Chapter 6
ETHICAL DECISION-MAKING: EMPLOYER RESPONSIBILITIES AND EMPLOYEE RIGHTS
ETHICS IS TOUGHER THAN YOU THINK . . .

"It is to the real advantage of every producer, every manufacturer, and every merchant to cooperate in the improvement of working conditions, because the best customer of American industry is the well-paid worker."

- Franklin D. Roosevelt.

“There are now more slaves on the planet than at any time in human history. True abolition will elude us until we admit the massive scope of the problem, attack it in all its forms, and empower slaves to help free themselves.”

- E. Benjamin Skinner, “A World Enslaved”
CHAPTER OBJECTIVES

After exploring this chapter, you will be able to:

1. Discuss the two distinct perspectives on the ethics of workplace relationships.
2. Explain the concept of due process in the workplace.
3. Define “employment at will” (EAW) and its ethical rationale.
4. Describe the costs of an EAW environment.
5. Explain how due process relates to performance appraisals.
6. Discuss whether it is possible to downsize in an ethical manner.
7. Explain the difference between intrinsic and instrumental value in terms of health and safety.
8. Describe the “acceptable risk” approach to health and safety in the workplace.
9. Describe the nature of an employer’s responsibility with regard to employee health and safety and why the market is not the most effective arbiter of this responsibility.

10. Explain the basic arguments for and against regulation of the global labor environment.

11. Describe the argument for a market-based resolution to workplace discrimination.

12. Define diversity as it applies to the workplace.

13. Explain the benefits and challenges of diversity for the workplace.

14. Define affirmative action and explain the three ways in which affirmative action may be legally permissible.

15. Articulate the basic guidelines for affirmative actions programs.
OPENING DECISION POINT: American Apparel: Image Consciousness?

- Do you think it is appropriate for AA to try to foster a sexually charged workplace that matches its provocative branding?
- If AA insists on defending its workplace environment, what problems – beyond lawsuits – is it likely to face?
- Does warning potential AA employees up front about the company’s sexually charged work environment solve the problem?
- What are the ethical issues involved here? Who are the stakeholders involved this scenario? Are the stakeholders rights abridged? In what way?
Even if you answer yes to the first question, above, evidently certain stakeholders believed that AA acted inappropriately. Other than changing its workplace culture, is there any other way to have prevented these lawsuits from happening in the first place? What alternatives were available to it originally? How would each of these new alternatives have affected each of the stakeholders you have identified?

As it moves forward from this point, what alternatives now exist for AA to heal relationships with its stakeholders? What recommendations would you offer to AA?
ETHICAL ISSUES IN THE WORKPLACE: THE CURRENT ENVIRONMENT

There are two very distinct, and sometimes competing, perspectives on the ethics of workplace relationships:

- Employers might decide to treat employees well as a means to produce greater workplace harmony and productivity.
  - Rewards, compensation structures, composition of teams, and the power relationships within a workplace can impact the emotions of workers.
  - Employees feel less pressure, more valued as employees, and more satisfied with their organizations, when they see that a firm values their emotions and exhibits values such as honesty, respect, and trust.
  - Employer considers whether a more satisfied employee is more or less likely to report misconduct to outside parties.
Employers might treat employees well out of a Kantian sense of duty and rights, regardless of the either utilitarian or self-interested productivity consequences.
- This is a deontological approach.
- It emphasizes the rights and duties of all employees, and treating employees well simply because it is the right thing to do.
- Defenders of employee rights argue that rights should protect important employee interests from being constantly subjected to utilitarian and financial calculations.
- This sense of duty might stem from the law, professional codes of conduct, corporate codes of conduct, or such moral principles a fairness, justice, or human rights on the part of the organization’s leadership.
DEFINING THE PARAMETERS OF THE EMPLOYMENT RELATIONSHIP

