Adapting to the Changing Workplace

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Abstract

As technology and employee values continue to shape a dynamic, growing workplace, managers and organization leaders are faced with new challenges and obstacles in their workplace policy decision-making. Striving for maximized worker productivity and efficient results, many leaders within the business world must alter their managerial approach due to changing workplace expectations. In order to achieve a work culture and management system that promotes profitability, many managers are implementing more autonomous work policies, providing employees greater opportunity to control their methods and hours of work. As the concept of work autonomy becomes more commonplace in the business world, a large effect on both exempt and non-exempt employees may result. What are the implications of autonomous work policies for employers and employees? This paper explores the many aspects of the results-oriented mindset that many managers and employers maintain as they work to facilitate higher productivity. Despite the constant call for internal growth, managerial decision-making and manager actions towards their employees may ultimately lead to unforeseen legal exposure. This paper effectively combines management theory with case law review in order to provide managers with a big picture of the growing workplace: a picture that will aid them in making knowledgeable, profitable, and legally responsible decisions when managing their employees.
Results in Lieu of Method: Implications for Employers and Employees

1. Introduction

In late April of the year 2012, Walmart faced investigation and eventually agreed to pay $4.8 million in back pay for denying their employees their rightfully-earned overtime wages. [1] In that same month, a news article reported on how more American workers were suing their employers for overtime pay. The article reflects on the fact that the economic recession frustrations of longer hours and less pay are being taken to court as the number of employer wage-hour lawsuits is up 32% from the year 2008. [2] What were the grievances of these employees?

- Employees were forced off the clock
- Employees worked under misclassified, exempt from overtime positions
- Technology led employees’ work time to take away from personal time

All of these conditions caused employees to legally fight employers for their share of overtime pay. [2]

Is this trend significant to employers? This increase in overtime pay lawsuits may reflect a number of dynamic changes in the workplace, especially changes in managerial approach. In a time of economic recession, what is the main objective of all managers? All firms and organizations are looking to manage their employees in a manner that produces the most efficient results in the most cost-effective way. An increasing amount of employers continue to manage their employees with a “results in lieu of method” mindset. Describing the managerial approach as a “results in lieu of method” mindset simply implies that managers and organization leaders are placing stronger, more concentrated focuses on the productivity and results of employee work rather than the methods used to attain these results. In order to combat the hardships of a recessive economy, worker efficiency and productivity become the central goal of any firm. As employers place higher priority on the “end” rather than the “means” of production, managers are implementing more flexible work policies and cultures that may generate an increasing amount of legal exposure and employee litigation. Employers and employees alike are amidst dynamic workplace changes in the forms of technology and work autonomy; these changes are challenging employers to balance the desire for productive results with employee motivation and values.

When examining the rapidly growing strategies surrounding flexible work policies, it is vital to recognize the expanding opportunities for business growth and industry success. While implementing new, culture-altering work policies, an employer must ask themselves these questions: What are the potential risks and legal exposures that may stem from the dramatic change in workplace autonomy? Do the benefits of employee efficiency and satisfaction outweigh these risks and exposures? In a business world where technological advancements have led to massive changes in business communication and workplace tendencies, employees and employers both have experienced a tremendous blur in the line between work and life. This gray area produced by the combination of technological resources and a strong resolve to seek profit has created a difficulty in classifying employees and quantifying their hours worked. In an increasingly results-oriented culture, the managerial concept of “results in lieu of method” is evolving and affecting the entire business world. Although employers are hoping to cater their workplace policies towards the values of the employees in order to promote productivity and satisfaction, companies, organizations, and public institutions should all recognize how their varying, specific policies can affect the work requirements and habits of their employees, ultimately leading to possible litigation and legal risk for employers. In order to realize the effect of this managerial concept, this paper will explore the many aspects of a modernized managerial approach and its ramifications in regards to employment law.
2. Management Theory

When analyzing the management policies and practices within a business, it is vital to recognize the different theories of management and their application in the workplace. These theories play a large role in determining the methods of each management decision as business leaders strive to increase employee efficiency and accomplish specific company objectives. While observing the implications of autonomous work policies, such as an unlimited employee paid time off policy, the details and arguments of Peter Drucker’s management theory must be considered.

In his theory, Management by Objectives, Drucker develops a model that has been defined as “a process whereby the superior and subordinate managers of an organization jointly identify its common goals, define each individual’s major areas of responsibility in terms of results expected of him, and use these measures as guides for operating the unit and assessing the contribution of each of its members,”[3] Although similar to a common objective-based style of management, the foundation of this concept lies in the relationship between management and its employees. This theory focuses on the ability to constructively format and plan objectives that will directly lead to company productivity as well as employee freedom. In attempt to eliminate decentralization within the company, Management by Objectives calls for a strong communication between employees and their superiors regarding objectives, timelines, and expectations of resources. Drucker believed that freedom of the employees and their efforts was essential in promoting a workplace environment of productivity and purpose. [3] Because of the management theory’s success, an increasing amount of managers are advantageously utilizing the correlation between work efficiency and employee freedom.

