*, 33(4): 413–434; and Timmerman, T. A. 2000. Racial diversity, age diversity, interdependence, and team performance. *Small Group Research*, 31(5): 592–606.
33. McLeod, P., Baron, R., Marti, M., & Yoon, K. 1997. The eyes have it: Minority influence in face-to-face and computer-mediated group discussion. *Journal of Applied Psychology*, 82(5): 706–718.
34. Gallupe, R. B., Bastianutti, L., & Cooper, W. H. 1991. Unblocking brainstorms. *Journal of Applied Psychology*, 76(1): 137–142. See also, Lam, S. S. K., & Shaubroeck, J. 2000. Improving group decisions by better pooling information: A comparative advantage of group decision support systems. *Journal of Applied Psychology*, 85(4): 565–573.
35. Cascio, op. cit., 82, 84.
36. Handy, op. cit., 4.
37. Kurland & Bailey, op. cit., 61.
38. Kurland & Egan, op. cit., 502.
39. See Caproni, P. J. 2001. *The practical coach: Management skills for everyday life*. Upper Saddle River, NJ: Prentice-Hall (see specifically Chapter 8, entitled "Diverse teams and virtual teams: Managing differences and distances": 247–287).
40. Emery, F. E. 1959. *Characteristics of sociotechnical systems*. London: Tavistock.
41. Geber, op. cit., 36; and Cascio, op. cit., 82.
42. Philips, J. M. 1998. Effects of realistic job previews on multiple organizational outcomes: A meta-analysis. *Academy of Management Journal*, 41(6): 673–690.
43. Joinson, C. 2002. Managing virtual teams. *HR Magazine*, 47(6): 69–73.
44. Geber, op. cit., 40.
45. Townsend et al., op. cit., 26.
46. Haywood, M. 1998. *Managing virtual teams: Practical techniques for high-technology managers*. Boston: Artech House.
47. Handy, op. cit., 3, 4.
48. Kurland & Bailey, op. cit., 59.
49. Cascio, op. cit., 87.
50. For more information on the balanced scorecard, see: Kaplan, R. S., & Norton, D. P. 1996. Using the balanced scorecard as a strategic management system. *Harvard Business Review*, 74(1): 75–85.
51. Alexander, op. cit.
52. See, for example, Kraiger, K., & Ford, J. K. 1985. A meta-analysis of rater race effects in performance ratings. *Journal of Applied Psychology,* 70(1): 56–65. See also, Pulakos. E. D., Oppler, S. H., White, L. A., & Borman, W. C. 1989. Examination of race and sex effects on performance ratings. *Journal of Applied Psychology*, 74(5): 770–780.
53. Baugh, S. G., Graen, G. B. 1997. Effects of team gender and racial composition on perceptions of team performance in cross-functional teams. *Group & Organization Management,* 22(3): 366–383. See also, Kirkman, B. L., Tesluk, P. E., & Rosen, B., in press. The impact of demographic heterogeneity and team leader-team member demographic fit on team empowerment and effectiveness. *Group & Organization Management*.

54. Brown, J. S., & Duguid, P. 1991. Organizational learning and communities of practice: Toward a unified view of working, learning, and innovation. *Organization Science*, 2(1): 40–57.
55. See Levenson, A., & Cohen, S. G., forthcoming. Meeting the performance challenge: Calculating ROI for virtual teams. In C. B. Gibson & S. G. Cohen (Eds.), *Virtual teams that work: Creating the conditions for virtual team effectiveness.* San Francisco: Jossey-Bass; and Levenson, A., forthcoming. ROI and strategy for teams and collaborative work systems. In M. Beyerlein, C. McGee, G. Klein, L. Broedling, & J. Nemiro (Eds.), *The collaborative work systems field book.* San Francisco: Jossey-Bass/Pfeiffer, for more information about assessing the costs and benefits of virtual teaming.
56. Levenson and Cohen, op. cit.

READING 2.2

The Employment Law Impact of the Sarbanes-Oxley Act

Paul E. Starkman, ***Employee Relations Law Journal***

The Sarbanes-Oxley Act (Act) contains some of the most important provisions relating to employment, executive compensation, and corporate ethics to be enacted in recent years. The Act directly applies to publicly traded companies and their executives but its reverberations will be far broader. This article discusses how the Act changes the employment landscape for corporate America. It also examines how executives and other employees will be affected by the Act, both on the job and in their pocketbooks. The article provides practical pointers on how publicly traded companies and those who work for them can meet the challenges presented by this new government mandate.

The Sarbanes-Oxley Act of 2002 (Act), which was signed into law by President Bush on July 30, 2002, and went into effect immediately, contains sweeping provisions affecting employment and executive compensation. The Act directly applies to publicly traded companies and their executives but it also impacts companies that do business with public corporations as "contractors" and "subcontractors" (i.e., outside auditors, accountants, human resources consultants, and legal counsel). Its reverberations also will be felt by nonpublicly traded companies, such as privately owned subsidiaries and related entities, whose financial activities are included in or may affect the financial statements and consolidated tax returns of public companies. This article examines the Act's dramatic employment-related changes, including the creation of new whistleblower protections.

The Sarbanes-Oxley Act's effect on the employment, compensation, and duties of executives and attorneys employed by publicly traded companies and their related entities also is discussed. Although the full impact of the Act may not become clear for many years to come, corporate America must begin grappling with it now or risk substantial civil and criminal liability.

The Act Creates New Whistleblower Protections

The Act's most significant employment-related change is that it contains increased protections for whistleblowers. It not only creates new civil statutory whistleblower causes of action but also criminalizes retaliation against government informants. As more fully discussed below, the provisions of the Act creating the new civil causes of action are contained in two subsections. No public company (i.e., a company with a class of securities registered under Section 12 of the Securities Exchange Act of 1934 (codified at 15 U.S.C. Section 781) or that is required to file reports under Section 15(d) of the same act (15 U.S.C. Section 780(d)) or any "officer, employee, contractors, subcontractors or agents" of such company may discharge, demote, suspend, threaten, harass, or in any other manner discriminate against an employee in the terms and conditions of employment because of any lawful act done by the employee[1]. Under one subsection, the employee must have filed cause for, testified in, participated in, or otherwise assisted in a "proceeding" relating to an alleged violation of federal securities or anti-fraud laws.[2] Under a second subsection, the employee must have reported conduct that he or she "reasonably believes" violated federal securities and anti-fraud laws internally to supervisors or others within the company with authority to deal with the misconduct or externally to federal or congressional authorities.[3] A third, separate subsection of the Act, discussed more fully below, criminalizes retaliation against government informants.[4] All in all, the Act's new whistleblower protections significantly change the legal landscape for public corporations and their employees.

THE ACT CREATES A CAUSE OF ACTION FOR THOSE WHO ASSIST IN A GOVERNMENT "PROCEEDING"

Under Section 1514A(a)(2), the Act bars retaliation against an employee because of any lawful act done by the employee to identify or cause, testify in, participate in, or otherwise assist in a proceeding underway or about to be underway (with "any knowledge of the employer") relating to an alleged violation of federal securities laws, Securities and Exchange Commission (SEC) rules, or any federal law relating to fraud against shareholders (which may or may not cover all the Sarbanes-Oxley Act's provisions).[5] Unlike the other civil causes of action created by the Act, an employee need not have a reasonable belief that a violation of the designated federal laws has occurred to have a claim under Section 1514A(a)(2).[6] The employee must, however, assist in a "proceeding" that has been "filed or [is] about to be filed (with any knowledge of the employer)" before a cause of action under this subsection of the Act will arise.[7] Although the Act does not define a "proceeding," courts interpreting the meaning of that term in other statutes, such as the Fair Labor Standards Act, 29 U.S.C. Section 215(a)(3)(1988), have held that a "proceeding" requires the initiation of an adjudicatory action by a court or administrative agency and does not include investigations, audits, and other non-adjudicatory action by an agency.[8] Moreover, regardless of the exact scope of the term "proceeding" as used in the Act, it appears that no claim will arise under subsection 1514A(a)(2) if an employee is discharged for providing information on possible securities law violations to a government agency before a "proceeding" is filed or about to be filed; however, the employee may have a claim under some other part of the Act.

THE ACT ALSO PROTECTS WHISTLEBLOWERS WHO REPORT CONDUCT THEY "REASONABLY BELIEVE" VIOLATES FEDERAL LAWS

Under the Act, a cause of action also will arise for retaliation because of any lawful act done by the employee "to provide information, cause information to be provided, or otherwise assist in an investigation" regarding any conduct that the employee reasonably believes constitutes a violation of federal securities laws, SEC rules, or any federal law pertaining to fraud against shareholders.[9] An employee is protected, however, only if he or she provides information or assistance to:

- A federal regulatory or law enforcement agency;
- A member of Congress or congressional committee; or
- A person with supervisory authority over the employee or any other person "working for" the employer who has the authority to investigate, discover, or terminate the misconduct.[10]

Giving information to persons or entities who are not listed in this subsection may not be protected, so that employees who "go public" to the media or leak information to state or local authorities may find themselves without a claim under the Act.

The Act contains an extensive list of federal and congressional authorities to whom reports can be made (thereby triggering the Act's protections under subsection 1514A(a)(1)). The Bush Administration, however, has proposed a narrow interpretation of the Act's language on making reports to members of Congress as referring only to "investigations authorized by the rules of the Senate or the House of Representatives and conducted for a proper legislative purpose." Until the dust settles concerning the interpretation of this provision, not every report to a member of Congress or person on their staff will necessarily trigger the Act's protections.

The Act also broadly defines the other non-governmental persons to whom internal reports can be made. It remains to be seen whether persons "with supervisory authority over the employee" includes those within only a "dotted line" reporting relationship. Likewise, it is unclear who within a covered entity will be deemed to be an "other person working for the employer who has the authority to investigate, discover, or terminate the misconduct."[11] At a minimum, this latter category seems to include in-house legal departments, audit committees, human resources departments, and corporate compliance personnel. Whether this provision will be broadly defined to encompass persons with apparent authority, but no actual authority to remedy misconduct of the kind covered by the Act, is an open issue. Companies that may fall within the scope of the Act would be wise to designate who within the organization has the authority to investigate, discover, or terminate financial misconduct and then disseminate the list of designated persons to let employees know to whom such reports should be made and to forestall claims that reports to non-designated persons triggered the Act's protections.