- “Employment,” per se, implicates ethical issues because of the very nature of the relationship it implies.
- Most significant aspect of work from the employee’s ethical perspective: Employment security.
- Fundamental questions of justice arise because employees:
  - …are subject to considerable harm from a lack of security in their jobs.
  - …do not have much power to create security.
- **Due process**: The right to be protected against the arbitrary use of authority.
  - In legal contexts, due process refers to the procedures that police and courts must follow in exercising their authority over citizens.
DEFINING THE PARAMETERS OF THE EMPLOYMENT RELATIONSHIP

- Few dispute that the state, through its police and courts, has the authority to punish citizens.
- This authority creates a safe and orderly society in which we all can live, work and do business.
- But that authority is not unlimited; it can be exercised only in certain ways and under certain conditions.
- Due process rights specify these conditions.

- Due process in the workplace:
  - Acknowledges an employer’s authority over employees.
  - Employers can exercise such control because they retain the ability to discipline or fire an employee who does not comply with their authority.
    - The threat of losing one’s job is a powerful motivation to comply.
DEFINING THE PARAMETERS OF THE EMPLOYMENT RELATIONSHIP

- Basic fairness implemented through due process demands that this power be used justly, defining basic fairness is the challenge.

- Due process is not always exercised in a just or fair manner:
  - “Bullying”: “the repeated, malicious, health-endangering mistreatment of one employee . . . by one or more employees.”
  - Need not be physically threatening.
  - Examples:
    - Boss constantly yelling orders at workers.
    - Coworker spreading rumors about another in order to sabotage his position.

- Such treatment leads to emotional abuse, complete loss of personal, dignity, intimidation, and fear.
DEFINING THE PARAMETERS OF THE EMPLOYMENT RELATIONSHIP

- Employer can face significant bottom line expenses from workers’ compensation claims based on stress and other emotional stimuli.
- There are increased costs related to potential litigation arising from claims of abusive work situations.
Basic fairness demands that employer power be used justly

- The law has not always clearly supported this mandate of justice.

Instead, much employment law within the United States evolved in a context of a legal doctrine known as **employment at will**.

EAW holds that:

- Unless an agreement specifies otherwise, employers are free to fire an employee at any time and for any reason.
- An EAW worker may opt to leave a job at any time for any reason, without offering any notice at all.
EMPLOYMENT AT WILL (EAW)

- The ethical rationale for EAW, has both utilitarian and deontological elements.
  - Total discretion over employment gives managers the ability to make efficient decisions that should contribute to the greater overall good.
  - The rights of private property owners to control their property by controlling who works for them.
EMPLOYMENT AT WILL (EAW)

- Even if EAW proved to be an effective management tool, justice demands that such tools not be used to harm other people.
- If private property rights grant managers authority over employees, the right of private property itself is limited by other rights and duties.
- Though the freedom to terminate the relationship is theoretically mutual, the employer is often responsible for the employee’s livelihood, while the opposite is unlikely to be true; the differential creates an unbalanced power relationship between the two parties.
This has led many courts and legislatures to create exceptions to the EAW rule:

- Civil rights laws prohibit firing someone on the basis of membership in certain prohibited classes (race, sex, disability, age, national origin, religion, or ethnic background).
- Labor laws prevent employers from firing someone for union activities.
- When the employer is the government, constitutional limitations on government authority are extended into the workplace to protect employees.

EAW has priority unless the employee can prove that her or his case falls under one of the exceptions.
EMPLOYMENT AT WILL (EAW)

- The burden of proof lies with the dismissed employee to show that she or he was unjustly or illegally fired.
- Due process and **just cause**, whether instituted as part of internal corporate policy or through legislation, would reverse this burden of proof.
  - Employers will have to show cause to justify the dismissal of an employee.
States vary in terms of their recognition of the following exceptions to the doctrine of employment at will. Some states recognize one or more exceptions, while others might recognize none at all. In addition, the definition of these exceptions may vary from state to state.

