



12

Internal Employee Relations

CHAPTER OBJECTIVES

- Explain the concept of employment at will.
- Explain discipline and disciplinary action.
- Describe the disciplinary action process.
- Discuss the various approaches to disciplinary action.
- Describe the problems in the administration of disciplinary action.
- Explain termination of employment.
- Discuss termination of employees at various levels.
- Explain demotion as an alternative to termination.
- Describe downsizing.
- Explain the use of ombudspersons and alternative dispute resolution.
- Describe transfers, promotions, resignations, and retirements as factors involved in internal employee relations.
- Explain some issues associated with administering disciplinary action in other countries.

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The status of most workers is not permanently fixed in an organization. Employees constantly move upward (promotion), laterally (transfers), downward (demotion), and out of the organization (separation and termination). At times, employees may violate work rules that require management intervention or employees may possess a grievance based on their claim of inappropriate application of policy or other inappropriate behavior. To ensure that workers with the proper skills and experience are available at all levels, constant and concerted efforts are required to maintain good internal employee relations. **Internal employee relations** comprise the human resources (HR) management activities associated with the movement of employees within the company and the relationship between employees and employers within the company. Such topics include discipline and disciplinary action, termination, demotion, downsizing, transfers, promotions, resignations, and retirement.

Employment at will is first discussed as a factor affecting internal employee relations, particularly for employee groups who are not represented by a labor union. Understanding employment at will provides a basis for understanding why movement of employees is more likely in nonunion settings than in union settings

Employment at Will

Employment at will is a legal doctrine that specifies that employment may be terminated by either the employer or employee for any reason. "The employment-at-will doctrine avows that, when an employee does not have a written employment contract and the term of employment is of definite duration, the employer can terminate the employee for good cause, bad cause, or no cause at all."¹ For unionized workers, a collective bargaining agreement sets aside an employer's ability to use employment-at-will provisions because the terms of employment are managed in accordance with the provisions of the collective bargaining agreement. Certainly there are numerous hiring standards to avoid such as race, religion, sex, national origin, age, and disabilities. Notwithstanding various employment standards to avoid that are based on laws, court decisions, and executive orders, approximately two of every three U.S. workers depend almost entirely on the continued goodwill of their employer. Individuals falling into this category are known as "at-will employees."

There are three exceptions to the at-will doctrine, which have been established by courts of law. The first is an implied contract exception. Implied contracts can be formed through an employer's



representation of continued employment in writing or through oral statements. Written statements made in employment handbooks that specify continued employment based on continued satisfactory job performance are an example of an implied contract. A manager or supervisor who makes similar oral statements to employees is also an example of an implied contract. Employers can do certain things to help protect themselves against litigation for wrongful discharge based on a breach of implied employment contract. Statements in documents such as employment applications and policy manuals that suggest job security or permanent employment should be avoided if employers want to minimize charges of wrongful discharge. Telling a person during a job interview that he or she can expect to hold the job as long as they want could be considered a contractual agreement and ground for a lawsuit. Normally, a person should not be employed without a signed acknowledgment of the at-will disclaimer. In addition, the policy manual should have it noticeably stated in bold, large-than-normal print, so it is clear to the employee that this is an at-will relationship. Other guidelines that may assist organizations in avoiding wrongful termination suits include clearly defining the worker's duties, providing good feedback on a regular basis, and conducting realistic performance appraisals on a regular basis. Most states recognize this exception.

Second, employers generally cannot exercise at-will termination if such a termination violates a state's public policy. For example, workers' compensation programs are governed by rules in every state. Terminating an employee for filing a workers' compensation claim after becoming injured while on the job cannot be made on at-will grounds. Most states recognize this exception.

Third, only a few states recognize something referred to as an implied covenant of good faith and fair dealing into the employment relationship. Terminating employment without *just cause*, which we discuss later in this chapter, would be considered an act of bad faith and unfair dealing. An example of employer bad faith would be terminating a long-service employee who consistently has demonstrated exceptional job performance and follows work rules.

OBJECTIVE

Explain discipline and disciplinary action.

State of employee self-control and orderly conduct that indicates the extent of genuine teamwork within an organization.

Invoking a penalty against an employee who fails to meet established standards

Discipline and Disciplinary Action

Discipline is the state of employee self-control and orderly conduct that indicates the extent of genuine teamwork within an organization. A necessary but often trying aspect of internal employee relations is the application of **disciplinary action**, which is invoking a penalty against an employee who fails to meet established standards. Even though disciplinary action may be tense, unpleasant, and fraught with conflict, at times it must be done. Don Crosby, vice-president of international and corporate HR at McDonald's, said, "It's the hardest thing a manager has to do. It's also rocky terrain for many executives, who simply do not know when or how to hold the stick, swinging it haphazardly and inconsistently, striking too hard, too soft, or not at all."²

Effective disciplinary action addresses the employee's wrongful behavior, not the employee as a person. Incorrectly administered disciplinary action is destructive to both the employee and the organization. Thus, disciplinary action should not be applied haphazardly. Disciplinary action is not usually management's initial response to a problem. Normally, there are more positive ways of convincing employees to adhere to company policies that are necessary to accomplish organizational goals. However, managers must administer disciplinary action at times when company rules are violated.

OBJECTIVE

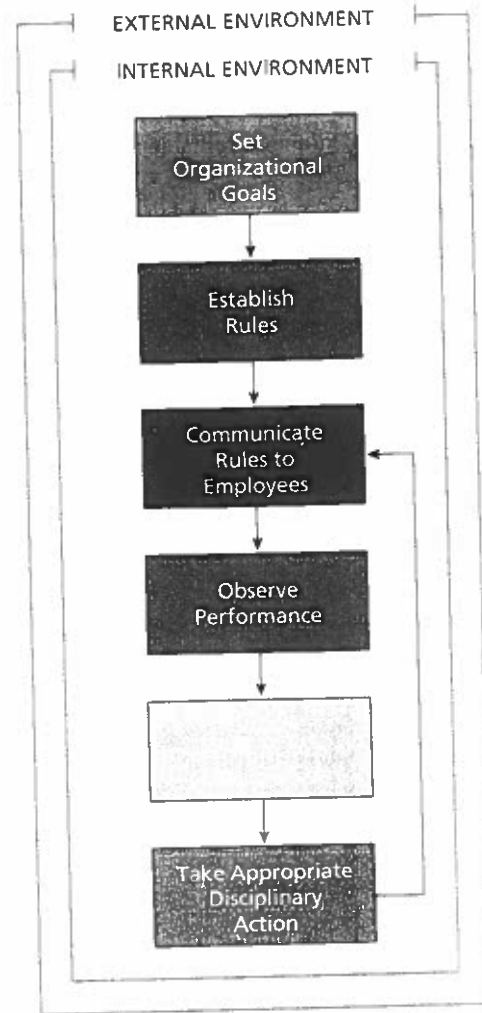
Describe the disciplinary action process.

Disciplinary Action Process

The disciplinary action process is dynamic and ongoing. Because one person's actions can affect others in a work group, the proper application of disciplinary action fosters acceptable behavior by other group members. Conversely, unjustified or improperly administered disciplinary action can have a detrimental effect on other group members.

The disciplinary action process is shown in Figure 12-1. The external environment affects every area of HR management, including disciplinary actions. Changes in the external environment, such as technological innovations, may render a rule inappropriate and may necessitate creating new rules. Laws and government regulations that affect company policies and rules are also constantly changing. For instance, the Occupational Safety and Health Act (OSHA) caused many firms to establish safety rules.

12-1 Disciplinary Action Process



Changes in the internal environment of the firm can also alter the disciplinary action process. Through organization development, the firm may change its employer brand. As a result of this shift, first-line supervisors may begin to handle disciplinary action more positively. Organization policies can also have an impact on the disciplinary action process. Think how a new smoke-free workplace policy might impact the workplace and the possible need for disciplinary action.