Subsection 1514A(a)(1)'s use of the term "reasonable" to qualify "belief" means that although the employee's suspicions need not be correct, a mere subjective belief probably will not be enough if a reasonable person would not believe that the conduct violated federal law. It will be interesting to see whether courts interpreting this subsection will infer a requirement of a "bona fide" or good faith (i.e., honest) belief, similar to that required to state a retaliation claim under most employment statutes, to preclude claims under the Act by employees who act for "bad" reasons (such as to get even against their employer for perceived slights) or who may have ignored, tolerated, or even participated in the misconduct until it suited their purposes to report it.[12]

The requirement under both subsections 1514A(a)(1) and (2) that the retaliation was because of "any lawful act by the employee" appears to incorporate case law under other employment statutes that holds that employees who engage in wrongful or criminal conduct in connection with their protected activity may be precluded from bringing claims.[13] Thus, employees who steal confidential company documents, illegally record conversations, or otherwise act improperly in gathering information or assisting in an investigation or proceeding may find themselves without a remedy. In any event, the requirement that the adverse employment action has been "because of the designated protected activity means that the Act does not prevent public companies from taking adverse action against an employee for legitimate reasons unrelated to activity protected by the Act.

THE LIST OF ENTITIES AND INDIVIDUALS COVERED BY THE ACT IS BROAD

Even though Section 1514A is titled "Whistleblower Protection for Employees of Publicly Traded Companies," the Act covers not only publicly traded companies but also "any officer, employee, contractor, subcontractor, or agent of such company."[14] The Act's whistleblower provisions thus potentially cover companies that do business with publicly traded companies, such as outside auditors, accountants, and law firms, depending on how the terms "contractor" and "subcontractor" are ultimately interpreted. Likewise, the liability of a wholly owned subsidiary of a publicly traded company when, for example, the subsidiary has retaliated against one of its employees for reporting wrongdoing involving or affecting the financial condition of the publicly traded parent, is an open question.

The Act's inclusion of "officer, employee . . . or agent" suggests that officers and managers employed by covered entities may be subject to liability in their individual capacities if they are involved in a prohibited employment action against employees protected by the Act. Moreover, if officers and managers can be liable, it appears to follow that such liability also may fall on coworkers who, for example, harass a fellow employee who has made a protected report. The extent to which nonemployee directors will be personally liable under the Act may depend on how the term "agent" is defined.

Although other federal employment statutes contain references to "employees" and "agents" when describing covered entities, courts have refused to find officers, managers, and other nonemployers individually liable under those laws.[15] Thus the full reach of the Act's civil causes of action remains to be seen, but the list of potentially liable entities and individuals is broad indeed.

THE ACT PROVIDES ACCESS TO FEDERAL COURT FOR WHISTLEBLOWERS

Actions brought under the Act must follow, at least initially, the procedures set forth in the Whistleblower Protection Program, which were enacted in 2000 to afford protection to airline industry employees providing air safety information (airline whistleblower protection provision).[16] An employee who alleges discharge or other discrimination in violation of the Act must file a complaint with the Department of Labor (DOL) within 90 days of the alleged retaliation.[17] Unlike the airline whistleblower protection provision and most federal whistleblower laws, however, if the DOL does not issue a final decision within 180 days of the filing of the complaint and there is no showing that such delay is because of the bad faith of the claimant, an employee may bring an action for de novo review in an appropriate federal district court.[18] The district court will have jurisdiction without regard to any amount in controversy.[19] The access to federal court (if the DOL does not act within 180 days) that is built into the Act increases the potential significance of a whistleblower claim under the Act in terms of expanded discovery, added expense, and an increased risk of adverse publicity.

THE ACT'S BURDEN OF PROOF ALLOCATIONS TRACK FEDERAL DISCRIMINATION LAWS

The Act expressly adopts the burden of proof allocation from the airline whistleblower protection provision.[20] To avoid dismissal, a complainant must make a prima facie showing that the prohibited conduct was a "contributing factor" in the unfavorable employment decision.[21] If the complainant under the Act meets this requirement, an investigation will be conducted unless the employer can demonstrate, by "clear and convincing evidence," that it would have taken the same unfavorable employment action in the absence of that behavior.[22] This provision imposes a relatively light burden on employees to initiate a DOL investigation and a heavy burden on employers to forestall one.

REMEDIES AVAILABLE UNDER THE ACT DIFFER FROM OTHER WHISTLEBLOWER PROVISIONS

By incorporating the airline whistleblower protection provision, the Act seems to provide that if, after an investigation, the DOL determines that a violation has occurred, the employer may be ordered to reinstate the employee and provide compensatory damages.[23] Moreover, an appeal of the DOL's initial determination by the employer (to the federal appellate court) will not automatically stay the DOL's order.[24] Thus, under the Act, an employee may be able to obtain reinstatement with the same seniority status that he or she would have had but for the discrimination and also may recover back pay with interest and special damages including attorneys' fees and litigation costs;[25] however, the Act does not provide for either punitive damages or jury trials.

In contrast, for example, the anti-retaliation provision of the False Claims Act (discussed below) allows for the same remedies as the Act, except that the False Claims Act allows the recovery of "two times the amount of back pay."[26] Further, even though the Act does not allow punitive damages, state-law whistleblower protections (which are not preempted by the Act) often do.[27]

An open question under the Act is whether an employee can be penalized for bringing a frivolous whistleblower discrimination claim. The Act itself does not provide any penalties against an employee for bringing such a claim, but it arguably adopts the section from the airline whistleblower protection provision that provides that if the DOL finds that an employee filed a frivolous or bad faith complaint, the employee may be ordered to pay the first $1,000 of the employer's attorneys' fees in defending against the claim.[28] This penalty has not yet been applied in an airline case, however, and may not be used to any extent under the Act.

THE ACT EXPANDS WHISTLEBLOWER PROTECTIONS UNDER FEDERAL LAW

The new civil causes of action created by the Act expand the avenues of relief available to whistleblowers under federal law.[29] The Act does not contain procedural requirements or burdens of proof that often bar whistleblower actions under other statutes. For example, qui tam actions brought pursuant to the False Claims Act allow a private citizen to sue in the name of the United States against those who submit false or fraudulent claims for payment or approval to an agent of the United States.[30] To maintain a qui tam action, however, the complainant must be an "original source of the information."[31] An "original source" is defined as "an individual who has direct and independent knowledge of the information on which the allegations are based and has voluntarily provided the information to the Government before filing an action. . . ."[32] A qui tam action will be barred if an employee has not reported the allegedly illegal conduct to the authorities before bringing suit, unlike the Act, which allows an employee to bring an action after reporting misconduct either externally (to federal or congressional authorities) or internally (to a person with supervisory authority over the employee or such other person working for the employer who has the authority to investigate, discover, or terminate the misconduct).[33]

Likewise, the federal Whistleblower Protection Act (WPA) affords protection to federal employees and federal contractors who have been discharged based on the disclosure of information that evidences "a violation of any law, rule, or regulation," "gross mismanagement," or a "substantial and specific danger to public health or safety." Disclosures of impropriety are not protected by the federal WPA, however, unless a disinterested observer with knowledge of the essential facts known to be readily ascertainable by a whistleblowing employee reasonably could conclude that the actions of the government evidenced gross mismanagement.[34] Moreover, the pool of potential plaintiffs under the Act is far broader than under the WPA because it includes all employees of private sector, publicly traded companies and their "contractors, subcontractors, and agents," rather than the federal employees and contractors protected by the WPA.[35]

STATE LAW RETALIATORY DISCHARGE CLAIMS ARE NOT SUPPLANTED BY THE ACT

The Act's new federal causes of action for whistleblowers are in addition to, but do not supplant, the often-inconsistent whistleblower protections provided by state law. Many states provide statutory causes of action that may protect whistleblowers who are discharged in retaliation for reporting violations of federal or state law.[36] A few states, however, limit retaliatory discharge actions to claims involving violations that create a substantial and specific danger to public health or safety.[37] Other states have used the common law as a basis to create a tort cause of action to protect whistleblowers who are terminated in contravention of a clearly mandated public policy of the state;[38] however, not every discharge for reporting financial improprieties and similar white-collar crimes has been found to be in contravention of a clearly mandated state public policy.[39] Moreover, some states recognize a cause of action only for retaliatory discharges and do not provide relief for demotions, constructive discharges, and refusals to rehire allegedly in retaliation for whistleblower activities, unlike the Act, which encompasses all types of employment actions.[40] Whistleblowers thus often find that state laws provide only scant protection indeed.

Because the Act does not supplant or preempt rights that an employee has under state law, other federal laws, or collective bargaining agreements, the Act's new civil causes of action will add new arrows to the quivers of plaintiffs' attorneys.[41] For example, if an employee is able to bring a claim under the Act in federal court, nothing prevents him or her from also seeking in the same proceeding a jury trial and punitive damages under a state-law whistleblower cause of action.

THE ACT IMPOSES CRIMINAL PENALTIES FOR RETALIATION AGAINST GOVERNMENT INFORMANTS AND DOCUMENT DESTRUCTION

In addition to the creation of a civil cause of action, the Act, at 18 U.S.C. Section 1513(e) amends the obstruction of justice statute to clearly criminalize retaliation against government informants in the following manner:

> Whoever knowingly, with the intent to retaliate, takes any action harmful to any person, including interference with the lawful employment or livelihood of any person, for providing to a law enforcement officer any truthful information relating to the commission or possible commission of any Federal offense, shall be fined under this title or imprisoned not more than 10 years, or both.

This criminal provision of the Act covers disclosures of any violations of federal law, not just employee reports of securities law and corporate fraud violations, which are the subject of the Act's civil causes of action. Moreover, informants are protected even if the information they provide does not show that a violation of federal law actually occurred—it is enough that the information was "truthful." Individuals protected by this provision apparently need not be employees who have been subjected to a retaliatory employment action (discharge, demotion, etc.) because the Act prohibits "any action harmful to any person, including interference with the lawful employment or livelihood of any person."[42] This would seem to include independent contractors and other third parties who provide law enforcement officers with truthful information about the possible commission of a federal offense. This new criminal provision may provide many whistleblowers and government informants with potential coverage under the civil RICO statute.[43] It remains to be seen whether Section 1513(e) will expose officers and managers to criminal prosecution for intentionally retaliating against informants.