- Bad faith, malicious or retaliatory termination in violation of public policy.
- Termination in breach of the implied covenant of good faith and fair dealing.
- Termination in breach of some other implied contract term, such as those that might be created by employee handbook provisions (in certain jurisdictions).
- Termination in violation of the doctrine of promissory estoppel (where the employee reasonably relied on an employer’s promise, to the employee’s detriment).
- Other exceptions as determined by statutes (such as the Worker Adjustment and Retraining Notification Act [WARN]).
Employees are constantly supervised and evaluated in the workplace.

Benefits used to motivate or sanction employees:

- Salary
- Work conditions
- Promotions

Being treated fairly in the workplace involves fairness in above mentioned benefits, due process rights should also extend to this aspect of the workplace.
The ethical questions that remain in the EAW environment:

- Is this atmosphere the one that is most fair and just for all stakeholders?
- Does it lead to the most effective employment outcomes?
- Does it satisfactorily guard the rights and interests of both employers and employees?

Relevant inquiries in reaching a conclusion on these matters will include those that comprise our decision-making framework.
ROLE OF DUE PROCESS IN PERFORMANCE APPRAISALS

- The key facts relevant to issues of due process and fairness.
  - What are the ethical issues involved in your decision and implementation?
  - Who are the stakeholders involved in your decision?
  - What alternatives are available to you?
  - Might there be a way to safeguard the rights of the stakeholders involved while also protecting the interests of the decision makers?
  - If you are, for instance, striving to serve the autonomy of the employer, could you perhaps serve the due process interests of the employee by offering additional notice of termination or more information about alternatives?
ROLE OF DUE PROCESS IN PERFORMANCE APPRAISALS

- Employers should be fair in their implementation of judgments and just in their implementation of process in order to serve the mentioned principles.
- Conduct a detailed inventory of your personal fundamental values surrounding this vital question:

Will I be fair and just in my implementation of judgment and process, in order to serve the due process principles?
One of the most emotional issues for both employees and corporate decision makers is the challenge not only of a single termination but letting many employees go when a firm makes a decision to downsize.

Downsizing is not necessarily an unethical decision.

- However, it raises ethical quandaries since alternatives may be available to an organization.
- Alternatives may be seen as more fair and effective from the perspective of some or all stakeholders involved.
IS ETHICAL DOWNSIZING POSSIBLE?

Ways in which an organization can act more ethically in the process of downsizing:

- The decision regarding downsizing should be made by a representative group.
  - To consider the interests of all stakeholders.
  - To earn the trust of those who will be impacted.

- The facts should be collected and issues should be determined.

- Employees should be kept aware of business conditions, the need for a downsizing effort should not come as a great surprise.

- A firm should give notice of an intent to downsize as soon as the need is determined, and let those who will be impacted know who will be let go as soon as that list is devised.
IS ETHICAL DOWNSIZING POSSIBLE?

- The question of notice is debatable.
  - Productivity and quality is likely to suffer when managers exhibited visibility, approachability and candor.
  - The uncertainty and rumors that are sure to develop between the announcement of downsizing and the decision about who will be terminated may outweigh the benefits gained in early notification.
  - Allowing a worker to remain in a position for a period of time once she or he has been notified of impending termination — not the best option.
IS ETHICAL DOWNSIZING POSSIBLE?

○ If your company has to conduct a layoff:
  ○ Managers need to be highly visible to their staff, approachable even when they don’t have anything new to say, and candid about the state of things in order to build their trust and credibility.
  ○ Managers should be trained to manage the process and deal with the highly debilitating aftermath, otherwise, potential cost savings from the layoff will be wasted on lost productivity, quality problems and service breakdowns.
IS ETHICAL DOWNSIZING POSSIBLE?

- Identify the stakeholders and enumerate all possible options with regard to the downsizing efforts and catalog the impact of each option on each group of stakeholders.
- Try to lessen the impact as much as possible and allow the terminated employees to depart with dignity.
- Be honest and forthright.
- Be sensitive to the experiences of those who will be affected.
IS ETHICAL DOWNSIZING POSSIBLE?