Management theory, specifically Drucker’s Management by Objectives is continually evolving as employers experiment with an innovative approach to different management styles, work incentives, and technology. It is logical to believe that the appropriate amount of worker freedom and flexibility contributes to overall growth in company culture and efficiency. While working to increase and promote a productive work environment, managers must take an objective approach in order to grasp the fundamentals of a new management policy and develop a solid structure. For example, in a paid time off policy, employers should consider requiring employees to meet with managers in order to approve each paid-time-off request and reach an agreement regarding the employee’s individual work objectives. When analyzing the emerging flexible work policies in the workplace, it is common to question the stability and productivity of the concept. What concept will act as the support for such a dynamic management strategy? What principle will fuel the new workplace environment as the organization drives to reach higher levels of productivity? The answer to these critical questions lies in the heart of Drucker’s Management by Objectives theory: vertical communication.

When considering the implementation of a dramatic change in management policy or employee benefits, CEOs and managers must address their strategy from a 30,000 feet viewpoint before working to establish a connection between the policy and individual employees. If business managers are offering employees increased freedoms in their hours and locations of work, the distance between superiors and their subordinates must be covered by an effective communication system. As expressed by Dale Level, Joseph Ormsby, Larry Watts, and Dillard Tinsley in their study of MBO and managerial communication, “…effective goal communication allows strategic integration and goal directed behavior that can lead to superior performance,” [4] It is this goal communication that will provide employees the opportunity to be productive on their own time and under less specific terms. Through a process of
goal discussion, establishment, and evaluation, managers can rely on a vertical communication system in order to provide employees a productive direction and limit the necessity for micromanaging specific individuals. In an organization-wide perspective, goal communication can be effective on all levels of employment, from executives to entry level employees. If managers and executives around the business world begin to develop working environments dependent on precise vertical communication, the increased employee accountability and manager-employee relationships will tell the story of future company productivity.

While discussing and exploring the possible positive outcomes of an effective Management by Objectives communication system, organizations need to consider the many different variables that could lead to ineffective communication and unsatisfactory individual results. Although it may attract top business talent, will an autonomous work environment provide incentive for every employee to reach their objectives? Will a goal-oriented communication system suit your employees’ personalities and values, leading to increased productivity? When establishing management policies, executives must create a strong and productive system that caters to the preferences, personalities, and values of the employees. Managers need to explore the true motivation of its people in order to develop a work culture conducive to achieving organization-wide goals. [5] In exploring these motivations, an executive must ask his or herself if the organization’s employees would respond positively to a policy that would dramatically increase employee freedom and accountability. In order to reach maximum employee efficiency, it is necessary for management to understand how management methods, employee motivation, and work productivity are all interconnected.

3. Employee Motivation

In his work *Human Side of Enterprise*, management theorist Douglas McGregor presented his theory called Theory Y Management which attempted to explain the relationship between management methods and the variance in motivation among different types of employees. The heart of the theory explains that there are two types of employees: employee X and employee Y. Under theory X, subordinates tend to perform in a lazy manner as they lack belief in and agreement with management expectations and company objectives. In McGregor’s preferred theory, theory Y, workers will succeed in an environment that invites creativity and ownership at the individual employee level. Under theory Y, employees contain a strong intrinsic motivation and an ability to complete tasks under self-direction and discipline. A Y-motivated employee will thrive in an autonomous work environment, developing opportunities for innovative ideas and organizational growth. In contrast to theory Y employees, Theory X individuals are believed to create a gap in organizational effectiveness as they lack the capability and motivation to work productively under organized objectives. In expansion of his theory, McGregor also explains the idea that managers’ assumptions of employee tendencies cause managers to treat employees accordingly. For example, if a manager believes he or she is responsible for the production of a team containing only Y-motivated employees, the manager is more likely to trust the employees and provide them with freedom to work under established objectives and their own self-direction. The same concept is true for leaders responsible for the productivity of theory X employees. Those managers will not place their trust in the motivation and capabilities of their employees, which will consequently create a work environment of mistrust and lacking communication. If this holds true, management either facilitates growth with theory Y employees or dwells in low expectations with theory X employees. In examining McGregor’s
theory X/Y, it is evident that most employers would hope to obtain and retain Y-motivated employees in order to increase business productivity and profitability. [6]

3.1 Hiring Productive Employees

Striving to produce long-term results, employers and human resource managers realize the absolute importance of hiring top talent. Because the placement of employees with knowledge, skills, and abilities is vital in the implementation of any business unit or organization strategy, employers are challenged with a growing, dynamic decision-making process in regards to their managerial methods. [5] When making these management decisions, executives must consider numerous different variables: the varying motivations and personalities of employees, the employee response to managerial communication, and the consequences of a highly selective hiring process.