The Act also states that anyone who intentionally "alters, destroys, mutilates, conceals, covers up [or] falsifies" any record or document to "impede, obstruct or influence the investigation or proper administration" of an investigation is subject to criminal fines and up to 20 years imprisonment.[44] This prohibition applies to any document relevant to the "investigation of any matter within the jurisdiction of any department or agency of the United States or any bankruptcy cases or in relation or contemplation of any such matter or case."[45] Among other things, this provision closes a loophole in existing law by prohibiting acts of destruction by an individual acting alone.[46] Although the full reach of the Act is unclear, it would certainly cover the destruction of documents relevant to an investigation into violations of the Act itself, but it arguably also could cover the destruction or falsification of documents relevant to an Equal Employment Opportunity Commission (EEOC) charge, a wage and hour investigation, or a similar matter. The possibility of spending 10 or 20 years in jail for violating the Act substantially "ups the ante" for those officers responsible for bringing their employees into compliance.

The Act Dramatically Affects Officer Compensation Programs

The Sarbanes-Oxley Act redefines executive compensation, removing, redefining, and re-creating various benefits executives may have taken for granted.

EXECUTIVE BONUSES ARE SUBJECT TO FORFEITURE UNDER THE ACT

The chief executive officer and the chief financial officer of a publicly traded company may be required to forfeit any bonuses or incentive-based compensation, including any equity-based compensation and profits from the sale of their company's securities, that they have received in the previous 12 months if there has been a restatement of the company's financial reports because of any "material noncompliance" with the SEC's financial reporting requirements.[47] The SEC is authorized to grant exemptions when "necessary and appropriate."[48] Companies should incorporate the Act's forfeiture provision into their bonus policies and compensation programs.

PERSONAL LOANS TO EXECUTIVES ARE REGULATED BY THE ACT

The Act in broad language also prohibits covered companies from directly or indirectly extending credit or arranging for extensions of credit to any director or executive officer "(or the equivalent thereof)," other than certain specified broker/dealer margin loans or other loans made in the ordinary course of business.[49] Home improvement loans and consumer credit loans provided by a company in that business as well as margin loans by SEC-registered broker-dealers are allowed, but margin loans to non-employee directors or to executive officers employed only by affiliated companies may not be permitted.[50] Advances for valid business expenses do not appear to be covered, but many loans that are typically part of compensation programs probably are covered. The Act also may cover relocation loans, securities acquisition loans, the extension of credit as part of split-dollar life insurance, and company guarantees for third-party loans.

This portion of the Act has a grandfather provision excluding credit that already had been provided prior to the date of enactment (July 30, 2002), but material modification or renewal of the terms would bring the financing within the scope of the Act.[51] The general rule is that future loans or loan extensions by publicly traded companies to their directors and/or executives may not be made on terms that are more favorable than those offered to the general public.[52] Companies that do not offer loans or financing to the general public may find themselves unable to offer incoming or current executives loans or financing at below market rates. This grandfather provision does not address loans to an employee who is later promoted to an executive officer position and raises questions about loan arrangements that involve future payouts pursuant to a binding commitment in effect on July 30, 2002, such as split-dollar life insurance, which typically involves the payment over time by employers of premiums under initial split-dollar insurance policies on behalf of directors and executive officers.[53]

This portion of the Act undoubtedly will affect executive compensation programs and corporate recruitment and hiring strategies because companies now may not be able to offer loans and other financing incentives that heretofore were made available to executives for recruitment and retention purposes.

SEC CAN REMOVE OR TEMPORARILY FREEZE PAYMENTS TO EXECUTIVES AND DIRECTORS

The Act gives the SEC the authority to prevent individuals from servicing as directors or officers of public companies if they have violated anti-fraud provisions of the Securities Exchange Act.[54] This is a change from prior law in that the SEC no longer is required to obtain a court order before an individual can be removed or disqualified from serving as an officer or director of a public company.

Any "extraordinary payments" proposed to be made by a public company to any of its executive officers or directors during the course of an investigation of the company for possible securities law violations can be temporarily frozen.[55] On petition by the SEC, a federal court is authorized to freeze such payments for up to 45 days (with a possible 45-day extension) in an interest-bearing account.[56] If the individual is charged with a securities law violation during this period, the escrow can continue, subject to court approval, until the conclusion of any legal proceedings.[57]

THE ACT'S CONFLICTS OF INTEREST PROVISIONS MAY PRECLUDE HIRING

The Act precludes registered public accounting firms from auditing a company if a highly placed executive (such as a CEO, CFO, chief accounting officer, comptroller, or equivalent officer) was employed by the auditing firm and participated in the company's prior year's audit.[58] The Act also makes it unlawful for such an accounting firm to provide human resources consulting services to a public company contemporaneously with an audit.[59] Companies will need to implement hiring procedures to make sure they do not recruit executives who are barred from employment by the Act. Covered entities also will want to have executive candidates confirm during the recruitment process that their employment would not violate the Act.

ATTORNEYS HAVE NEW RESPONSIBILITIES UNDER THE ACT

The SEC has promulgated rules of professional responsibility for attorneys appearing and practicing before that body.[60] These rules include a requirement that attorneys, including in-house attorneys, report evidence of material violations of securities laws or breaches of fiduciary duty to the company's chief legal counsel or CEO.[61] If the chief counsel or CEO does not respond appropriately, the attorney must report any evidence obtained to the audit committee or the company's board of directors.[62]

The SEC also may sanction any person appearing or practicing before it who is lacking of character or integrity or has engaged in improper conduct.[63] This could include a single instance of highly negligent conduct.

The Act requires "attorneys appearing and practicing before the [SEC]" to "report evidence of a material violation of securities law or breach of fiduciary duty or similar violation by the company or any agent thereof.[65] Thus, in-house attorneys and even some outside legal counsel may have a statutory obligation to become whistleblowers under the Act.

The Act Requires New Employment Policies and Procedures

Unlike most whistleblower laws, the Act mandates that publicly traded corporations, acting through their audit committees, establish procedures for "the receipt, retention and treatment of complaints received by the [public company] regarding accounting, internal accounting controls or auditing matters."[66] The Act further requires publicly traded companies to establish procedures for receiving "the confidential, anonymous submissions of employees of the [public company] of concerns regarding questionable accounting or auditing matters."[67] As a result, covered companies will need to review their personnel policies, implement codes of conduct, establish hotlines and other avenues for employees to make confidential anonymous complaints, provide training for supervisors and affected employees, and implement procedures to handle such complaints and the investigations that may result from them.

At a minimum, companies should also re-examine their Directors and Officers liability insurance and other types of insurance to make sure they will provide coverage for claims arising from the Act. For example, the definition of "Wrongful Acts" in such policies must be read in conjunction with policy exclusions and conditions and applicable law to see if coverage will extend beyond negligence or carelessness to encompass alleged intentional violations of the Act.

Companies also would be wise to expressly prohibit retaliation for raising concerns about accounting and financial practices. At a minimum, this policy must be communicated in writing and through training. Personnel manuals and supervisors' guidelines should be revised to emphasize that employees who complain about corporate fraud are to be protected from retaliation in the same manner as those who complain about discrimination and harassment. As noted above, the policy should designate and disseminate who within the organization has "authority to investigate, discover, or terminate misconduct" because reports to such individuals can trigger liability unde the Act.

As noted above, the Act requires the establishment of procedures for receiving and handling complaints of corporate fraud. Companies thus must address who within the organization will be designated to receive and investigate these complaints. Although the human resources department is an obvious choice, consideration also should be given to whether others should be designated, such as the audit committee, given the potentially technical nature of corporate fraud complaints. Moreover, protocols and procedures should be set up to address how investigations should be conducted. Although the complaint-intake and investigation protocols may track those used with respect to harassment complaints, special care must be exercised to ensure that investigators do not create "smoking guns" or elicit corporate admissions that violations of the Act have occured, given the significant criminal and civil penalties that exist under the Act.

Compensation program bonus policies and stock option plans will have to be amended to take account of the Act's new forfeiture provisions. Hiring and recruitment strategies and background check procedures will have to be revamped to avoid hiring executives whose employment is precluded by the Act.

Training will be required to properly implement all the Act's mandates. Supervisors and managers as well as higher-level executives must be trained on how to recognize complaints of corporate fraud (which may be difficult to differentiate from internal gripes about nonactionable management practices), how to respond to them, and the need to avoid taking actions that might be retaliatory. It is likely that training will be viewed, as it is under discrimination statutes, as strong evidence of effective, good faith attempts to comply with the Act.[68]

Public companies now are required to disclose in their filings with the SEC whether they have a code of ethics for senior financial officers and, if not, they must describe why not.[69] This code of ethics must promote: (1) honest and ethical conduct and handling of conflicts of interest; (2) full, fair, accurate, timely, and understandable disclosure of SEC filings; and (3) compliance with applicable government rules and regulations.[70] The code of ethics, along with any changes or waivers of that code, must be filed with the SEC and posted on the company's web site.[71] The code of ethics should make clear that violations of the Act and the employer's guidelines regarding it are cause for immediate discharge.

Conclusion

The Sarbanes-Oxley Act imposes new, important risks and responsibilities on publicly traded companies, their executives, and those that do business with them. Companies covered by the Act must be cognizant of its accounting, ethical, and whistleblower protections and other employment-related provisions to conform their policies and procedures to meet the requirements imposed. Only by confronting the Act now will public companies and those who work for them be able to shield themselves from the substantial potential liability presented by the Act.

Source: Reprinted/Adapted with permission from *Employee Relations Law Journal* (Spring, 2003, 28, 4), "The Employment Law Impact of the Sarbanes-Oxley Act," by Paul E. Starkman.