- Legal perspective
  - The decision about whom to include in a downsizing effort must be carefully planned.
  - If the firm’s decision is based on some criterion that seems to be neutral on its face but the plan results in a different impact on one group than another, the decision may be suspect.
  - To avoid this, firms should review both the fairness of their decision making process and the consequence of that process on those terminated and the resulting composition of the workforce.
- According to John Rawls, if you do not know which role you would be playing in the downsizing decisions, you are more likely to reach a decision that is relatively fairest to everyone affected.
Within the United States and throughout many other countries with developed economies, there is a wide consensus that employees have a fundamental right to a safe and healthy workplace.

The extent of an employer’s responsibility for workplace health and safety is in dispute.

There is significant disagreement concerning the best policies to protect worker health and safety.
Health and safety are “goods” that are valued both as a means for attaining other valuable ends and as ends in themselves.

Being healthy and safe makes it much more likely that we will be capable of attaining our ends.

Health and safety have a very high instrumental value since part of their value derives from the fact that we use them to attain other things of value.

Health and safety also have intrinsic value.

- The life of one who dies in a workplace accident has instrumental value that can be measured, in part, by the lost wages that would have been earned had that person lived.
- Lost wages do not measure the intrinsic value of the life, something that financial compensation simply cannot replace.
HEALTH AND SAFETY

- What is the value of health and what does it mean to be healthy?
- When is a workplace safe? When is it unsafe?
- If “healthy” is taken to mean a state of flawless physical and psychological well-being, arguably no one is perfectly healthy.
- If “safe” means completely free from risk, certainly no workplace is perfectly safe.
- If health and safety are interpreted as ideals that are impossible to realize, then it would be unreasonable to claim that employees have a right to a healthy and safe workplace.
HEALTH AND SAFETY AS ACCEPTABLE RISK

- Employers cannot be responsible for providing an ideally safe and healthy workplace.
- Discussions in ethics about employee health and safety will tend to focus on the relative risks workers face and the level of acceptable workplace risk.
  - “Risks” can be defined as the probability of harm.
  - “Relative risks” is determined by comparing the probabilities of harm involved in various activities.
If the probability of harm involved in a specific work activity is equal to or less than the probability of harm of some more common activity, then we can conclude that this activity represents an “acceptable level of risk.”

From this perspective, a workplace is safe if the risks are acceptable. This conclusion should not be generalized.
FIGURE 6.1 - CALCULATING ACCEPTABLE LEVEL OF RISK
### TABLE 6.2 - CHALLENGES TO THE ACCEPTABLE RISK APPROACH TO HEALTH AND SAFETY

- Treats employees disrespectfully by ignoring their input as stakeholders.
- Ignores the fundamental deontological right an employee might have to a safe and healthy working environment.
- Assumes an equivalency between workplace risks and other types of risks when there are significant differences between them.
- Improperly places incentives because the risks faced at work could be controlled by others who might stand to benefit by *not* reducing them.
HEALTH AND SAFETY AS ACCEPTABLE RISK

- The risks faced at work could be controlled by others, particularly by those who might stand to benefit by not reducing the risks.
- Someone else can minimize or eliminate these risks; but this other party also has a financial incentive not to do so.
Defenders of the free market and the classical model of corporate social responsibility favor individual bargaining between employers and employees as the approach to workplace health and safety.