The disciplinary action process deals largely with infractions of rules. Notice in Figure 12-1 that rules are established to better facilitate the accomplishment of organizational goals. Rules are specific guides to behavior on the job. The dos and don'ts associated with accomplishing tasks may be highly inflexible. For example, a company may forbid the use of tobacco products anywhere on company property.

After management has established rules, it must communicate these rules to employees. The manager then observes the performance of workers and compares performance with rules. As long as employee behavior does not vary from acceptable practices, there is no need for disciplinary action, but when an employee's behavior violates a rule, corrective action may need to be taken. Taking disciplinary action against someone often creates an uncomfortable psychological climate. However, managers can still sleep well at night after taking disciplinary action if the rules have been clearly articulated to everyone.

The purpose of disciplinary action is to alter behavior that can have a negative impact on achievement of organizational objectives, not to chastise the violator. The word *discipline* comes from the word *disciple*, and when translated from Latin, it means, *to teach*. Thus, the intent of disciplinary action should be to ensure that the recipient sees disciplinary action as a learning process rather than as something that inflicts pain.

Note that the process shown in Figure 12-1 includes feedback from the point of taking appropriate disciplinary action to communicating rules to employees. When disciplinary action is taken, all employees should realize that certain behaviors are unacceptable and should not be repeated.³ However, if appropriate disciplinary action is not taken, employees may view the behavior as acceptable and repeat it.

OBJECTIVE

Discuss the various approaches to disciplinary action.

An approach to disciplinary action that have four consequences which are analogous to touching a hot stove.

Approaches to Disciplinary Action

Several approaches to the administration of disciplinary action have been developed. Three of the most important concepts are the hot stove rule, progressive disciplinary action, and disciplinary action without punishment.

Hot Stove Rule

According to the **hot stove rule**, disciplinary action should have the following consequences which are analogous to touching a hot stove:

1. *Burns immediately.* If disciplinary action is to be taken, it must occur immediately so that the individual will understand the reason for it.
2. *Provides warning.* It is also extremely important to provide advance warning that punishment will follow unacceptable behavior. As individuals move closer to a hot stove, its heat warns them that they will be burned if they touch it; therefore, they have the opportunity to avoid the burn if they so choose.
3. *Gives consistent punishment.* Disciplinary action should also be consistent in that everyone who performs the same act will be punished accordingly. As with a hot stove, each person who touches it with the same degree of pressure and for the same period of time is burned to the same extent.
4. *Burns impersonally.* Disciplinary action should be impersonal. The hot stove burns anyone who touches it—without favoritism.

If the circumstances surrounding all disciplinary action were the same, there would be no problem with this approach. However, situations are often quite different, and many variables may be present in each disciplinary action case. For instance, does the organization penalize a loyal 20-year employee the same way as an individual who has been with the firm for less than six weeks? Supervisors often find that they cannot be completely consistent and impersonal in taking disciplinary action and they need a certain degree of flexibility. Because situations do vary, progressive disciplinary action may be more realistic and more beneficial to both the employee and the organization.

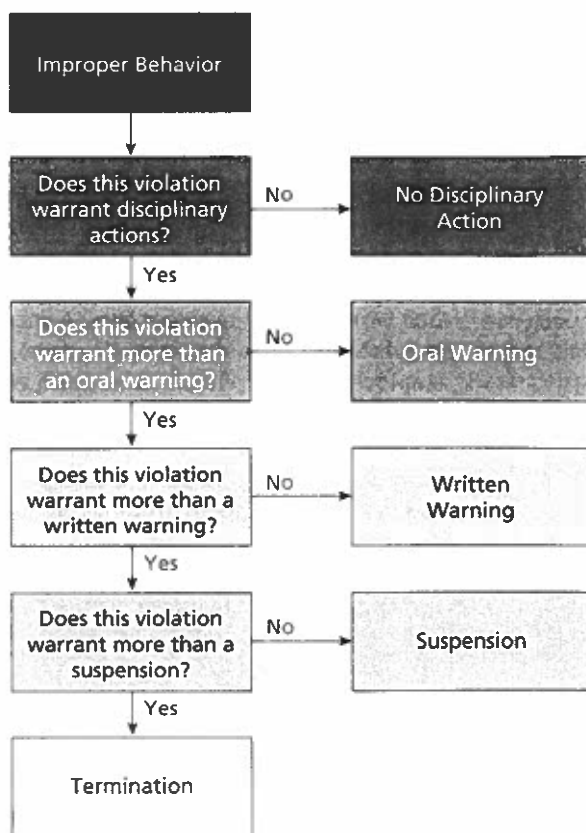
Progressive Disciplinary Action

Approach to disciplinary action designed to ensure that the minimum penalty appropriate to the offense is imposed.

Progressive disciplinary action is intended to ensure that the minimum penalty appropriate to the offense is imposed. The progressive disciplinary model was developed in response to the National Labor Relations Act (NLRA). The goal of progressive disciplinary action is to formally communicate problem issues to employees in a direct and timely manner so that they can improve their performance. Its use involves answering a series of questions about the severity of the offense. The manager must ask these questions, in sequence, to determine the proper disciplinary action, as illustrated in Figure 12-2. After the manager has determined that disciplinary action is appropriate, the proper question is, "Does this violation warrant more than an oral warning?" If the improper behavior is minor and has not previously occurred, perhaps only an oral warning will be sufficient. Also, an individual may receive several oral warnings before a yes answer applies. The manager follows the same procedure for each level of offense in the progressive disciplinary process. The manager does not consider termination until each lower-level question is answered yes. However, major violations, such as assaulting a supervisor or another worker, may justify moving through each level of question to the immediate termination of the employee. It is important for the worker to know what can result if improvement does not result.⁴

To assist managers in recognizing the proper level of disciplinary action, some firms have formalized the procedure. One approach to establish progressive disciplinary action guidelines

FIGURE 12-2
**Progressive Disciplinary
 Action Approach**



HR Web Wisdom

*Progressive Disciplinary
 Action*

<http://humanresources.about.com/od/discipline/>

Numerous articles related to disciplinary action and progressive disciplinary action.

in a factory environment is shown in Table 12-1. In this example, a worker who is absent without authorization will receive an oral warning the first time it happens and a written warning the second time; the third time, the employee will be terminated. Fighting on the job is an offense that normally results in immediate termination. Specific guidelines for various offenses should be developed to meet the needs of the organization. For example, the wearing of rings or jewelry for aircraft mechanics is strictly prohibited. There would likely be no such rule in an office environment. Basically, the rule should fit the need of the situation.

TABLE 12-1

Suggested Guidelines for Disciplinary Action

Offenses Requiring First, an Oral Warning; Second, a Written Warning; and Third, Termination

Negligence in the performance of duties
 Unauthorized absence from job
 Inefficiency in the performance of job

Offenses Requiring a Written Warning and Then Termination

Sleeping on the job
 Failure to report to work one or two days in a row without notice
 Negligent use of property

Offenses Requiring Immediate Termination

Theft
 Fighting on the job
 Falsifying time card
 Failure to report to work three days in a row without notice

Process in which a worker is given time off with pay to think about whether he or she wants to follow the rules and continue working for the company.

Disciplinary Action without Punishment

The process of giving a worker time off with pay to think about whether he or she wants to follow the rules and continue working for the company is called **disciplinary action without punishment**. The approach throws out formal punitive disciplinary action policies for situations such as chronic tardiness or a bad attitude in favor of affirming procedures that make employees want to take personal responsibility for their actions and be models for accomplishment of the corporate mission. When an employee violates a rule, the manager issues an oral reminder. Repetition brings a written reminder, and the third violation results in the worker having to take one, two, or three days off (with pay) to think about the situation. During the first two steps, the manager tries to encourage the employee to solve the problem. If the third step is taken, upon the worker's return, the worker and the supervisor meet to agree that the employee will not violate rules again or the employee will leave the firm. When disciplinary action without punishment is used, it is especially important that all rules are explicitly stated in writing. At the time of orientation, new workers should be told that repeated violations of different rules will be viewed in the same way as several violations of the same rule. This approach keeps workers from taking undue advantage of the process. Walmart has a form of disciplinary action without punishment they call "Decision-Making Day." It provides a paid day off for the employee to decide either to improve or leave the company. It is Walmart's most severe discipline before termination.⁵

OBJECTIVE 3.5

Describe the problems in the administration of disciplinary action.