Endnotes

1. 18 U.S.C. Section 1514(a).
2. 18 U.S.C. Section 1514(a)(2).
3. 18 U.S.C. Section 1514(a)(1).
4. 18 U.S.C. Section 1514(e).
5. 18 U.S.C. Section 1514A(a)(2). The reference in the Act to "sections 1341, 1343, 1344, or 1348" refers to Title 18 of the United States Code, which addresses mail fraud; wire, radio, or television fraud; bank fraud; and securities fraud.
6. Compare 18 U.S.C. Section 1514A(a)(2) with 18 U.S.C. Section 1514A(a)(1).
7. 18 U.S.C. Section 1514A(a)(2).
8. Ball v. Memphis Bar-B-Q Co. Inc., 228 EM 360 (4th Cir. Sept. 14, 2000) (after an employee was fired from his job when he told the company's president that, if he were deposed in a yet-to-be-filed lawsuit under the Fair Labor Standards Act (FLSA) that was threatened against the company, he would not testify to a version of events suggested by the president, the Fourth Circuit affirmed the court's grant of Memphis Bar-B-Q's motion to dismiss for failure to state a claim, finding that the FLSA's anti-retaliation provision was not sufficiently broad to protect Ball. Although the circuit court found that Ball's allegations described morally unacceptable retaliatory conduct, the court stated that it would not be faithful to the language of the testimony clause of the FLSA's anti-retaliation provision if it were to expand that provision to cover intracompany complaints or to potential testimony in a future–but-not-yet-filed court proceeding); but see Valerio v. Putman Associates Inc., 173 F.3d 35 (1st Cir. 1999) (internal complaint triggers protection under

FLSA's retaliation provision, which protects any employee who "has filed any complaints or instituted or caused to be instituted any proceeding" under the act); Lambert v. Ackerly, 169 F.3d 666 (9th Cir. Oct. 1, 1998) (when employee complained to company officials about discontinuation of automatic overtime payments, called the DOL, told her supervisor about the call to the DOL, and had her lawyer send an unfiled lawsuit to her employer, the Ninth Circuit held that the FLSA retaliation claim survived summary judgment, even though plaintiff never actually filed a formal complaint or instituted or testified in an FLSA proceeding).

9. 18 U.S.C. Section 1514A(a)(1).
10. 18 U.S.C. Section 1514A(e)(1) (A), (B), and (C).
11. 18 U.S.C. Section 1514A(a)(1)(c).
12. Lipphardt v. Durango Steakhouse of Brandon, Inc., 267 F.3d 1183 (11th Cir. Sept. 28, 2001) (to establish that she engaged in protected activity; the plaintiff must have had a good faith, reasonable belief that she had been sexually harassed, and this requires that she subjectively held this belief and that her belief was objectively reasonable).
13. Kiel v. Select Artificials, Inc., 169 F.3d 1131 (8th Cir. 1999) (when the plaintiff shouted at the co-owner that she was selfish, slammed his desk drawer, and made a remark about the co-owner's new car, stating that the ADA "confers no right to be rude"); Laughlin v. Metropolitan Washington Airports Authority, 149 EM 253 (4th Cir. 1998) (taking document from boss's desk was not protected activity); Douglas v. Dyn McDermitt Petroleum Operations Co., 144 F.3d 36, 376 (5th Cir. 1998) (the Fifth Circuit found that an in-house counsel's "opposition" to alleged discriminatory practices by her employer was not protected because she breached legal ethics when she gave a copy of her internal letter complaining of discrimination to a whistleblower officer from the U.S. government); Hernandez v. McDonald's Corp., 975 F. Supp. 1418 (D. Kan. 1997) (employee's secret taping of meeting with manager after having been instructed not to tape the meeting was held to be a clearly valid reason for discharge); Bodoy v. North Arundel Hospital, 945 F. Supp. 890 (D. Md. Jan. 20, 1996) (summary judgment for employer because secret taping of meeting with supervisor was a valid reason for discharge despite claim that taping related to EEOC charges, because taping was illegal in Maryland); see also Hubert v. Consolidated Medical Laboratories, 306 Ill. App. 3d. 1118 (2d Dist. 1999) (employee who initially followed doctor's illegal instructions to switch tissue samples, but then reported the incident, could not bring retaliatory discharge action because of her own part in the wrongdoing).
14. 18 U.S.C. Section 1514A(a). Frobose v. American Savings and Loan Association of Danville, 152 F.3d 602 (7th Cir. 1998) (summary judgment for employer reversed because in Title VII whistleblower retaliation case employer must rebut prima facie case with clear and convincing evidence and must carry burden of persuasion, unlike Title VII discrimination case).
15. Sattar v. Motorola, Inc., 138 F.3d 1164 (7th Cir. 1998) (affirming the dismissal of Title VII religious discrimination claim against two supervisors used "individually and in their corporate capacity" because "a supervisor does not, in his individual capacity, fall within Title VII's definitions of employer" and because plaintiff did not allege that the supervisors were the sole owners of the company, the court did not have to consider whether they had any corporate capacity separate from the company). Supervisors can, however, be individually liable under the FLSA and the Family and Medical Leave Act (FMLA). O'Brien P. Dekalb-Clinton Counties Ambulance District, 1996 U.S. Dist. LEXIS 14636 (W.D. Mo. June 24, 1996); Donovan v. Schoolhouse Four Inc., 573 F. Supp. 185, 190 (W.D. Va. 1983); Freemon v. Foley, 911 F. Supp. 326 (N.D. 111. Nov. 8, 1995) (the FMLA tracks the definition of "employer" found in the FLSA, not that found in Title VII or the Americans with Disabilities Act; hence, supervisor may be held individually liable for FMLA violation); Beyer v. Elkay Manufacturing Co., 1997 U.S. Dist. LEXIS 14459 (N.D. 111. 1997) (finding supervisor liable under FMLA). But see Frizzell P. Southwest Motor Freight Inc., 906 F. Supp. 441 (E.D. Tenn. 1996) (refusing to find individual liability under FMLA.
16. 18 U.S.C. Section 1514A(b)(2)(A).
17. 49 U.S.C. Section 42121(b)(1). The Act's 90-day statute of limitations is shorter than the 180- to 300-day limitations period for filing charges of retaliation under other federal employment discrimination statutes, such as Title VII (42 U.S.C. Section 2000e et seq.) and the Age Discrimination in Employment Act (ADEA, 29 U.S.C. Section 610–621).
18. 18 U.S.C. Section 1514A(b)(1)(B). Some of the other federal statutes that prohibit retaliatory discharge and grant whistleblowers a private cause of action include: Federal Deposit Insurance Corporation Improvement Act, 12 U.S.C. Section 1831] (2002); Vessels and Seamen Act, 46 U.S.C. Section 2114 (2002). Other statutes that prohibit retaliatory discharge of whistleblowers and provide a procedure for investigating and punishing violations of the statute, but do not grant the employee a private cause of action under federal law, include: Clean Air Act, Section 42 U.S.C. 7622 (2002); Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9610(b) (2002); Energy Reorganization Act, 42 U.S.C. Section 5851 (2002); Federal Surface Mining Act, 30 U.S.C. 1293(b) (2002); Migrant and Seasonal Agricultural Workers Protection Act, 29 U.S.C. Section 1855(b) (2002); Occupational Safety and Health Act, 29 U.S.C. Section 660 (2002); Safe Drinking Water Act, 42 U.S.C. Section 300(i)-9(i)–(iii) (2002); Solid Waste Disposal Act, 42 U.S.C. Section 6971(b) (2002); Surface Transportation Act, 49 U.S.C. Section 31105(b) (2002); Toxic Substances Control Act, 15 U.S.C. Section 2622 (2002); Water Pollution Control Act, 33 U.S.C. Section 1367 (2002); Whistleblower Protection Act, 5 U.S.C. Section 2302(b) (2002) (see Braun v. U.S., 707 F.2d 922, 925 (6th Cir. 1983)).
19. 18 U.S.C. Section 1514A(b)(1)(B).
20. 18 U.S.C. Section 1514(b)(2)(C) incorporating the procedures set forth in 49 U.S.C. Section 42121(b).
21. 49 U.S.C. Section 42121(b)(2)(B)(i).
22. 49 U.S.C. Section 42121(b)(2)(B)(ii). This is consistent with the affirmative defense in employment discrimination actions (i.e., that even if an improper motive existed, the plaintiff cannot recover if the employer would have taken the same action for a legitimate reason) first recognized by the U.S. Supreme Court in Price Waterhouse v. Hopkins, 490 U.S. 228 (1986), and later modified by the Civil Rights Act of 1991 at 42 U.S.C. Section 2000e-5(g)(2)(B).