- Employees would be free to choose the risks they are willing to face by bargaining with employers.
- Employees would balance their preferences for risk against their demand for wages and decide how much risk they are willing to take for various wages.
- Those who demand higher safety standards and healthier conditions presumably would have to settle for lower wages; those willing to take higher risks would demand higher wages.
HEALTH AND SAFETY AS MARKET CONTROLLED

- In a competitive and free labor market, individual bargaining would result in the optimal distribution of safety and income.
- The market approach can also support compensation to injured workers when it can be shown that employers were responsible for causing the harms.
- The threat of compensation also acts as an incentive for employers to maintain a reasonably safe and healthy workplace.
**TABLE 6.3 - CHALLENGES WITH THE FREE MARKET APPROACH TO HEALTH AND SAFETY**

- Labor markets are not perfectly competitive and free.
- Employees seldom, if ever, possess the kind of perfect information markets require.
- We ignore important questions of social justice and public policy if we approach questions solely from the point of view of an individual.
Market failures can have deadly consequences when they involve workplace health and safety issues. Market defenders argue, markets will, over time, compensate for such failures. Over time, employers will find it difficult to attract workers to dangerous jobs and, over time, employees will learn about the risks of every workplace. This raises “first generation” problem.

- Market gathers information by observing the harms done to the first generation exposed to imperfect market transactions.
- Markets sacrifice the first generation in order to gain information about safety and health risks.
Questions of public policy, questions that will affect human lives, would never be asked by an individual facing the choice of working at a risky job.

To the degree that these are important questions that ought to be asked, individual bargaining will fail as an ethical public policy approach to worker health and safety.
Government regulation of workplace health and safety appears more appropriate from an ethical perspective.

Mandatory government standards address most of the problems raised against market strategies.

- Standards can be set according to the best available scientific knowledge and thus overcome market failures that result from insufficient information.
- Standards prevent employees from having to face the fundamentally coercive choice between job and safety.
- Standards address the first generation problem by focusing on prevention rather than compensation after the fact.
- Standards are fundamentally a social approach that can address public policy questions ignored by markets.
HEALTH AND SAFETY AS MARKET CONTROLLED

- In 1970, the U.S. Congress established the Occupational Safety and Health Administration (OSHA).
- It was charged with establishing workplace health and safety standards.
- Since that time, the major debates concerning workplace health and safety have focused on how such public standards ought to be set.
- The dominant question has concerned the appropriateness of using cost-benefit analysis to set health and safety standards.
When OSHA was first established, regulations were aimed at achieving the safest feasible standards.

- Feasibility approach allows OSHA to make tradeoffs between health and economics; but it is prejudiced in favor of health and safety by placing the burden of proof on industry to show that high standards are not economically feasible.

- Health and safety standards are not required, no matter the cost; but an industry is required to meet the highest standards attainable within technological and economic reason.

Critics charge that the feasibility approach does not go far enough and unjustly sacrifices employee health and safety.

- Industries that cannot operate without harming the health and safety of its employees should be closed.
Critics in industry and government have argued that OSHA should be required to use cost-benefit analysis in establishing standards.

- Even if a standard is technologically and economically feasible, it would still be unreasonable and unfair if the benefits did not outweigh the costs.
- Critics argue that OSHA should aim to achieve the optimal, rather than highest feasible, level of safety.
HEALTH AND SAFETY AS MARKET CONTROLLED

- Cost-benefit analysis faces serious ethical challenges, not cost-effective strategies.
- Rejecting cost-benefit analysis in setting standards is not the same as rejecting cost-effective strategies in implementing those standards.
  - A commitment to cost-effectiveness would require that, once the standards are set, we adopt the least expensive and most efficient means available for achieving those standards.
  - Cost-benefit analysis, in contrast, uses economic criteria in setting the standards in the first place.
HEALTH AND SAFETY AS MARKET CONTROLLED

- Cost-benefit analysis treats health and safety merely as an instrumental value and denies its intrinsic value.
  - It places an economic value on one’s life and bodily integrity.
  - Most offensive aspect of the cost-benefit analysis approach: It entails trading off health and safety against profit margin.
HEALTH AND SAFETY AS MARKET CONTROLLED

- Policies that have emerged by consensus within the United States seem to be most defensible.
  - Employees have a legitimate ethical claim on mandatory health and safety standards within the workplace.
  - Recognizing that most mandatory standards reduce rather than eliminate risks, employees should also have the right to be informed about workplace risks.
- If the risks have been reduced to the lowest feasible level and employees are fully aware of them, then a society that respects its citizens as autonomous decision makers has done its duty.
Workers outside of the United States may be subject to some U.S. laws if they work for an American-based organization, though enforcement is scattered.