Problems in the Administration of Disciplinary Action

As might be expected, administering disciplinary action is not a pleasant task, but it is a job that managers sometimes have to do. Although the manager is in the best position to take disciplinary action, many would rather avoid it even when it is in the company's best interest. Such reluctance often stems from breakdowns in other areas of HR management. For instance, if a manager has consistently rated an employee high on annual performance appraisals, the supervisor's rationale for taking disciplinary action against a worker for poor performance would be weak. In a possible termination situation, it could be that the employee's productivity has actually dropped substantially. It might also be that the employee's productivity has always been low, yet the supervisor had trouble justifying to upper-level management that the person should be terminated. Rather than run the risk of a decision being overturned, the supervisor retains the ineffective worker.

Occasionally, there may be suits involving members of protected groups who claim that the disciplinary action was taken against them because they are members of a protected group. One of the best ways for a company to protect itself against suits claiming discrimination or harassment is to ensure that it has proper, written policies barring unfair treatment of its staff and a system for ensuring that the policies are followed. Disciplinary actions should be fully documented, and managers should be trained in how to avoid bias claims.⁶ Also, although discrimination laws prohibit employers from making employment decisions based on an employee's membership in a protected class, basing decisions solely on performance helps prevent violation of these laws.

A supervisor may be perfectly justified in administering disciplinary action, but there is usually a proper time and place for doing so. For example, taking disciplinary action against a worker in the presence of others may embarrass the individual and actually defeat the purpose of the action. Even when they are wrong, employees resent disciplinary action administered in public. By disciplining employees in private, supervisors prevent them from losing face with their peers.

In addition, many supervisors may be too lenient early in the disciplinary action process and too strict later. This lack of consistency does not give the worker a clear understanding of the penalty associated with the inappropriate action. A supervisor will often endure an unacceptable situation for an extended period of time. Then, when a decision is finally made to take action, he or she is apt to overreact and come down excessively hard. However, consistency does not necessarily mean that the same penalty must be applied to two different workers for the same offense. For instance, managers would be consistent if they always considered the worker's past record and length of service.



ETHICAL DILEMMA

To Fire or Not to Fire

You are a first-line supervisor for Kwik Corporation, a medium-sized manufacturer of automotive parts. Workers in your company and also your department are quite close, and you view them as family. The work in your department can be quite dangerous. It is especially important that all workers wear their safety glasses because in the past there have been some serious injuries. The company has a rule that states that any employee who does not follow the stated policy will receive a written reprimand on the first offense and will be terminated on the second violation. You have had to terminate several workers in the past because of similar violations. The other day, Ben Smith, one of your best and most influential employees, violated

the safety glasses rule and you gave him a reprimand. You hated to do that because he is by far your best worker and he often helps you if you have a problem with the other workers. He has also been with the company for a long time. You would really be lost without him. You walk up to Allen's workstation and observe him not wearing his safety glasses again. He knows that he has been caught and quickly puts his glasses on and says in a pleading voice, "Please don't fire me. I promise it will never happen again. I have just had a lot on my mind lately."

1. What would you do?
2. What factor(s) in this ethical dilemma might influence a person to make a less-than-ethical decision?

OBJECTIVE

Explain termination of employment.

Define the most severe penalty that an organization can impose on an employee.

Define the standard for determining whether to terminate an employee and the standard is based on whether an employee violated company policy or work rules and the severity of the violation.

Termination

Termination is the most severe penalty that an organization can impose on an employee; therefore, it should be the most carefully considered form of disciplinary action. The experience of being terminated is traumatic for employees regardless of their position in the organization. They can experience feelings of failure, fear, disappointment, and anger. It is also a difficult time for the person making the termination decision. Knowing that termination may affect not only the employee but also an entire family increases the trauma. Not knowing how the terminated employee will react also may create considerable anxiety for the manager who must do the firing. An individual who is terminated may respond with a wide range of emotions ranging from workplace violence to being totally unemotional in the matter.

"Just Cause" as a Standard for Choosing to Terminate Employment

Just cause is a standard for determining whether to terminate an employee and the standard is based on whether an employee violated company policy or work rules and the severity of the violation. Employers that embrace the at-will doctrine are not compelled to justify a termination decision. However, in an employment contract, just cause separates the basis for termination from that of a mass layoff because of economic reasons or exercise of at-will rights by requiring a reason for termination.

In union settings, most collective bargaining agreements require just cause for discipline and discharge. If a union files a grievance over the termination of a union member, the employer typically has the burden to show just cause existed for the termination during a labor arbitration hearing. We discuss labor arbitration later in the alternative dispute resolution section of this chapter. In the nonunion settings, just cause is protection for the employer and employee. For example, assume that a company includes a severance pay policy. In most policies, companies withhold severance pay when termination is for just cause. Just cause provides protection to employers by justifying not making severance pay whose termination is for just cause, and it provides protection to employees by justifying receipt of severance pay whose termination does not meet just cause standards.

In 1972, Professor Carroll R. Daugherty, who served as a labor arbitrator, put forth seven tests to help future arbitrators decide whether employee termination or other adverse actions in union settings, such as demotion, met just cause standards. Although established for use by arbitrators, the questions provide useful guidance for management whose companies have just cause employment provisions. Prior to making a decision to terminate an employee, management can review whether the just cause standard will likely be upheld if the termination is subsequently challenged by the former employee. The seven tests follow:

1. Did the company give to the employee forewarning or foreknowledge of the possible or probably disciplinary consequences of the employee's conduct?

2. Was the company's rule or managerial [sic] reasonably related to (a) the orderly, efficient, and safe operation of the company's business and (b) the performance that the company might properly expect of the employee?
3. Did the company, *before* administering discipline to an employer, make an effort to discover whether the employee did in fact violate or disobey a rule or order of management?
4. Was the company's investigation conducted fairly and objectively?
5. At the investigation, did the company "judge" obtain substantial and compelling evidence or proof that the employee was guilty as charged?
6. Has the company applied its rules, orders, and penalties even-handedly and without discrimination to all employees?
7. Was the degree of discipline administered by the company in a particular case reasonably related to (a) the seriousness of his employee's proven offense and (b) the record of the employee in his service with the company?⁷

Considerations in Communicating the Termination Decision

Most of the time, when the decision is made to terminate a worker, the employee should not really be surprised because he or she should have been given explicit warnings and counseling prior to being fired. The worker should have been advised of specific steps needed to take to keep the job. Support should have been provided to show what needed to be done. The worker also should have been given a reasonable period of time to comply with the supervisor's expectations.

Experts suggest that firings should be on Mondays because it lets the dismissed workers start looking for a job right away.⁸ Further, firing a worker at the end of the day leaves little chance for discussion among the remaining staff that may interrupt the workplace. Managers should try to plan the termination and not make it based on emotions. Certain steps should be followed in the termination process. In the first place, the worker's manager normally should personally do the firing. Second, the firing process should be kept short, using nonaccusatory language. Third, the manager should not go into the reason for the dismissal and should not answer any questions regarding the decision.⁹ In some states, when an employee is involuntarily terminated, the employer must pay all earned and unpaid wages within 24 hours after the employee demands it. To avoid any potential dispute over when a demand was made, most employers simply have the final paycheck available at the termination meeting. Also, select a location where there will be no interruptions. If the employee becomes argumentative,



HR BLOOPERS

Effective Discipline at Berries Groceries

As Katie Smith travels to one of the Berries Groceries store locations, she is worried about the meeting she is about to have with one of the deli clerks. As the HR Manager for the chain of grocery stores, Katie is working to improve the overall performance and retention of the mostly part-time grocery staff. The store manager of this location called Katie about the employee and he asked her to sit in on a disciplinary meeting to give the employee a written warning. Last week, the deli clerk had failed to follow the proper procedures when closing the deli counter at the end of the day, and as a result, some food had spoiled and needed to be thrown out. The manager told Katie that this

employee and other employees have failed to follow the proper procedures in the past, but he has never given any disciplinary action before this incident. However, this time there was a significant amount of food product that went to waste, and he felt that he could use this disciplinary action to set an example for all employees so they know that they need to start following the procedure. He said he tells every employee the closing procedures when they are hired and that he should not have to remind them every time they close the deli. Katie understands the importance of ensuring that employees follow proper food handling procedures but has an uneasy feeling that this meeting is not going to go well.