23. 49 U.S.C. Section 42121(b)(3)(b)(ii) and (iii).
24. See Senate Rep. No. 107–146.
25. 18 U.S.C. Section 1524A(c)(2).
26. 31 U.S.C. Section 3730(h).
27. See notes 36 to 38 and accompanying text.
28. 49 U.S.C. Section 4212(b)(3)(C).
29. Examples of federal statutes providing protection for whistleblowers include: Whistleblower Protection Act of 1989, Pub. L. No. 101–12, 103 stat. 16 (1989) (codified as amended in scattered sections of 5 U.S.C.); Age Discrimination in Employment Act (ADEA), 29 U.S.C. Section 621 (1988); Asbestos Hazard Emergency Response Act of 1986, 15 U.S.C. Section 2641 (1988); Asbestos School Hazard Detection Act of 1980, 20 U.S.C. Section 3601 (1988); Clean Air Act (CAA), 42 U.S.C. Section 7401 (1988); Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), 42 U.S.C. Section 9601 (1988); Department of Defense Authorization Act of 1984, 10 U.S.C. Section 1587 (1988); Department of Defense Authorization of 1987, 10 U.S.C. Section 2409 (1988); Employee Retirement Income Security Act (ERISA), 29 U.S.C. Section 1001 (1988); Energy Reorganization Act of 1974 (ERA), 42 U.S.C. Section 5801 (1988); Equal Employment Opportunity Act (Title VII), 42 U.S.C. Section 2000e (1988); Fair Labor Standards Act (FLSA), 29 U.S.C. Section 215(a)(3) (1988); Federal Employers' Liability Act (FELA), 45 U.S.C. Section 51 (1988); Federal Mine Safety and Health Act (FMSHA), 30 U.S.C. Section 801 (1988); Federal Water Pollution Control Act of 1972, 33 U.S.C. 1251 (1988); Hazardous Substances Release Act, 46 U.S.C. Section 9601 (1988); International Safe Containers Act, 46 U.S.C. Section 1501 (1988); Jurors' Employment Protection Act, 28 U.S.C. Section 1861 (1988); Longshoremen's and Harbor Workers' Compensation Act, 33 U.S.C. Section 901 (1988); Migrant Seasonal and Agricultural Worker Protection Act, 29 U.S.C. Section 1801 (1988); Occupation Safety and Health Act, 29 U.S.C. Section 651 (1988); Public Health Service Act, 42 U.S.C. 201 (1988); Safe Drinking Water Act, 42 U.S.C. Section 300f (1988); Solid Waste Disposal Act, 42 U.S.C. Section 6901 (1988); Surface Mining Control and Reclamation Act, 30 U.S.C. Section 1201 (1988); Surface Transportation Assistance Act of 1978, 49 U.S.C. Section 2301 (1988); Toxic Substance Control Act, 15 U.S.C. Section 2601 (1988); Vessels and Seamen Act, 46 U.S.C. Section 2114 (2002); Water Pollution Control Act, 33 U.S.C. Section 1367(a) (2002).
30. 31 U.S.C. Section 3730(b).
31. 31 U.S.C. Section 3730(e)(4)(A).
32. 31 U.S.C. Section 3730(e)(4)(B).
33. See Brandon v. Anesthesia and Pain Mgmt. Assoc. Ltd., 277 RM 936, 944 (7th Cir. 2002); United States ex rel Aflatooni v. Kistap Physicians Servs., 163 F.3d 516, 521 (9th Cir. 1998).
34. LaChance v. White, 174 F.3d 1378 (Fed. Cir. 1999) (purely subjective perspective of the employee is not sufficient even if shared by coworkers).
35. 49 U.S.C. Section 42121(b)(2)(B)(i). The Act's articulation of the claimant's burden of proof is similar to other federal employment discrimination laws in which the term "because of" has been interpreted to mean the protected activity was a "motivating factor" in the employment decision. Foster v. Arthur Anderson, LLP., 168 F.3d 1029, 1033 (7th Cir. 1999). It remains to be seen whether the Act's use of the term "contributing factor" will be interpreted differently from "motivating factor."
36. State whistleblower statutes include: Code of Ala. 25-8-57 (1988); Alaska Stat. Section 39.90.100 (1992); Ariz. Rev. Star. Ann. Section 28-531 (West Supp. 1992); Cal. Lab. Code Section 1102.5 (West Supp. 1994); Colo. Rev. Stat. Ann. Section 24-50.5-101 (West 1990); Conn. Gen. Stat. Ann Section 31-51n (West 1987); Del. Code Ann. Tit. 29, Section 5115 (1991); Fla. Stat. Ann Section 112.3187 (West 1992); O.C.G.A. Section 34-9-24 (1998); Haw. Rev. Stat. Section 378-61 to 69 (Supp. 1992); 5 ILCS 395/0.01 (West 1999); Ind. Code Ann. Section 36-1-8-8 (Burns Supp. 1992); Iowa Code Ann. Section 79.28 (West 1991); Kan. Star. Ann. Section 75-2973 (Supp. 1998); Ky. Rev. Stat. Ann. Section 61.101 (Michie/Bobbs-Merrill 1986); La. Rev. Stat. Ann. 30-2027; Me. Rev. Stat. Ann. Tit. 26, Section 831–840 (West 1988); Miss. Code Ann. Section 7-5-307 (1998); Md. Code Ann. Art, Section 64A, Section 12F (Supp. 1992); Mich. Comp. Law Section 15.361–389 (1981); Minn. Stat. Section 181.932–935 (1994); Mo. Ann. Stat. Section 105.55 (Vernon Supp. 1992); N.C. Gen. Stat. Section 126–84 (1997); N.H. Rev. Stat. Ann. 275:E-1 to E-9 (Supp. 1993); N.J. Stat. Ann. Section 34:19-1 to 19-8 (West Supp. 1993); N.M. Stat. Ann. 60-9-25 (1998); N.Y. Lab. Law Section 740 (McKinney); Ohio Rev. Code Ann. 41113.51–53 (Baldwin 1992); 74 Okla. Stat. Ann. Section 840-2.5 (1994); Or. Rev. Stat. Section 654.062 (1993); 43 Pa. Cons. Stat. Ann. Section 1421 (1991); R–I. Gen. Laws Section 28-50-1-28-50-9 (1995); S.C. Code Ann. Section 8-27-10 (Law. Co-op Supp. 1992); Tenn. Code Ann. Section Section 50-1-304 (1991); Tex. Govt., Section 554.001-009 (1993); Utah Code Section 67-21-1 (Supp. 1992); Wash. Rev. Code Ann. Section 42.40.010; W. Va. Code 6c-1-1; Wis. Stat. Ann. Section 230.80–89 (West 1987).
37. See Colo. Rev. Stat. Ann. Section 24-50.5-101 (2002) (prohibiting retaliation based on information given about state agency actions that are not in the "public interest"); Fla. Stat. Ann. Section 112.3187 (2002); N.Y. Lab. Law Section 740 (2002); Ohio Rev. Code Ann. Section 4113.52(A)(1)(a)(2002); Or. Rev. Star. Section 654.062 (2001).
38. See, e.g., Milton v. IITResearch Institute, 138 F.3d 519, 522 (4th Cir. 1998) (the Fourth Circuit found that pursuant to Maryland law, a cause of action would arise when (1) the employee was fired for refusing to violate the law, or (2) the employee was fired for exercising a specific right or duty); Leudtke v. Nabors Alaska Drilling, Inc., 768 P.2d 1123, 1130 (Alaska 1989); Wagenseller v. Scottsdale Mem'l Hosp., 710 P.2d 1025, 1033 (Ariz. 1985); Tameny v. Ad. Richfield Co., 610 P.2d 1330, 1333 (Cal. 1980); Sheets v. Teddy's Frosted Foods, Inc., 427 A.2d 385, 387 (Conn. 1980); Palmateer v. Intl Harvester Co., 421 N.E.2d 876, 878 (1981) (the Illinois Supreme Court explained that for a retaliatory discharge cause of action to arise, "a matter must strike at the heart of a citizen's social rights, duties and responsibilities before the tort will be allowed"); Frampton v. Central Indiana Gas Co., 297 N.E.2d 425, 428 (Ind. 1973); Firestone Textile Co. v. Meadows, 666 S.W.2d 730, 732 (Ky. 1983); Leuthans v. Washington Univ., 894 S.W.2d 169, 171 n.2 (Mo. 1995); Ambroz v. Cornhusker Square Ltd., 416 N.W.2d 510, 514–15 (Neb. 1987); Coman v. Thomas Mg. Co., Inc., 381 S.E.2d 445,447 (N.C. 1989); Geary v. United States Steel Corp., 319 A.2d 174, 180 (Pa. 1974); Payne v. Rozendaal, 520 A.2d 586, 589–90 (Vt. 1986); Brockmeyer v. Dun & Bradstreet,

335 N.W.2d 834, 840 (Wis. 1983). A few states, including Alabama, Mississippi, and Georgia, do not recognize common law wrongful termination claims. See Salter v. Alfa Inc. Co., Inc., 561 So. 2d 1050, 1051–53 (Ala. 1990); Perry v. Sears, Roebuck & Co., 508 So. 2d 1086, 1089–90 (Miss. 1987); Evans v. Bibb Co., 342 S.E.2d 484, 484–86 (Ga. App. 1986).

39. Milton v. HIT Research Institute, 138 F.3d 519 (4th Cir. 1998) (rejecting claim based on plaintiffs' refusal to participate in the employer's alleged abuse of its tax-exempt status); Adler v. American Standard Corp., 291 Md. 31, 432 A2d 464 (1981), 830 F.2d 1303 (4th Cir. 1987) (rejecting claim because the plaintiff could not establish a securities laws violation); Reich v. Holiday Inn, 454 So. 2d 982 (Ala. 1984) (rejecting a claim that the plaintiff was fired in retaliation for refusing to pay invoices that allegedly were from a dummy corporation set up by the defendants to defraud stockholders and the IRS); Doherty P. Kahn, 289 Ill. App. 3d 544, 559 (Ist Dist. 1997) (a refusal to assist in a conspiracy to restrain trade and engage in unfair competition was not a sufficient violation of Illinois public policy to give rise to a retaliatory discharge claim); Martin v. Platt, 386 N.E.2d 1026 (Ind. App. 1979) (no cause of action for accusing superior of receiving illegal kickbacks); Suchodolski v. Michigan Consol. Gas Co., 412 Mich. 692, 694 (Mich. 1982) (corporate management dispute and complaints about internal accounting practices were not a violation of a clearly mandated public policy supporting an action for retaliatory discharge); Remba v. Federation Employment & Guidance Serv., 149 App. Div. 2d 131, 134 (N.Y. Sup. Ct. 1989) (rejecting retaliatory discharge claim under New York law based on plaintiff's alleged refusal to participate in employer's purportedly fraudulent billing of city); Bergstein v. Jordache Enterprises, Inc., 767 F. Supp. 535 (S.D.N.Y. 1991) (applying Pennsylvania law) (discharge for complaining about unlawful pricing practices was held to involve mere objections to employer's policies); but see McNulty v. Borden, Inc., 474 F5 1111 (E.D. Pa. 1979) (antitrust price-fixing gave rise to retaliatory discharge claim under Pennsylvania law); Thompson v. St. Regis Paper Co., 102 Wash. 2d 219, 685 P.2d 1081 (1984) (Washington state law cause of action recognized for reporting noncompliance with accounting requirements of Foreign Corrupt Practice Act); Moskaf v. 1st Tennessee Bank, 815 S.W.2d 509 (Tenn. App. 1991) (upholding cause of action for bank employee who refused to continue practice of falsifying records to show compliance with federal laws and to continue to forge loan documents); Haigh v. Matsushita Elect. Corp., 676 F. Supp. 1332 (E.D. Va. 1987) (recognizing cause of action for refusal to participate in alleged illegal price-fixing scheme).

40. See e.g., Hartlein v. Illinois Power Co., 151 Ill. 2d 142 (1992); Graham v. Commonwealth Edison Co., 318 Ill. App. 3d 736 (1st Dist. 2000) (in a divided decision, the First District held that a cause of action for retaliatory discharge is not available to redress any employer conduct short of actual discharge, and there is no cause of action for retaliatory demotion); Welsh v. Commonwealth Edison Co., 306 Ill. App. 3d 148 (1st. Dist. 1999) (Illinois does not recognize a cause of action for retaliatory demotion or retaliatory constructive discharge in violation of public policy).