In some cases, workers in other countries are protected by even more stringent laws than those in the United States.

In certain developing countries, workers find themselves subject to conditions that U.S.-based workers would find appalling.
According to economists, the exploitation of cheap labor allows developing countries to expand export activities and to improve their economies.

- Economic growth brings more jobs, which will cause the labor market to tighten, which in turn will force companies to improve conditions in order to attract workers.

Opponents to this perspective argue that allowing this process to take its course will not necessarily lead to the anticipated result.
FIGURE 6.2 - THE CASE FOR SWEATSHOPS

- Exploitation of Cheap Labor
  - Expansion of Exports
    - Improves Economy
      - More Jobs Enter Country
        - Labor Market Tightens
          - Working Conditions Improve
            - Companies Forced to Improve Conditions to Attract Workers
Scholars have argued that Kantian universal principles should govern the employment relationship and that the ethical obligation of respect for persons should guide the employment interactions.

Different ethical frameworks may yield conflicting responses.

A fundamental moral minimum set of standards exists that should be guaranteed to workers in all countries notwithstanding culture, stage of economic development, or availability of resources.

Philosophers Arnold and Bowie contend that multinationals “must ensure the physical well-being of employees and refrain from undermining the development of their rational and moral capacities.”
Respecting workers in global factories requires:

- Factories of multinational corporations (MNCs), including contract factories, adhere to local labor laws.
- Refraining from the use of coercion.
- Providing decent working conditions.
- Providing wages above the overall poverty line for a 48-hour work week.
- Including a minimum age for child labor.
- Including nondiscrimination requirements.
- Free association: Including the right to organize and to bargain collectively in contract negotiations.
Defining a “living wage” is problematic.

Non-wage benefits are an important and neglected aspect of the debate over global sweatshops.

- Such benefits can provide an advantage to both the worker and the employer.

International nongovernmental organizations have attempted to step into this fray to suggest voluntary standards to which possible signatory countries or organizations could commit.
Key issues facing business in today’s globalized economy is the potential for cultural or legal conflicts in connection with worldwide labor management.

Child labor

According to International Labour Organization estimates, 215 million children between 5 and 17 years old currently work in developing countries,

About 115 million of them perform “hazardous work.”

Includes any work that adversely affects safety, health, or moral development.

This category ALSO serves as proxy for the worst forms of child labour – including forced labor, child soldiering, and commercial sexual exploitation – for which data are hard to find.
Because work takes children out of school, more than half of the child labor force will never be literate.

Substandard working conditions have an impact on growth.

Child employees will be physically smaller than those who did not work as children even into adulthood.

By the time child laborers become adults, most will irrevocably be sick or deformed, unlikely to live beyond fifty years old.

Children who do not work in the manufacturing industry are forced to work in less hospitable “underground” professions, such as drug dealing or prostitution, simply to earn their own food each day.
If educational alternatives are available in some environments, recommending removal of the child from the workplace completely ignores the financial impact of the child leaving his or her job.

- The income the youth worker generates may, at the very least, assist in supporting his or her fundamental needs at the most, it may be critical in supporting the entire family.
The courts have carefully construed legal precedent in the decades since Title VII of the United States Civil Rights Act was passed in 1964 and created the prohibited classes of discrimination.

Law allows employers to make decisions on any basis other than those prohibited by the Constitution, precedent, and several statutes.

Employers continue to advocate for their rights to manage the workplace and to be permitted to hire, retain, and terminate employees without external influence or control.

Without diminishing the impact of overt acts of discrimination or their continuation in the workplace, covert forms of discrimination are also widely prevalent though they often go unnoticed.
Discrimination not only persists in the United States with regard to race, but also in connection with gender.