★ If your professor has assigned this, go to mymanagementlab.com to complete the HR Bloopers exercise and test your application of these concepts when faced with real-world decisions.

managers may need to get up and leave once the worker has been fired. For that reason, a manager's office is normally not used.¹⁰ Finally, most managers believe that it is best to have a witness because the person being fired may interpret your statements in the worst possible light.¹¹

OBJECTIVE 12.1

Discuss termination of employees at various levels.

Termination of Employees at Various Levels

Regardless of the similarities in the termination of employees at various levels, distinct differences exist with regard to nonmanagerial/nonprofessional employees, executives, and middle and lower-level managers and professionals.

Termination of Nonmanagerial/Nonprofessional Employees

Individuals in this category are neither managers nor professionally trained individuals, such as engineers or accountants. They generally include employees such as steelworkers, truck drivers, salesclerks, and wait staff. If the firm is unionized, the termination procedure is typically well defined in the labor-management agreement. For example, drinking on the job might be identified as a reason for immediate termination. Absences, on the other hand, may require three written warnings by the supervisor before termination action can be taken.

When the firm is union-free, these workers can generally be terminated more easily because the worker is most likely an at-will employee. In most union-free organizations, violations justifying termination are often included in the firm's employee handbook. At times, especially in smaller organizations, the termination process is informal with the first-line supervisor telling workers what actions warrant termination. Regardless of the size of the organization, management should inform employees of the actions that warrant termination.

Termination of Middle- and Lower-Level Managers and Professionals

Typically, the most vulnerable and perhaps the most neglected groups of employees with regard to termination have been middle- and lower-level managers and professionals. Employees in these jobs may lack the political clout that a terminated executive has. Although certainly not recommended, termination may have been based on something as simple as the attitude or feelings of an immediate superior on a given day.

Termination of Executives

Unlike workers at lower-level positions, CEOs do not have to worry about their positions being eliminated. Their main concern is pleasing the board of directors because hiring and firing the CEO is a board's main responsibility. Often the reason for terminating a CEO is because the board of directors lost confidence in the executive. Tenure has become increasingly shaky for new CEOs because the turnover in large corporations is high. According to John Challenger, CEO of the outplacement firm Challenger, Gray & Christmas, Inc., "It's not a job for someone who thinks they're going to stay in one spot for a long career right now," he says. "Tenures are short," particularly in big public companies."¹²

Executives usually have no formal appeal procedure. The reasons for termination may not be as clear as those for lower-level employees. Some of the reasons include the following:

1. *Economic downturns.* At times, business conditions may force a reduction in the number of executives.
2. *Reorganization/downsizing.* To improve efficiency or as a result of merging with another company, a firm may reorganize or downsize, resulting in the elimination of some executive positions.
3. *Philosophical differences.* A difference in philosophy of conducting business may develop between an executive and the board. To maintain consistency in management philosophy, the executive may be replaced.
4. *Decline in productivity.* The executive may have been capable of performing satisfactorily in the past but, for various reasons, can no longer perform the job as required.

This list does not include factors related to illegal activities such as sexual harassment or insider trading. Under those circumstances, the firm has no moral obligation to the terminated executive.

An organization may derive positive benefits from terminating executives, but such actions also present a potentially hazardous situation for the company. Terminating a senior executive is an expensive proposition, often in ways more costly than just the separation package. The impact on the organization should be measured in relationships, productivity, strategic integrity, and investor confidence, as well as dollars. Many corporations are concerned about developing a negative public image that reflects insensitivity to the needs of their employees. They fear that such a reputation would impede their efforts to recruit high-quality managers. Also, terminated executives have, at times, made public statements detrimental to the reputation of their former employers.

OBJECTIVE

Explain demotion as an alternative to termination.

Process of moving a worker to a lower level of duties and responsibilities, which typically involves a reduction in pay.

Demotion as an Alternative to Termination

Demotion is the process of moving a worker to a lower level of duties and responsibilities, which typically involves a reduction in pay. Demotion may be a legitimate career option that had nothing to do with disciplinary action. However, in this section, demotion is addressed as a disciplinary action option. Emotions may run high when an individual is demoted. The demoted person may suffer loss of respect from peers and feel betrayed, embarrassed, angry, and disappointed. The employee's productivity may also decrease further. For these reasons, demotion should be used cautiously. If demotion is chosen instead of termination, efforts must be made to preserve the self-esteem of the individual. The person may be asked how he or she would like to handle the demotion announcement. A positive image of the worker's value to the company should be projected.

The handling of demotions in a unionized organization is usually spelled out clearly in the labor-management agreement. Should a decision be made to demote a worker for unsatisfactory performance, the union should be notified of this intent and given the specific reasons for the demotion. Often the demotion will be challenged and carried through the formal grievance procedure. Documentation is necessary for the demotion to be upheld. Even with the problems associated with demotion for cause, it is often easier to demote than to terminate an employee. In addition, demotion is often less devastating to the employee. For the organization, however, the opposite may be true if the demotion creates lingering ill will and an embittered employee.

Downsizing, discussed next, is not the same as termination but the results for workers involved is the same: they no longer have a job.

OBJECTIVE

Describe downsizing

Reverse of a company growing; it suggests a one-time change in the organization and the number of people employed (also known as *restructuring* or *rightsizing*).

Downsizing

Downsizing, also known as *restructuring* or *rightsizing*, is essentially the reverse of a company growing; it suggests a one-time change in the organization and the number of people employed. Typically, both the organizational structure and the number of people in the organization shrink for the purpose of improving organizational performance. The retail and investment side of banking is expecting large downsizing. In fact, one report expected that at least 50,000 Wall Street jobs would be eliminated by the end of 2014.¹³ It is expected that employment levels will not return to prefinancial-crisis levels until 2023.¹⁴

One big lesson from research on downsizing is that when organizations resist or delay layoffs as long as possible, they tend to bounce back faster when the upturn hits.¹⁵ This is especially true in organizations with skilled workers. This happens, in part, because these organizations save on recruiting and training costs when the demand for their people returns, and by keeping their experienced workforce around, they can move more effectively than their competitors that are scrambling to hire and train new employees with the right skills.¹⁶

Companies that have downsized should not forget about the workers that remain. Communication channels should be open to let those remaining workers know what and why the downsizing occurred. Often those who remain suffer *survivor's guilt* or *survivor syndrome*, and

open communication can do much to get by the feeling. Often it is a good idea to have a venting session where workers are allowed to express their concerns. Questions should be answered clearly and candidly.

Planning is crucial as a company prepares for downsizing. Often there may be age and other discrimination claims if downsizing results in a disproportionately adverse impact on members of a protected class. At times, older workers with higher salaries than their younger counterparts become targets for cost-cutting measures and age discrimination claims occur. It is important to analyze the breakdown of downsized workers to ensure that all protected groups of workers are not disproportionately affected. It is equally imperative that an employer use objective, job-related criteria to decide which positions will be affected. Also, the downsizing organization should be prepared to deal with government requirements such as Consolidated Omnibus Budget Reconciliation Act (COBRA) and Employee Retirement Income Security Act (ERISA).