41. 18 U.S.C. Section 1514A(d).
42. 18 U.S.C. Section 1513(e).
43. Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. Section 1961–1968.
44. 18 U.S.C. Section 1519.
45. 18 U.S.C. Section 1519.
46. 18 U.S.C. Section 1510 currently prohibits individuals from persuading others to engage in "obstructive conduct."
47. 16 U.S.C. Section 7243(a)(1) and (2).
48. 15 U.S.C. Section 7243(b).
49. 15 U.S.C. Section 78m(k)(1) and (2)(a).
50. 15 U.S.C. Section 78m(k)(2).
51. 15 U.S.C. Section 78m(k)(1).
52. 15 U.S.C. Section 78m(k)(2)(C).
53. The IRS has proposed Treasury Regulations under which the loan treatment to be given to a split-dollar arrangements for tax purposes would depend on the form of ownership (i.e., whether policy is owned by the executive or the employer), but it is unclear whether the form of ownership will govern the treatment of split-dollar arrangements under the Act.
54. 15 U.S.C. Section 78u-3(f).
55. 15 U.S.C. Section 78u-3(c)(A)(A)(i).
56. 15 U.S.C. Section 78u-3(e)(3)(A)(i).
57. 15 U.S.C. Section 78j-l(1).
59. 15 U.S.C. Section 78j-l(g)(6).
60. 15 U.S.C. Section 7245.
61. 15 U.S.C. Section 7245(1).
62. 15 U.S.C. Section 7245(2).
63. 15 U.S.C. Section 78d-3(a)(1)-(3).
64. 15 U.S.C. Section 78d-3(b)(2)(A).
65. 15 U.S.C. Section 7245.
66. HH. 3763 Section 301(m)(4)(A), to be codified as 15 U.S.C. Section 78f(m)(4)(4).
67. 15 U.S.C. Section 78f(m)(4)(B).
68. The courts and legislatures are increasingly expecting employers to provide supervisors and management-level employees with training concerning employment law basics in general and anti-harassment policies in particular. Matthis v. Phillips Chevrolet, Inc., 269 EM 771 (7th Cir. 2001) (holding that it was an "extraordinary mistake" for an employer to fail to train its hiring managers on employment law basics); Shaw v. AutoZone, Inc., 180 EM 806 (7th Cir. 1999) (noting with approval that "in addition to distributing this policy to its employees, AutoZone regularly conducted training sessions on sexual harassment"); Kohler v. Inter-Tel Technologies, 244 F.3d 1167 (9th Cir. Apr. 11, 2001) (citing with approval that "Inter-Tel also conducted mandatory sexual harassment training seminars for the entire Emeryville work force"). See Cal. Gov't Code Sections 12950(b); Me. Rev. Star. Ann. tit. 26, Sections 806–807; Mass. Gen. Law ch. 151(B), Sections 34 (requiring harassment training). Other courts have held that a formal training program on equal employment opportunity matters will enable an employer to take advantage of the affirmative defense recognized by the U.S. Supreme Court in Kolstad v. American Dental Association, 527 U.S. 526 (1999), which allows an employer to avoid liability for punitive damages arising out of the discriminatory employment decisions of mana-

gerial agents when those decisions were contrary to the employer's "good faith efforts" to comply with federal employment laws. EEOC v. Wal-mart Stores, 187 F. Supp 1241 (Both Cir. 1999) (holding that the employer's written policy against discrimination and its ADA Compliance Manual were insufficient to constitute a "good faith effort" to prevent discrimination when the personnel manager at the store testified that during her seven years as a manager she had never received any ADA or employment discrimination training); Romano v. U-Haul International, 235 F.3rd 655 (1st Cir. 2000) (finding a lack of "good-faith effort" when U-Haul "did not put forth evidence of an active mechanism for renewing employees; awareness of the policies through specific education programs or periodic redissemination or revision of their written materials").

69. 15 U.S.C. Section 7264(a).
70. 15 U.S.C. Section 7264(c)(1)-(3).
71. 15 U.S.C. Section 7264(b). The SEC is proposing to extend the scope of this section to include a company's principal executive officer. The SEC also is proposing to broaden the definition of the term "code of ethics" as used in Section 406 to include the following three additional factors: (1) avoidance of conflicts of interest, including disclosure to an appropriate person or persons identified in the code of any material transaction or relationship that reasonably could be expected to give rise to such a conflict; (2) the prompt internal reporting to an appropriate person or persons identified in the code of violations of the code; and (3) accountability for adherence to the code. In addition to providing the required disclosure, a company also would have to file a copy of its ethics code as an exhibit to its annual report. All companies that file a Form 10-K report (see 17 C.F.R. Section 249.310) or a form 10-KSB report (see 17 CFR 249.310b) would be subject to the proposed disclosure requirement.

READING 2.3

Employee Satisfaction

Jennifer Schramm, *Workplace Visions*

Changes in demographics and a shifting industrial base will have a considerable impact on job satisfaction in the future. This is because many factors that determine job satisfaction vary depending on age, industry, gender and other characteristics. Based on what we know now about factors that lead to job satisfaction in today's workforce, we can estimate which issues could have the biggest impact on job satisfaction in the future. Unfortunately, many of the factors employees will cherish most in the coming decades will be the very things employers will find increasingly difficult to offer to them. Though there are no easy answers, planning ahead and focusing on addressing the issues that *can* be changed will go a long way in maintaining and improving employee job satisfaction.

The Potential Impact of Demographic Changes on Job Satisfaction

An aging population will increase the emphasis on health care benefits, retirement planning and job security. However, due to high costs and market fluctuations, these are the very areas where employers are finding it more and more difficult to give employees what they want. Women are attaining a higher proportion of professional qualifications and degrees than men—many professions currently dominated by men will eventually have proportionally more women. With a skills shortage potentially unfolding in the not too distant future, more companies will need to address the job satisfaction factors that women value in order to attract skilled professionals. And industrialized countries may start to compete with each other for skilled immigrant labor as a way to address the imbalance of old to young workers. Learning what attracts this kind of skilled labor will become an important endeavor.

A Shifting Industrial Base

The shift from a manufacturing to a service economy will also continue to have implications for employee satisfaction. Some fast-growing sectors appear to have higher levels of job satisfaction than the declining manufacturing industry, but by no means all of them. Most worrying is that the service and health care sectors both show low levels of job satisfaction, though the growing fields of education, financial services and nonprofits all show high levels of satisfaction.

What Does This Mean for Employers?

Employers may find it increasingly difficult to deliver some of the key factors that will be most important in determining employee job satisfaction. However, HR practitioners can meet this challenge by preparing for the future and by focusing on areas where they can make a difference.

Job Satisfaction and Wider Political and Economic Trends

Though employers and HR practitioners can do a lot to raise levels of job satisfaction, there are several issues such as health care costs, job security and pensions that will be partially dependent on wider political and economic trends. HR practitioners will need to be aware of these issues and be ready to play an active role in the political response to these challenges.

Introduction

Broader changes in demographics and the economy could mean that for a growing proportion of the U.S. workforce, the very factors that are most important to them in determining their levels of job satisfaction are the ones most likely to decrease in the future. Could this mean a rise in dissatisfied employees in the years to come?

The whole issue of employee satisfaction is not always easy to get a handle on. Much of the available data is conflicting, which could reflect how quickly the field is changing. The vagaries of the economy could also play a role. Within the span of just a few years we have seen reports indicating that job satisfaction is low and getting worse, while a recently conducted SHRM study indicated that most employees are fairly satisfied with their work. For many right now, simply having a job is satisfaction enough.

The ever-shifting state of job satisfaction could be why many HR practitioners are having difficulty pinpointing exactly what kinds of issues to focus on. But even if employee expectations were obvious, meeting them would still be an entirely different matter. External pressures, cost cutting measures and a slow economy have meant cuts to some of employees' most prized benefits. And continuing economic difficulties could create a further erosion of some of the key factors that promote job satisfaction. How then will organizations attract and retain talented people in this environment?

This is a question that will become more and more relevant in the next decades, as the war for talent heats up once again. With this in mind, it is useful to look at some of the current key components to employee satisfaction and to see how these might be affected as a result of future developments in society and the economy.

One of the more interesting aspects that SHRM research highlights is that job satisfaction means different things to different people depending upon their age, gender or other demographic differences. This certainly makes sense and the awareness of these differences can help companies to create policies that maximize job satisfaction for most of its people. This knowledge, coupled with demographic projections can also help us to identify some of the key areas of conflict that may develop over the next decades.

The Potential Impact of Demographic Changes on Job Satisfaction

Changing demographics will have a large impact on job satisfaction in many ways. The most obvious is different demographic groups prize different factors when it comes to their levels of job satisfaction. Demographic groups that will represent an increasing proportion of the workforce are seeing the things that are most important to them in terms of job satisfaction decline. This will put pressure on employers to find ways to maintain these offerings; employers in turn are likely to look to the government to take some of this pressure off—particularly in the areas of health care and pensions.

What are the more important demographic issues that will determine job satisfaction in the future?

AGE

In the last two decades the number of Americans past retirement age who are still in the job market has risen by half according to the U.S. Census Bureau. This trend is likely to continue into the future. According to the AARP, baby boomers, who will be the next large generation to retire, plan to do so at a later age than current retirees.

What kinds of factors lead to job satisfaction for older workers? Unsurprisingly, benefits top the list, followed by job security. As they prepare for retirement, older workers will continue to want security and, unless credible alternatives are presented, they will continue to look to their employers to provide it. But increasingly, employers are finding it difficult to provide such benefits—largely for reasons of costs. The convergence of disappointing earnings and a slow economy has meant that employers are, some for the first time, being forced to support underfunded pension plans. This is making them rethink how much they can offer employees upon retirement. According to recent research from Hewitt Associates, around 32 percent of the companies they surveyed are planning to make changes to pension investment allocations. The costs are likely to get even higher as a larger proportion of the population retires, putting further pressure on companies' pension funds. Health insurance benefits for retirees are also facing cutbacks. Another survey from Hewitt Associates and the Kaiser Family Foundation showed that 22 percent of large companies surveyed were likely to eliminate subsidized benefits for retirees.

There is some evidence that if employers begin to associate older workers too much with costly benefits this could give rise to age discrimination. Recent SHRM research on older workers showed that one of the few disadvantages employers saw in hiring older workers was the belief that older employees cause expenses such as health care and pension costs to rise. It is no surprise that many of today's age discrimination cases focus on the issue of retirement benefits.

Organizations are beginning to realize how important this age shift will be. But most have yet to take specific actions to address the issue. For example, few organizations have established phased retirement programs. Equally, eldercare provisions remains extremely rare as an employee benefit, though employees caring for elderly relatives are expected to grow rapidly over the next few decades; according to the National Council on Aging around 40 percent of the workforce may be caring for older parents by 2020. These responsibilities are likely to reinforce in the minds of older workers the importance of security in their retirement—hence strengthening the value they place on benefits and job security as factors in job satisfaction.