- Women often face challenges that are distinct from those faced by men.
- Women and men are both subject to gender stereotyping, but suffer from different expectations in that regard.
- A woman who is aggressive in the workplace is considered a *bully*, while a man is deemed to be doing what he needs to do to get ahead.
DIVERSITY

- It is the presence of differing cultures, languages, ethnicities, races, affinity orientations, genders, religious sects, abilities, social classes, ages, and national origins of the individuals in a firm.

- The management composition at firms with diversity programs is significantly more diverse than those at firms that do not have such programs, and 79 percent of senior managers at those firms say that cultivating a more diverse workforce is part of the organization’s overall business strategy.
When a firm brings together individuals with these (or other) differences—often exposing these individuals to these differences for the first time—there are likely to be areas of tension and anxiety.

The organization is likely to ask that they work together toward common goals, on teams, in supervisory or subordinate roles, in power relationships, this might lead to conflicts or tension even without additional stressors such as cultural challenges.

Diversity increase several areas of values tension.

Integrating diverse viewpoints with a preexisting corporate culture.

Diversity, which might be the source of positive gains for the organization, might also be the source of fundamental differences in values that must be balanced.
Efforts at understanding **multiculturalism**, such as acknowledging and promoting diversity through celebration and appreciation of various cultures in the workplace, can serve both to educate and to encourage the benefits linked to diversity efforts.

The cost of ignoring diversity is high, in terms of:

- Losses of productivity, creativity, legal liability, and other performance-based measures.
AFFIRMATIVE ACTION

- It is a policy or a program that tries to respond to instances of past discrimination by implementing proactive measures to ensure equal opportunity today.

- The question regarding affirmative action

  *Does one person deserve a position more than another person?*

- Efforts to encourage greater diversity may also be seen as a form of “reverse discrimination” - discrimination against those individuals who are traditionally considered to be in power or the majority, such as white men.
AFFIRMATIVE ACTION

- The use of affirmative action policies in both business and universities has been controversial for decades.
- It may take the form of intentional inclusion of previously excluded groups in employment, education or other environments.
- It arises in the workplace in three ways:
  - Legal
  - Judicial
  - Voluntary
GUIDELINES FOR AFFIRMATIVE ACTION PROGRAMS

- Consider how the following *legal* constraints to an affirmative action program are in line with deontological and teleological frameworks that support ethical decision-making, as well:
  - The affirmative action efforts or policy may not unnecessarily infringe upon the majority employees’ rights or create an absolute bar to their advancement.
  - The affirmative action effort or policy may not set aside any positions for women or minorities and may not be construed as quotas to be met.
  - It should unsettle no legitimate, firmly rooted expectation of employees.
  - It should be only temporary in that it is for the purpose of attaining, not maintaining, a balanced workforce.
  - It should represent a minimal intrusion into the legitimate, settled expectations of other employees.
AA is of course not alone in its focus on beauty and sexuality. Advertising of all kinds is obsessed with both.

- There is evidence that plenty of employers, and plenty of customers, prefer attractive salespeople, for instance.

Does AA deserve to be singled out for criticism? Why or why not?

Can an argument be made that employees who object to crude jokes and sexual advances at work are just too “thin skinned?”

What principles or arguments might apply to question of the ethically-appropriate “tone” for workplaces?
Dov Charney, founder and CEO of AA, has been at the centre of many of the controversies and lawsuits the company has faced. He has openly defended many of the practices that critics have focused on as unethical or even illegal.

Is there a risk in letting a leader’s personality infiltrate an entire company?
CHAPTER SIX VOCABULARY TERMS

- After examining this Chapter, you should have a clear understanding of the following Key Terms and you will find them defined in the Glossary:
  - Affirmative action
  - Child labor
  - Common-law agency test
  - Diversity
  - Downsize
  - Due process
  - Economic realities test
  - Employment at will (EAW)
  - IRS 20-factor analysis
  - Just cause
  - Multiculturalism
  - OSHA
  - Reverse discrimination
  - Sweatshops