Workers should understand when they are hired how the system will work in the event of layoffs. When the firm is unionized, the layoff procedures are usually stated clearly in the labor-management agreement. Seniority usually is the basis for layoffs, with the least-senior employees laid off first. The agreement may also have a clearly spelled-out *bumping procedure*. When senior-level positions are eliminated, the people occupying them have the right to bump workers from lower-level positions, assuming that they have the proper qualifications for the lower-level job. When bumping occurs, the composition of the workforce is altered.

Union-free firms should also establish layoff procedures prior to facing layoff decisions. In union-free firms, productivity and the needs of the organization are typically key considerations. When productivity is the primary factor, management must be careful to ensure that productivity, not favoritism, is the actual basis for the layoff decision. Therefore, it is important to define accurately productivity considerations well in advance of any layoffs.

Negative Aspects of Downsizing

When downsizing is chosen, companies typically describe the positive results, such as improving the bottom line. Many believe that the guaranteed results of employee downsizing on organizational market returns, profitability, and other financial outcomes are at best evasive.¹⁷ There also is a negative side to downsizing. Following are some examples:

- During layoffs, employers and employees must realize that there is a natural grieving period and a desire to go back to the way things used to be. Friendships may be lost, and there is day-to-day uncertainty about the future. It is difficult to think about contributing to the bottom line when you do not know if tomorrow will be your day to be cut.¹⁸
- Layers are pulled out of a firm, making advancement in the organization more difficult. Thus, more and more individuals find themselves plateaued.
- Workers begin seeking better opportunities because they believe they may be the next in line to be laid off. Often the best workers find other jobs and there is an increase in voluntary departures.¹⁹
- Employee loyalty is often significantly reduced. For workers who remain after downsizing, the loyalty level is often low.
- Institutional memory or corporate culture is lost.
- Workers who remain after downsizing are also faced with the realization of having to do additional work (some call it “ghost work”). Jim Link, staffing agency Randstad’s managing director for HR, said, “The piling-on of responsibilities is at an all-time high.”²⁰
- When demand for the products or services returns, the company often realizes that it has cut too deeply. It then begins looking for ways to get the job done.

Worker Adjustment and Retraining Notification Act

The Worker Adjustment and Retraining Notification (WARN) Act requires covered employers to give 60 days advance notice before a plant closing or mass layoff that will affect at least 100 full-time employees.²¹ As an example of how the process works: Century Aluminum of West Virginia ceased operations on February 20, 2009. It had issued a federal WARN notice in December 2008 to its 679 employees.²² Therefore, no penalty was imposed on the company.

There are severe monetary sanctions for failing to comply with the requirements of WARN. The penalties for WARN notice violations include liability to each affected worker for back pay and benefits for up to 60 days. Approximately 1,650 former employees of Mortgage Lenders Network will divide a \$2.7 million under a settlement. The company failed to provide the required 60-day warning notice to employees that it would close.²³ However, if an unforeseeable business circumstance causes a business to close earlier than 60 days, WARN does not apply. Such was the case with Hale-Halsell Company. Six days after the retailer United Supermarket, Hale-Halsell's biggest customer, severed ties with the company, the wholesaler announced 200 layoffs.²⁴

Outplacement

A procedure whereby laid-off employees are given assistance in finding employment elsewhere

In **outplacement**, laid-off employees are given assistance in finding employment elsewhere. The use of outplacement began at the executive level, but it has also been used at other organizational levels. Through outplacement, the firm tries to soften the impact of displacement. Barbara Barra, executive vice-president of operations for the consulting firm Lee Hecht Harrison, said, "There is a strong correlation between how a company treats departing employees and its ability to attract and retain top talent now and in the future, particularly when the economy rebounds."²⁵ Some of the services provided by outplacement include a discussion of pension options, Social Security benefits, expenses for interviews, and wage/salary negotiations. Usually career guidance is provided as well as instructions on how to conduct a self-appraisal directed toward recognizing skills, knowledge, experience, and other qualities recruiters may require in a new job. Tutoring in how to search for a job is usually available, and there is often help available in how to interview in the new employment environment.

When organizational change takes place, there will be a psychological impact on both the individuals who were dismissed and those who remain. Companies use outplacement to take care of employees by moving them successfully out of the company. This proactive response will also likely have a positive influence on those who remain with the company after downsizing. More employers are offering outplacement help to preserve their employer brand and reputation.

Severance Pay

Compensation designed to assist laid-off employees as they search for new employment.

Severance pay is compensation designed to assist laid-off employees as they search for new employment. Although no federal law requires U.S. companies to pay severance, a recent study found that although more than half of organizations gave severance pay to all departing employees, 17.7 percent made payments to selected groups only.²⁶ Even so, U.S. employees earn the least amount of severance pay worldwide, regardless of their job level or tenure.²⁷ When offered, typically one to two weeks of severance pay for every year of service is provided, up to some predetermined maximum. The employee's organizational level generally affects the amount of severance pay provided. For example, nonmanagers may get eight or nine weeks of pay even if their length of service is greater than eight or nine years. Middle managers may receive severance pay amounts based on the number of years worked.

There are many compelling reasons to pay severance to employees who are involuntarily terminated. Many managers think that treating ousted workers well sends an important message to those who remain behind. There may be a feeling that "we all could be in that situation someday." But a major reason a firm offers severance today is that something in return is provided. The departing worker must waive all rights to sue the company, but the waiver has to be voluntary.²⁸ In a recent survey, nearly three-quarters of some 400 HR professionals answered *yes* when asked if they required workers who were laid off to sign a form releasing their organization from liability for employment actions.²⁹ From the employee's viewpoint, severance is paid so that they will not sue the organization.³⁰ "It's not love; it's not a gift—it's a business transaction," notes Alan Sklover, author of *Fired, Downsized, or Laid Off*.³¹

Recent developments might lead companies to reconsider whether to provide severance pay to employees. In 2014, the U.S. Supreme Court ruled (*U.S. v. Quality Stores Inc.*) that severance pay is subject to Federal Insurance Contribution Act (FICA) tax. In Chapter 10, we said that FICA requires that employees and employers pay a portion of the cost of Old Age, Survivors,

and Disability Insurance (OASDI) and Medicare coverage. Arguably, paying a tax on money that is awarded to former employees can create a substantial cost burden for companies.

Not all internal employee relations situations are as severe as termination and layoffs, and an ombudsperson or alternative dispute resolution may be used to resolve these disputes.

OBJECTIVE

Explain the use of ombudspersons and alternative dispute resolution.

Ombudsperson

An **ombudsperson** is a complaint officer who has access to top management and who hears employee complaints, investigates, and recommends appropriate action. Employers use ombudspersons in their organizations to help defuse problems before they become lawsuits or scandals. The more internal mechanisms a corporation has to deal with internal problems, the less likely these problems are to wind up in court. Ombudspersons are impartial, neutral counselors who can give employees confidential advice about problems ranging from abusive managers to allegations of illegal corporate activity. Ombudspersons are used so that all workers may seek informal, confidential assistance to work through problems without losing control over how their concerns will be addressed. The ombudsperson is typically independent of line management and reports near or at the top of the organization.

Melissa Cameron is the ombudsperson for Bayer Corporation North American operations. The firm's 16,600 employees can contact her confidentially to blow the whistle on bad behavior or discuss other workplace issues. She said, "If you find even one or two cases a year that are substantiated, you have more than paid for my salary in terms of addressing a situation on the front end rather than going through litigation."³²

Alternative Dispute Resolution

As the number of employment-related lawsuits increases, companies have looked for ways to protect themselves against the costs and uncertainties of the judicial system. **Alternative dispute resolution (ADR)** is a procedure whereby the employee and the company agree ahead of time that any problems will be addressed by an agreed-upon means.