Another factor that is likely to increase in importance for this demographic is work/life balance. Though many baby boomers report that they want to work longer than the current retirement age, and though workers are currently staying on the job longer than in the past, many people will be forced to retire earlier than planned due to an unexpected disability. Some who are no longer able or willing to work full-time, however, may wish to continue working on a part-time basis. The baby boomer generation was also the first in which women entered the workforce in high numbers bringing with them a greater awareness of work/life balance. For this reason, unlike previous generations, baby boomer pre-retirement workers may be more comfortable with the whole idea of work/life balance and are likely to be more vocal advocates of flexible working lives.

Though there may be difficulties in meeting older workers' expectations in terms of benefit offerings, there is some justification for optimism. Generally older workers describe themselves as more satisfied with their working lives than younger workers. It will be critical to continue to observe levels of job satisfaction among older workers to see if a decline in the kinds of benefits they value brings about any decline in job satisfaction for this age group.

GENDER

Because women have traditionally assumed the role of caregiver, both for children and for elderly or disabled dependents, the whole issue of work/life balance is closely related to gender issues. This is borne out in the findings of the SHRM job satisfaction research, which showed a clear gender difference in the value placed on work/life balance as a factor in determining job satisfaction. For women, work/life balance was the most important factor in determining job satisfaction, whereas for men this was also important but only after issues such as benefits, job security, compensation/pay and communication with management. As gender roles become more fluid this could change; it is unlikely, however, to mean a decrease in the emphasis on work/life balance among women. Instead, it is more likely that the issue will become more significant for men.

Paying attention to what drives job satisfaction for women is important for several reasons. First, women will continue to make up a growing proportion of the workforce. Even if levels of female labor participation plateau, they are already nearly level with male participation rates and are likely to grow within skilled professions because young women are now surpassing men in diploma/professional degree acquisition rates. These high levels of educational attainment mean that, increasingly, companies looking for skilled workers will need to attract women. Additionally, the factors driving job satisfaction for women may also be a precursor to what will eventually drive job satisfaction for both women and men.

We can see this in studies like the SHRM research that showed that younger generations of men currently working their way up through the workforce place more value on work/life balance than older men do. Men in Generations X and Y report more interest in and place more value on flexible working schedules. Men are also likely to have more caring responsibilities in the future than they may currently have—this includes both childcare and eldercare. Fathers taking on the childcare role is becoming more accepted, particularly among younger workers. According to a recent *Newsweek* poll, 34 percent of men say that if their wives earned more money, they would consider quitting their jobs or reducing their hours in order to become the primary caregiver. Researchers estimate that this percentage is even higher among younger men. In addition, the impact of an aging population and resulting increased caring responsibilities will not only affect women. Already today out of the estimated 54 million Americans who are involved in care giving, 44 percent are men, according to the National Family Caregivers Association. With both men and women pushing for more flexibility, companies will be under much more pressure to provide it in an equitable way.

IMMIGRATION

One final demographic trend worth nothing is the expected increase in immigration as a response to fewer workers replacing those retiring. Attracting skilled employees from abroad could begin to influence the benefits some industries that rely heavily on imported skilled labor start to offer their employees. Little research has been done into what attracts highly skilled immigrants to particular employers. This is not surprising since up to now most employers in industrialized nations could rely on the high living standards of their countries to attract skilled immigrants on this basis alone.

But if, as predicted, a labor shortage due to an aging population begins to manifest itself in industrialized countries within the next decade or so, there may be much more competition between these countries for young, skilled (and in many cases unskilled) immigrant labor. Eventually more research will probably be done into what kinds of work environments attract immigrant labor and lead to high job satisfaction. We can guess that some immigrant employees may have slightly different criteria for job satisfaction than their native-born counterparts, but at this stage there is insufficient information to make it really clear how this trend could impact employee satisfaction.

A Shifting Industrial Base

Apart from demographics, one key shift over the coming years will be in the economy's emphasis on different types of industries. We know already that different industries have different levels of job satisfaction. Will industries that currently enjoy high levels of job satisfaction grow or decline over the next decades?

So far, the indications are that many of them are set to grow while many of the industries with lower levels of job satisfaction will decline. In the SHRM research, employees in the nonprofit, financial and education industries all reported higher levels of job satisfaction. According to the Bureau of Labor Statistics (BLS) these are all some of the fastest-growing industries. At the same time employees in the manufacturing industry, where lower levels of growth are expected, were among the least satisfied.

There are a few significant exceptions to this trend. Employees in the service sector—not including nonprofits—were found in the SHRM research to be the most dissatisfied with their work; according to the BLS the largest and fastest-growing major industry group is the service sector. High levels of job dissatisfaction in this sector will inevitably translate into high levels of job dissatisfaction overall. The health industry is another job sector that is predicted to grow but here again, health workers were among the most dissatisfied.

Identifying what factors are most important to people in these industries can help employers to produce a more satisfying work environment for employees now and in the years to come. Interestingly, for workers in the services sector, work/life balance is the most important factor, with communication and job security nearly tied for second place. Clearly, employers in the services sector will need to take work/life balance issues into account for the foreseeable future. This may be because many women work in the services sector but there could be other reasons for its predominance. Many women also work in the health sector but the critical job satisfaction factors for this industry look very different. Here the most important factor was benefits followed by career development and job security tied for second place and career advancement and communication tied for third place.

COMPANY SIZE

Another aspect that seems to play an important role in job satisfaction is company size. People appear to grow less satisfied with their jobs as the size of the organization increases. It would appear that small employers are better able to offer more of the key factors their employees value than larger organizations. Employees in small businesses name these as work/life balance, job security, benefits and communication. Whereas it is not difficult to imagine that small employers are able to accommodate their employees' work/life balance requirements, they cannot always offer job security and benefits to the same degree that larger employers are able to. It is unclear what is causing this apparent contradiction. What it could mean is that smaller employers are offering enough of some factors such as work/life balance to make up for those that they are not able to offer.

What Does This Mean for Employers?

Obviously the differences in criteria considered necessary for high levels of job satisfaction are not

TABLE 1: TOP FIVE "VERY IMPORTANT" ASPECTS FOR EMPLOYEES BY INDUSTRY

Industry	First	Second	Third	Fourth	Fifth
Education	Communication (71%)	Job Security (69%)	Benefits (66%)	Career Development (63%)	The Work Itself (63%)
Finance	Job Security (71%)	Work/Life Balance (67%)	Communication (66%)	Benefits (64%)	Compensation/ Pay (59%)
Government	Benefits (66%)	Communication (61%)	Work/Life Balance (59%)	Job Security (58%)	The Work Itself (56%)
Health	Benefits (74%)	Career Development (68%)	Job Security (68%)	Career Advancement (65%)	Communication (65%)
High Tech	Work/Life Balance (67%)	Compensation/ Pay(62%)	Job Security (57%)	Benefits (56%)	The Work Itself (56%)
Manufacturing (Durable Goods)	Job Security (75%)	Communication (75%)	Benefits (72%)	Compensation/ Pay (72%)	Recognition by Management (69%)
Manufacturing (Nondurable Goods)	Job Security (73%)	Communication (67%)	Benefits (67%)	Compensation/ Pay (60%)	Career Advancement (53%)
Services (Nonprofit)	Compensation/ Pay (83%)	Career Advancement (75%)	Job Security (75%)	Benefits (75%)	Career Development (67%)
Services (Profit)	Work/Life Balance (75%)	Communication (69%)	Job Security (66%)	Compensation/ Pay (63%)	Recognition by Management (56%)

Source: *SHRM/USATODAY.com Job Satisfaction Poll*

TABLE 2: TOP FIVE "VERY IMPORTANT" ASPECTS FOR EMPLOYEES BY GENDER

Gender	First	Second	Third	Fourth	Fifth
Male	Benefits (62%)	Job Security (61%)	Compensation/Pay (58%)	Communication (55%)	Work/Life Balance (53%)
Female	Work/Life Balance (72%)	Communication (71%)	Job Security (70%)	Benefits (67%)	Compensation/ Pay (61%)

Source: *SHRM/USATODAY.com. Job Satisfaction Poll*

only divided along demographic (i.e., age, gender, etc.) lines, but also along professional interests and career paths, It is critical, therefore, that employers get as good an understanding of the unique attributes of their workforce as possible so that they can put their limited resources into the areas that will produce the best outcomes.

The complexity of all of the different competing factors that go into job satisfaction, many of which cannot always be controlled, can seem overwhelming for employers and it can be difficult to know where to start when attempting to address some of these issues. As already mentioned, an important first step is to understand in detail what factors most drive the levels of job satisfaction in your workforce. Findings from job satisfaction surveys and other research can act as a background. But as the differences between the health and services industries illustrate, making assumptions based on just a few factors such as gender or age may not be revealing the whole picture and could be misleading. Ideally, carrying out an internal audit and using the findings to direct priorities can make a real difference.

In addition to this research on existing priorities and concerns, it is important to be able to project what your business's workforce is likely to look like in the future and to use what is known today to try to prepare for tomorrow. If you know that the older workers in your organization currently share certain preferences, you may be able to use this existing data to prepare for a time when older workers will make up a larger proportion of your workforce. If, based on current degree attainment levels, you know your profession will soon be made up of a much higher proportion of women, you may be able to project and prepare for the future based on what you know about women in your organization today.

JOB SATISFACTION FACTORS SHARED BY MOST OR ALL GROUPS

Another approach is to look at job satisfaction factors that seem to span across demographics, industry size and employer type. Chances are if you can get these shared factors right you can go quite some way in increasing job satisfaction in your workforce. These issues can be divided into two groups—those, like benefits, wages and job security, that to a large extent depend on the financial position of the company and in this way to the economy overall, and those that are less dependent and may be easier, or at least less costly, to shape to meet employee preferences by changing practices and processes and perhaps to at least some degree the organizational culture.

The most important of these latter issues are communication with management, work/life balance, the employee's relationship with his/her immediate supervisor and career development. These four issues tend to come up frequently in studies on job satisfaction. In the SHRM research they appeared again and again regardless of the age, gender, industry or company size of the respondents.

In particular, work/life balance and communication showed up in the top five factors for all age groups. This means that however you look at it, employees are likely to highly prize these factors in the future. If, for example, these preferences are cohort specific—that is Generation Xers will always value work/life balance no matter how old they get—these issues will be of critical importance. But even if these issues are age specific—that is they are characteristic of certain life stages such as the child-rearing or pre-retirement years—they continue to be of critical importance because *every* age group values these factors highly. Therefore, investment in these areas is likely to go a long way in promoting job satisfaction among all employees.