ADR is based on the use of a jury waiver, which is a contractual provision in which an employee waives the right to a trial by jury in a legal proceeding brought against an employer.³³ Types of ADR include arbitration, mediation, negotiated rulemaking, neutral fact-finding, and minitrials. With the exception of binding arbitration, the goal of ADR is to provide a forum for the parties to work toward a voluntary, consensual agreement, as opposed to having a judge or other authority decide the case. Mediation is the preferred method for most people. ADR cases run the gamut from racial, gender, and age discrimination to unfair firings. The idea behind ADR is to resolve conflicts between employer and employee through means less costly and contentious than litigation. A successful program can save a company thousands of dollars in legal costs and hundreds of hours in managers' time. Just as important, perhaps, it can protect a company from the demoralizing tension and bitterness that employee grievances can spread through a workforce. Compared to litigation, ADR processes are less adversarial, faster and more efficient, relatively lower in cost, and private. In the Watch It video, attorneys from the Gordon Law Group discuss the realities of conflict in the workplace between employees as well as between the employer and employee that occur from time to time. They also refer to approaches to find resolution to conflict.

Watch It

If your professor has assigned this, sign into mymanagementlab.com to watch a video titled *Gordon Law Group* and to respond to questions.

When parties agree to mediate, they are able to reach a settlement in 96 percent of the cases. A presidential executive order requires federal agencies to (1) promote greater use of mediation, arbitration, early neutral evaluation, agency ombudspersons, and other alternative dispute resolution techniques; and (2) promote greater use of negotiated rulemaking.

Complaint officer who has access to top management and who hears employee complaints, investigates, and recommends appropriate action.

Procedure whereby the employee and the company agree ahead of time that any problems will be addressed by an agreed-upon means.



QR Web Wisdom

Alternative Dispute Resolution

<http://www.opm.gov/er/adrguide/toc.asp>

Office of Personnel Management,
Alternative Dispute Resolution:
A Resource Guide

The Supreme Court rendered an opinion in *Circuit City v. Adams* that greatly enhanced an employer's ability to enforce compulsory ADR agreements. The Court held that the ADR was valid and enforceable and made clear that ADR applied to the vast majority of employees and was available to employers seeking to enforce compulsory arbitration agreements. However, in 2012, the National Labor Relations Board (NLRB) held that a Florida-based home builder committed an unfair labor practice under federal labor law by maintaining a mandatory arbitration agreement that waived the rights of employees to participate in class or collective actions. Only time will tell how this decision will affect ADR.

OBJECTIVE

Describe transfers, promotions, resignations, and retirements as factors involved in internal employee relations.

Lateral movement of a worker within an organization.

Transfers

The lateral movement of a worker within an organization is called a **transfer**. A transfer may be initiated by the firm or by an employee. The process does not and should not imply that a person is being either promoted or demoted. Transfers serve several purposes, five of which we describe here. First, firms often find it necessary to reorganize. Offices and departments are created and abolished in response to the company's needs. In filling positions created by reorganization, the company may have to move employees without promoting them. A similar situation may exist when an office or department is closed. Rather than terminate valued employees, management may transfer them to other areas within the organization. These transfers may entail moving an employee to another desk in the same office or to a location halfway around the world.

Second, transfers make positions available in the primary promotion channels. At times, productive but unpromotable workers may clog promotion channels. Other qualified workers in the organization may find their opportunities for promotion blocked. When this happens, a firm's most capable future managers may seek employment elsewhere. To keep promotion channels open, the firm may decide to transfer employees who are unpromotable but productive at their organizational level.

Third, transfers may satisfy employees' personal needs. The reasons for wanting a transfer are numerous. An individual may need to accompany a transferred spouse to a new location or work closer to home to care for aging parents, or the worker may dislike the long commute to and from work. Factors such as these may be of sufficient importance that employees may resign if a requested transfer is not approved. Rather than risk losing a valued employee, the firm may agree to the transfer.

Fourth, transfers may also be an effective means of dealing with personality clashes. Some people just cannot get along with one another. Because each of the individuals may be a valued employee, a transfer may be an appropriate solution to the problem. But managers must be cautious regarding the "grass is always greener on the other side of the fence" syndrome. When some workers encounter a temporary setback, they immediately ask for a transfer before they even attempt to work through the problem.

Fifth, because of a limited number of management levels, it is becoming necessary for managers to have a wide variety of experiences before achieving a promotion. Individuals who desire upward mobility often explore possible lateral moves so that they can learn new skills.

Promotions

A **promotion** is the movement of a person to a higher-level position in the organization. The term *promotion* is one of the most emotionally charged words in the field of HR management. An individual who receives a promotion normally receives additional financial rewards and the ego boost associated with achievement and accomplishment. Most employees feel good about being promoted. But for every individual who gains a promotion, there are probably others who were not selected. If these individuals wanted the promotion badly enough or their favorite candidate was overlooked, they may slack off or even resign. If the consensus of employees directly involved is that the wrong person was promoted, considerable resentment may result.

Movement of a person to a higher-level position in an organization.

There are numerous laws, court cases, and executive orders that apply when individuals are hired. These same hiring standards apply to promotion decisions. Promotion decisions should not discriminate against employees because of age, race, religion, national origin, color, sex, pregnancy, or disability.³⁴

Resignations

Even when an organization is totally committed to making its environment a good place to work, workers will still resign. Some employees cannot see promotional opportunities, or at least not enough, and will therefore move on. A certain amount of turnover is healthy for an organization and is often necessary to afford employees the opportunity to fulfill career objectives. When turnover becomes excessive, however, the firm must do something to slow it. The most qualified employees are often the ones who resign because they are more mobile. On the other hand, marginally qualified workers never seem to leave. If excessive numbers of a firm's highly qualified and competent workers are leaving, a way must be found to reverse the trend.

Analyzing Voluntary Resignations

Means of revealing the real reasons employees leave their jobs; it is conducted before an employee departs the company and provides information on how to correct the causes of discontent and reduce turnover.

When a firm wants to determine why individuals leave, it can use the exit interview or the postexit questionnaire. An **exit interview** is a means of revealing the real reasons employees leave their jobs; it is conducted before an employee departs the company and provides information on how to correct the causes of discontent and reduce turnover. Determining why employees leave a company can provide an opportunity for the firm to make changes to reduce turnover rates and reduce the associated costs.³⁵ Also, a good exit interview should assess whether employees felt they had received a good realistic job preview.³⁶

Often, the reason an employee leaves the job is misleading. Leigh Branham, author of *The 7 Hidden Reasons Employees Leave: How to Recognize the Subtle Signs and Act before It's Too Late*, believes that employees will cite pay as the reason they quit their jobs, 60 to 80 percent of the time. His research suggests that only 12 to 15 percent of employees leave for this reason.³⁷ Perhaps departing employees are reluctant to burn bridges by revealing the real reason for leaving because they may need a reference from their supervisor in the future and fear reprisal. However, only after determining the *real* reason for leaving can a firm develop a strategy to overcome the problem.

At times, women who are on the fast track are not candid about why they quit. A consulting firm was hired to discover why top-performing women were quitting in high numbers, saying in their exit interviews that they wanted to spend more time with their kids. But the employers later learned that these women had returned to work with another firm, some starting their own firms and working longer hours. In anonymous interviews, the women who had quit explained the problem. Most said they'd left their jobs because they could not see a future for themselves there. The wanting-to-spend-more-time-with-kids story was just cover—so they could maintain good relations with their former bosses.³⁸

Often a third party, such as a person in the HR department or an outsource party, will conduct the exit interview. A third party may be used because employees may not be willing to air their problems with their former bosses. Outsourcing the exit interviews may be beneficial because employers believe that the person who is leaving will be more honest when he or she is not speaking to a company employee. Over time, properly conducted exit interviews can provide considerable insight into why employees leave. Patterns are often identified that uncover weaknesses in the firm's management system. Knowledge of the problem permits corrective action to be taken. Also, exit interviews help to identify training and development needs and identify areas in which changes need to be made. They may also be used to identify hidden biases of managers who are hurting the productivity of the unit.³⁹

Questionnaire sent to former employees several weeks after they leave the organization to determine the real reason they left.

Another means of determining the real reason employees are leaving the organization is by administering a **postexit questionnaire**, which is sent to former employees several weeks after they leave the organization. Usually, they have already started work at their new company. Ample blank space is provided so that a former employee can express his or her feelings about

and perceptions of the job and the organization. Because the individual is no longer with the firm, he or she may respond more freely to the questions. However, there are several major weaknesses in the use of the postexit questionnaire. Participation rates are often low because former workers may not care enough to respond and they may be difficult to reach after they have departed.⁴⁰ Also, the interviewer is not present to interpret and probe for more information.

Attitude Surveys: A Means of Retaining Quality Employees

Exit and postexit interviews can provide valuable information to improve HR management practices. The problem, however, is that these approaches are reactions to events that were detrimental to the organization.

An alternative, proactive approach is administering attitude surveys. **Attitude surveys** seek input from employees to determine their feelings about topics such as the work they perform, their supervisor, their work environment, flexibility in the workplace, opportunities for advancement, training and development opportunities, and the firm's compensation system. They can provide valuable information to management, but they should not be a substitute for day-to-day discussion between managers and workers.⁴¹ Because some employees will want their responses to be confidential, every effort should be made to guarantee their anonymity. To achieve this, it may be necessary to have the survey administered by a third party. Regardless of how the process is handled, attitude surveys have the potential to improve management practices. For this reason, they are widely used throughout industry today. Joseph Cabral, senior vice-president and chief HR officer for the North Shore-LIJ Health System in Long Island, New York, says "North Shore has been surveying its 38,000 employees annually for the past three years, but it recently went to a quarterly survey to provide more real-time and actionable results and to allow comparisons across worksites and departments."⁴²

Employees should be advised of the purpose of the survey. The mere act of giving a survey communicates to employees that management is concerned about their problems, wants to know what they are, and wants to solve them, if possible. Analyzing survey results of various subgroups and comparing them with the firm's total population may indicate areas that should be investigated and problems that need to be solved. For instance, the survey results of the production night shift might be compared with the production day shift. Should problems show up, management must be willing to make the suggested changes. If the survey does not result in some improvements, the process may be a deterrent to employees and future surveys may not yield helpful data. Basically, if you are not going to do anything as a result of the survey, do not bother to administer it.

Offboarding

Offboarding facilitates employee departure from the company by assisting in the completion of exit tasks, including exit interviews, forms completion, the return of company property, and ensuring that employees receive the appropriate extended benefits.⁴³ Topics such as the worker's 401(k) and COBRA need to be addressed. Teresa Grote, practice director of composite solutions for Ascendum, an information technology company, said, "I think that in our highly litigious society today, making sure that you go through proper offboarding is probably equally, if not more, important than proper onboarding."⁴⁴

Retirements

Many long-term employees leave an organization by retiring. However, the majority of today's employees are not planning for a traditional retirement, in which they have an immediate and abrupt end to their working career at a specific age, such as 65. Some want to work past the normal retirement age because they are healthy and want to keep active; others have to work because their retirement account has dwindled and they cannot afford to retire. **Phased retirement** is any arrangement that allows people to move from full-time work to retirement in steps. About half of all U.S. workers phase into retirement in some way.⁴⁵ In addition, 20 percent of employers say that phased retirement is critical to their company's HR strategy today; that number nearly triples, to 61 percent, when employers look ahead five years. Allen Steinberg, a principal at Hewitt Associates, said, "Employers will be losing key talent at a time

Survey that seeks input from employees to determine their feelings about topics such as the work they perform, their supervisor, their work environment, flexibility in the workplace, opportunities for advancement, training and development opportunities, and the firm's compensation system.

Facilitates employee departure from the company by assisting in the completion of exit tasks, including exit interviews, forms completion, the return of company property, and ensuring that employees receive the appropriate extended benefits.

Any arrangement that allows people to move from full-time work to retirement in steps

when attracting and retaining skilled workers will be more important."⁴⁶ However, a recent study found that major corporations do not have phased retirement programs for older workers who can continue adding value.⁴⁷

The Pension Protection Act of 2006 permits limited phased retirement by allowing in-service pension plan withdrawals to begin at age 62 rather than 65. A benefit of phased retirement is that it permits a company to reduce labor costs without hurting morale. It also lets an organization hold on to its experienced workers so they can share their knowledge with a less-experienced workforce. Employees at Lee Memorial can work as few as 16 hours a week and still be eligible for benefits. Mercy Health's phased retirement plan allows workers aged 50 and older to reduce the number of hours worked while keeping their benefits.⁴⁸ CVS Caremark has set up a "snowbird" employment program to retain valuable employees. The program allows pharmacists to transfer south to places such as Florida for the winter, following the business's customers. Other benefits CVS Caremark provides the more mature workforce include part-time work, training, and flexible scheduling. The workforce of 50 and older has grown from 7 percent in the early 1990s to more than 18 percent today.⁴⁹

Sometimes employees will be offered early retirement before reaching the organization's normal length-of-service requirement. Historically, early retirement has been viewed as an attractive solution when workforce reductions had to be made. Early retirement plans, which gained popularity in the 1980s, appealed to older workers facing layoffs. Early retirement is still being used, but companies often reserve the right to reject a highly productive worker's request.

OBJECTIVE 12-11

Explain some issues associated with administering disciplinary action in other countries.

Administering Disciplinary Action in Other Countries

Previously, the discussion of disciplinary action was examined as it related to managers in the United States. Moving into the international arena often presents different situations. For instance, the punishment for a company employee who stole \$10,000 in the United States would likely lead to termination. However, a Japanese judge ruled that the \$10,000 was too small an amount to justify termination and the worker was reinstated.⁵⁰

The concept of employment at will is generally accepted in the United States. Remember that employment at will is an unwritten contract created when an employee agrees to work for an employer but no agreement exists as to how long the parties expect the employment to last. When it comes to discharging a worker who is not performing, it is much harder to do in Europe than in North America and other parts of the world. In fact, Europe may have the most employee-friendly laws. Even though they face global competition, unions in several European countries have resisted changing their laws and removing government protections. In many Western European countries, laws on labor unions and employment make it difficult to lay off employees. Laws make it hard to fire workers, so companies are reluctant to hire. It is also difficult to discipline a worker for poor performance in China. Laws tend to come down on the side of the employees when addressing disciplinary action.

In India, as soon as a company hires more than 100 employees, it is legally impossible to terminate anyone without permission of the government and then it must be because of criminal wrongdoing. Such laws have long discouraged foreign investors, held back manufacturing, and prevented the nation from experiencing industrial growth similar to China's. Presently legislators are fighting to push a law through Parliament to let a company expand its workforce without surrendering the power to lay off workers to bureaucrats. The bill faces intense opposition from unions.⁵¹

Because of the differences in how governments view disciplinary action in the global environment, it is difficult for a global company to establish a standardized policy on disciplinary action. The company will want to create a precise picture of employment and working conditions to establish appropriate practices in each country. Some of the factors that should be considered include hiring and termination rules and regulations covering severance practices.⁵²

Summary

1. Explain the concept of employment at will. *Employment at will* is an unwritten contract created when an employee agrees to work for an employer but no agreement exists as to how long the parties expect the employment to last.

2. Explain discipline and disciplinary action. *Discipline* is the state of employee self-control and orderly conduct present within an organization.

Disciplinary action occurs when a penalty is invoked against an employee who fails to meet established standards.

3. Describe the disciplinary action process, discuss the various approaches to disciplinary action, and describe the problems in the administration of disciplinary action.

After management has established rules, it must communicate these rules to employees. The manager then observes the performance of workers and compares performance with rules. As long as employee behavior does not vary from acceptable practices, there is no need for disciplinary action, but when an employee's behavior violates a rule, corrective action may be necessary.