COMMUNICATION

Communication is valued highly by employees in every age group and most particularly by women. The value of being able to communicate effectively with employees will only increase as teams become more virtual in nature. One danger, however, is that employees are becoming immune to organizational communication as they are inundated with information. E-mails and other electronic forms of communication have added to the "information fatigue" many workers are experiencing.

A key way of ensuring that communication is effective is to measure its impact. Though most organizations rely on informal, ad hoc feedback, more structured rigorous methods are needed if truly reliable, usable data is to be collected and if key communications priorities are to be established. Establishing these goals will help to shape how measurement methods are developed.

Though supporting effective communication may not be as financially burdensome as some other factors leading to high levels of employee satisfaction such as health care or pensions, it does require an investment of time and money, but done well could more than make up for its costs in higher levels of job satisfaction and reduced turnover.

WORK/LIFE BALANCE

Though many employers have done a great deal to promote a workplace that helps employees balance the needs of their work and personal lives, the demographic trends outlined earlier suggest that in the decades to come there will be even more emphasis on this issue. Most of the people who employers will be trying to attract fall into demographic and professional groups that highly prize work/life balance—in some cases more than any other factor. For example, employees surveyed by SHRM in the high-tech sector rate work/life balance as the most important factor in job satisfaction. Remember, this is the high-tech sector, which as we all know, is not exactly dominated by women. This emphasis on work/life balance is evidenced in a recent story on top technology managers who are now avoiding the CEO suite. And the primary reason? The excessively long hours.

Employers will be competing on this measure not only with other employers but also the lure of self-employment. This may be especially true in the case of women, who are starting their own businesses in record numbers. The number of female-owned companies is growing twice as fast as all other businesses. A recent study by the Rochester Institute of Technology (RIT) found that the main reason that women start their own companies is to better balance their work and family lives. Clearly women are trying to create something for themselves that they do not feel they can get from employers. But trends suggest this frustration will be or already is shared by most other employee groups. Developing workable, effective and fair policies for work/life balance will continue to be one of the very top priorities for employers if they are to attract talented employees in the years ahead.

RELATIONSHIP WITH SUPERVISOR

This issue appears to be especially important for younger workers and is closely related to career development and communication. This may be generational, in which case it will continue to be an important factor as Generations X and Y age. Of course the most important way to deal with this issue is in the recruitment and promotion of line managers. Making sure that managers have the information and skills necessary to meet this need is crucial. There are also indications that a slightly different, less traditional, management style will be most successful, one that involves employees in decisions by actively seeking contributions, and provides challenging and meaningful work that makes as much use as possible of employees' key skills and interests. Trust has also emerged as an important issue in this regard. Unfortunately, overall, levels of trust—at least in senior management—are currently low. If this trend continues, it is likely to have a noticeably depressive effect on job satisfaction levels.

CAREER DEVELOPMENT AND OPPORTUNITIES

Successful organizations in the future will offer many different kinds of employment as a way to attract people at different stages in life. But most employees regardless of where they are at in their lives will continue to want opportunities to develop their careers and themselves. For obvious reasons this is an issue that younger employees are more focused on. But with fewer workers, retaining and developing younger workers so that they can move through to higher levels in the organization could take on even more importance than it does today.

Today's working life can mean that a career path can change drastically even when the job remains the same, or alternatively that a career can stall even when jobs are changed frequently. The balance of responsibility for career management is certainly shifting with much more individual responsibility for career planning. At the same time detailed planning of a career over a lifetime is almost impossible since so many future jobs and opportunities do not even exist yet.

But though the individual may need to take more responsibility for his/her own career development, organizations that can offer an environment where this self-directed career management can take place within the context of the current work situation will be highly attractive to potential employees. They will expect the focus to be on developing their employability overall by offering learning opportunities and collaborative work that exposes them to wider professional networks, while at the same time enabling them to fully develop their abilities and technical skills through their everyday tasks and projects.

Job Satisfaction and Wider Political and Economic Trends

Though most job satisfaction factors are largely dependent upon the employer, some of the most important factors are closely linked to broader economic and political considerations. Probably the two most critical are job security and benefits. While job security is closely tied to economic conditions, trends in benefits—while also largely tied to the economy—can be strongly influenced by government policies.

JOB SECURITY

Only a few years ago, it appeared that we were making our way toward a free agent world of work where individual freedom to pick and choose temporary work projects and short-term employment relationships with a wide variety of employers, or "clients," had triumphed over stable employment with a single employer. Perhaps at the time it made sense, and certainly most people's career paths are not what they were 30 years ago. However, the stability and security of a permanent position continues to be what most workers seem to want right now.

According to new SHRM research on job security, HR practitioners and employees differ in their assessment of employment satisfaction with the level of job security in their current position. Employees are actually more satisfied with this aspect of their work than HR professionals believe them to be. This is good news because the more satisfied employees are with their levels of job security, the higher their levels of overall job satisfaction tend to be. The reasons for this feeling of security were for most people confidence in their own skills and abilities, the importance of their jobs to the organizations's success and their tenure at the organization.

So though financial conditions obviously have a major role to play in job security, it is not foremost in employees' minds when considering their own situation. One reason HR professionals might have a slightly different view on this is that they may have access to more information about potential job losses than the average employee does. Perhaps because of this, HR professionals are more likely to cite the financial standing of the company as one of the key determinants of a sense of job security than employees. An awareness of this dichotomy can help HR practitioners to focus on improving areas that help employees feel more secure such as providing training and learning opportunities that enable employees to feel more in control of their own skills development. These kinds of initiatives can go some way in alleviating concerns about job security even in tough economic times.

Another employment and economic trend that may have an impact on employees' sense of job security both now and in the future is the continuing decline of unions. Employees in the SHRM research felt that not being unionized was the top factor that made them feel their sense of job security was lessened. This finding may surprise most HR practitioners and it is important to be aware of. However, the relative importance of this factor may well change over time depending on how labor trends develop.

Of course, the main issue in determining job security is the labor supply overall. Here the assumption is that with the decline in available workers as the population ages, people have a greater sense of job security because there will be fewer people competing for jobs. But a severe skills shortage could have such a detrimental impact on national competitiveness that it could cause slower job growth. So though a labor shortage appears to strengthen the position of at least skilled employees, this is not a guarantee. For this reason education and skills policies are of vital importance. A largely unskilled labor force unable to meet the challenges of a global economy and to support a large cohort of retirees would severely threaten job security levels of all workers due to declining competitiveness and global market shares.

Though several of the key issues around job security are tied closely to broader external trends, there is still much that HR practitioners working closely with managers can do to raise levels of job satisfaction in relation to job security. Keeping lines of communication open between employees and management was found to be an extremely critical factor in improving employees' sense of job security. This may be one reason why employees in smaller companies have a better sense of security and hence higher job satisfaction levels. Their ability to more easily communicate with managers may make it easier for them to get accurate information. After all, feelings of insecurity frequently stem from not knowing; when employees feel as though they have reliable information, even if the news is not good they are more likely to feel a sense of control. Ultimately, it may be that a sense of control is the truly decisive issue when it comes to feeling secure in one's job.

BENEFITS AND COMPENSATION

It is no surprise that benefits and compensation play a major role in determining job satisfaction. But as everyone knows, increasingly the costs of benefits are spiraling out of control. Many companies are running large corporate pension deficits which could worsen if markets are slow to recover. A small but rising number of companies are suspending 401(k) matches. And rising health care costs are a concern for everyone. Many employers are already making adjustments in employee co-pays and many more are likely to follow. Even with these cost cutting measures, the costs of benefits are changing the makeup of compensation. Though compensation costs have remained fairly stable overall, benefits increases are around double those of wages.

Though companies are beginning to cut back on many benefits, most are mindful that they are among the most important factors in determining employee job satisfaction. If the situation remains largely as it is today, the value employees place on benefits is unlikely to decrease. If anything, the issue will become even more critical given what we know about the demographic trends outlined earlier. No one can be sure exactly how this problem will play itself out, though there will certainly be pressure from employers put on the government to produce some answers. In the meantime learning as much about how benefits and compensation impact employees' overall levels of job satisfaction is vital. For this reason, over the next year SHRM will be conducting further research into these two areas as part of its job satisfaction series of research.

Conclusion

Though many of the factors that determine job satisfaction levels are related to broader trends HR practitioners have little control over, there is still much that can be done to address the challenges brought about by a changing workforce, industrial shifts and changing working practices. Take the first step by learning about which trends and factors are most likely to impact your workforce now and in the future and moving to address those issues as much as possible. The findings of SHRM's continuing research on job satisfaction indicate that successfully addressing even a few of these issues could make a real difference in job satisfaction in your organization.

Selected Bibliography

"Americans Express Little Trust in CEOs of Large Corporations or Stockbrokers" Gallup Poll, July 2002. www.gallup.com

Baby Boomers Envision Their Retirement: An AARP Segmentation Analysis American Association of Retired Persons (AARP) & Roper Starch Worldwide, Inc., February 1999. http://research.aarp.org/econ/boomer_seg.html

Bureau of Labor Statistics (BLS) National Compensation Survey U.S. Department of Labor www.bls.gov/opub/cwc/articles.htm

Bureau of Labor Statistics (BLS) Occupational Outlook Handbook http://stats.bis.gov/oco/home.htm

Burke, Mary Elizabeth, Esen, Evren and Collison, Jessica. *SHRM® 2003 Benefits Survey*. SHRM, June 2003. www.shrm.org/surveys

Collison, Jessica. *Older Workers Survey*, SHRM/NOWCC/CED, June 2003. www.shrm.org/surveys

Esen, Evren. *Job Satisfaction Research Series: Job Satisfaction Poll.* SHRM/USA Today, December 2002. www.shrm.org/surveys

Esen, Evren. *Job Satisfaction Research Series: Job Security Survey.* SHRM, June 2003. www.shrm.org/surveys

Galther, Chris. "On the sidelines," *Boston Globe,* June 2, 2003.

Henry J. Kalser Family Foundation www.kff.org

Hewitt Associates www.hewitt.com

Hopkins, Jim. "Mars vs. Venus extends to entrepreneurs too," *USA Today*, May 19, 2003.

National Council on Aging www.ncoa.org

National Family Caregivers Association www.nfcacares.org

Tyre, Peg, McGinn, Daniel. "She Works, He Doesn't." *Newsweek,* May 12, 2003.