Three of the most important concepts are the hot stove rule, progressive disciplinary action, and disciplinary action without punishment. As might be expected, administering disciplinary action is not a pleasant task, but it is a job that managers sometimes have to do. Although the manager is in the best position to take disciplinary action, many would rather avoid it even when it is in the company's best interest. Such reluctance often stems from breakdowns in other areas of HR management.

4. Explain termination of employment, termination of employment at various levels, and explain demotion as an alternative to termination. *Termination* is the most severe penalty that an organization can impose on an employee; therefore, it should be the most carefully considered form of disciplinary action. Regardless of the similarities in the termination of employees at various levels, distinct differences exist with regard to nonmanagerial/nonprofessional employees, executives, and middle and lower-level managers and professionals.

Demotion is the process of moving a worker to a lower level of duties and responsibilities, which typically

involves a reduction in pay. If demotion is chosen instead of termination, efforts must be made to preserve the self-esteem of the individual.

5. Describe downsizing and explain the use of ombudspersons and alternative dispute resolution. *Downsizing*, also known as *restructuring* or *rightsizing*, is essentially the reverse of a company growing; it suggests a one-time change in the organization and the number of people employed.

An *ombudsperson* is a complaint officer with access to top management who hears employee complaints, investigates, and recommends appropriate action.

Alternative dispute resolution is a procedure whereby the employee and the company agree ahead of time that any problems will be addressed by an agreed-upon means.

6. Describe transfers, promotions, resignations, and retirements as factors involved in internal employee relations. The lateral movement of a worker within an organization is called a *transfer*.

A *promotion* is the movement of a person to a higher-level position in the organization. Even when an organization is totally committed to making its environment a good place to work, workers will still resign.

Many long-term employees leave an organization by retiring. The majority of today's employees are not planning for a traditional retirement, in which they have an immediate and abrupt end to their working career at a specific age, such as 65. Some want to work past the normal retirement age because they are healthy and want to keep active; others have to work because their retirement account has dwindled and they cannot afford to retire.

7. Explain some issues associated with administering disciplinary action in other countries. Because of the differences in how governments view disciplinary action in the global environment, it is difficult for a global company to establish a standardized policy on disciplinary action. The concept of employment at will is generally accepted in the United States. However, when it comes to discharging a worker who is not performing, it is much harder to do in Europe than in North America and other parts of the world. In fact, Europe may have the most employee-friendly laws.

Key Terms

internal employee relations 317	just cause 323	transfer 330
employment at will 317	demotion 326	promotion 330
discipline 318	downsizing 326	exit interview 331
disciplinary action 318	outplacement 328	postexit questionnaire 331
hot stove rule 320	severance pay 328	attitude survey 332
progressive disciplinary action 320	ombudsperson 329	offboarding 332
disciplinary action without punishment 322	alternative dispute resolution (ADR) 329	phased retirement 332
termination 323		

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Exercises

- 12-1.** Which of the following jobs would likely be covered by employment at will? Explain why or why not.
- college professor
 - software engineer
 - company president
 - unionized machine operator
- 12-2.** Evaluate the following violations of standards. Using progressive disciplinary action, how might a person be fired for each violation?
- late for work
 - unclean work area
 - insubordination

Questions for Review

- 12-3.** Define *internal employee relations*.
- 12-4.** What is meant by the term *employment at will*?
- 12-5.** What is the difference between discipline and disciplinary action?
- 12-6.** What are the steps to follow in the disciplinary action process?
- 12-7.** Describe the following approaches to disciplinary action:
- hot stove rule
 - progressive disciplinary action
 - disciplinary action without punishment
- 12-8.** What are the problems associated with the administration of disciplinary action?
- 12-9.** How does termination often differ with regard to nonmanagerial/nonprofessional employees, executives, and middle and lower-level managers and professionals?
- 12-10.** Define *demotion*. Why should it be used cautiously?
- 12-11.** Define *downsizing*. What are some problems associated with downsizing?
- 12-12.** Define *outplacement* and *severance pay*.
- 12-13.** Define *ombudsperson* and *alternative dispute resolution (ADR)*. Why might a firm want to use an ombudsperson or alternative dispute resolution?
- 12-14.** Distinguish between transfers and promotions.
- 12-15.** Briefly describe the techniques available to determine the real reasons that an individual decides to leave the organization.
- 12-16.** Define *offboarding*. Why is it important?
- 12-17.** Define *phased retirement*. Why do so many employees desire to have a phased retirement?

INCIDENT 1 Should He Be Fired?

Toni Berdit is the Washington, D.C.-area supervisor for Quik-Stop, a chain of convenience stores. She has full responsibility for managing the seven Quik-Stop stores in Washington. Each store operates with only one person on duty at a time. Although several of the stores stay open all night, every night, the Center Street store is open all night Monday through Thursday but only from 6:00 A.M. to 10:00 P.M., Friday through Sunday. Because the store is open fewer hours during the weekend, money from sales is kept in the store safe until Monday. Therefore, the time it takes to complete a money count on Monday is greater than normal. The company has a policy that when the safe is being emptied, the manager has to be with the employee on duty, and the employee has to place each \$1,000 in a brown bag, mark the bag, and leave the bag on the floor next to the safe until the manager verifies the amount in each bag.

Bill Catron worked the Monday morning shift at the Center Street store and was trying to save his manager time by counting the money prior to his arrival. The store got very busy, and, while bagging a customer's groceries, Bill mistook one of the moneybags for a bag containing three sandwiches and put the moneybag in with the groceries. Twenty minutes later, Toni arrived, and they both began to search for the money. While they were searching, a customer came back with the bag of money. Quik-Stop has a general policy

that anyone violating the money-counting procedure could be fired immediately. However, the ultimate decision was left up to the supervisor and his or her immediate boss.

Bill was very upset. "I really need this job," Bill exclaimed. "With the new baby and all the medical expenses we've had, I sure can't stand to be out of a job."

"You knew about the policy, Bill," said Toni.

"Yes, I did, Toni," said Bill, "and I really don't have any excuse. If you don't fire me, though, I promise you that I'll be the best store manager you've got."

While Bill waited on a customer, Toni called her boss at the home office. With the boss's approval, Toni decided not to fire Bill.

Questions

- 12-18. Do you agree with Toni's decision? Discuss.
- 12-19. What signal might the decision not to fire Bill give to other store managers?
- 12-20. Quik-Stop had a general policy that anyone violating the money-counting procedure could be fired immediately. What would Toni be forced to do if the company had a rule regarding money-counting procedures?

INCIDENT 2 To Heck with Them!

Isabelle Anderson is the North Carolina plant manager for Hall Manufacturing Company, a company that produces a line of relatively inexpensive painted wood furniture. Six months ago, Isabelle became concerned about the turnover rate among workers in the painting department. Manufacturing plant turnover rates in that part of the South generally averaged about 30 percent, which was the case at Hall. The painting department, however, had experienced a turnover of nearly 200 percent in each of the last two years. Because of the limited number of skilled workers in the area, Hall had introduced an extensive training program for new painters, and Isabelle knew that the high turnover rate was costly.

Isabelle conducted exit interviews with many of the departing painters. Many of them said that they were leaving for more money, others mentioned better benefits, and some cited some kind of personal reasons for quitting. But there was nothing to help Isabelle pinpoint the

problem. Isabelle had checked and found that Hall's wages and benefits were competitive with, if not better than, those of other manufacturers in the area. She then called in Nelson Able, the painting supervisor, to discuss the problem. Nelson's response was, "To heck with them! They will do it my way or they can hit the road. You know how this younger generation is. They work to get enough money to live on for a few weeks and then quit. I don't worry about it. Our old-timers can take up the slack." After listening to Nelson for a moment, Isabelle thought that she might know what caused the turnover problem.

Questions

- 12-21. Interpret a turnover rate of 200 percent. What does it mean?
- 12-22. Do you believe that the exit interviews were accurate? Explain your answer.
- 12-23. What do you believe was the cause of the turnover problem?