When dissecting the implications of an implemented flexible work policy, an employer must address the effect on current employees and the hiring process. In the implementation of a growing business strategy that is based upon increased employee freedom and vertical objective-based communication, it is necessary for employers to place new hires in a position and environment that will aid their success and growth. If a manager hopes to develop a system that drives results, he or she will look solely for talented individuals who are intrinsically motivated and can thrive under self-direction and autonomous work conditions. As this becomes the focus of new hires, how can employers effectively choose and hire these theory Y individuals? With a large talent pool, it can prove difficult to determine individual personalities, work tendencies, and motives. With this challenge, many companies utilize the results of different pre-screening personality and cognitive ability tests to gauge if the individual will be an effective fit for the management strategy and work environment of the organization.

In order to match the human resource needs of the organization with the knowledge, skills, and abilities of a prospective employee, the job screening and selection process serves as a detailed method of measuring job candidates. This screening process begins with employment application forms, proceeds with references, and usually concludes with a series of tests which depict a candidate’s cognitive ability, personality, integrity, and other individual measures. As an accurate measuring tool, pre-screening employment tests play a large role in selecting potential job candidates before the interview process begins. These tests have also played a growing part in organizations that wish to place candidates in increasingly difficult and specific positions that require knowledge of detail and area expertise. Some examples of commonly-used cognitive tests are the General Aptitude Test Battery (GATB) and the Wonderlic Cognitive Ability Test. While these tests attempt to measure “general mental ability”, each test includes different versions of computations, verbal analogies, and other comprehension activities that measure more specific abilities. [7] In addition to mental ability tests, employers may place a great emphasis on personality tests in order to gauge the preferences and motivations of an individual candidate.

Through the observation of an individual’s tendency to act as an extrovert or an agreeable coworker, managers can more accurately place employees in positions where they can thrive while contributing to a productive work environment. As job description and requirements grow increasingly complex and specific, pre-screening tests may carry greater implications to hiring managers looking to implement certain management strategies within an organization.

While discussing the effects and benefits of utilizing different pre-screening tests throughout the employee placement process, it is important to recognize the reasoning behind an employer’s implementation of these measurements. In attempt
to receive a return on investment through future employee productivity, managers are searching for the most reliable and valid measurements available. While these tests may prove to be beneficial in some circumstances, managers may face legal obstacles that arise from the pre-screening observations and the hiring process. Are these tests reliable and valid enough to support the placement, or lack thereof, of an employee?

3.2 Adverse Impact and Discrimination

Although tests such as the GATB and the Wonderlic test have been useful tools in the selection of qualified employees, these cognitive ability tests can also provide some obstacles in the hiring process. When utilizing the cognitive screening tests, employers must be knowledgeable of the possible legal issues surrounding the results and hiring. As human rights continue to be a monumental focus in country filled with different minority groups, cognitive ability tests used by employers have been criticized for creating unequal employment opportunity through adverse impact on specific minority groups. In the past, it has been observed that throughout the top-down hiring process, these tests have measured prospective employees in a manner that ultimately leads to lower test scores and lower selection rates for minority groups. Although it is most likely not the intent of the employer to discriminate against any prospective employee, these tests do provide reason for some to question the motives behind the hiring process. In order to avoid this questioning and litigation for discrimination, it is imperative for employers to be knowledgeable of the requirements in administering these tests during the hiring process. [8] When utilizing cognitive ability and other pre-hire screening tests in the selection process, employers must be proactive in the justification of their methods. If faced with a discrimination lawsuit, the employers bear the burden of proof and must provide evidence that justifies the use of the test in their hiring process. In order for the test to be legal, it must be valid, accurate, and job-related. The employer must prove that the test is necessary to measure or predict job-related performance and that these tests results are accurate. Although the test may result in adverse impact against a specific group or minority, a valid, accurate, job-related test can still be administered legally by employers. Throughout the use of different selection methods and pre-hire screening tests, it is vital for managers to understand the legal justification of the entire selection process. [5] In understanding this hiring process and its legal implications, managers can knowledgeably and effectively utilize their processes to hire top talent and productive employees.

4. Fair Labor Standards Act

An integral factor in employer payroll decision-making, the Fair Labor Standards Act is a federal law which outlines and establishes minimum employment requirements in respect to employee pay and hours of work. In order to regulate these requirements, the law classifies employees into two types: non-exempt employees and exempt employees. A non-exempt employee, or an employee paid on an hourly basis, must perform their duties and account for their hours specific to work, sick leave, and vacation. These employees must receive a set minimum hourly wage for each hour worked and a time and a half wage for every hour in excess of 40 hours per week. An exempt employee, an employee compensated on a salary basis, receives an established salary of at least $501 a week or $2,340 a month. This salary is predetermined and must be given to any exempt employee for any work in which he or she works, regardless of the number of hours of work. Salary basis employees do not receive any overtime pay or premium wages. [9] The classification of employees plays a large role when analyzing the most efficient way to organize and manage employees.
In determining whether an employee and their job position qualifies as exempt under the FLSA, the employee’s job must pass the Duties Test, which is a specific criteria that allows an employee to be classified as exempt. This Duties Test is broken down into three separate categories: the executive exemption test, the professional exemption test, and the administrative exemption test. If an employee’s job position can be categorized as executive, administrative, or professional, the employee fulfills the exempt classification requirements. Under the FLSA regulations, the executive exemption test focuses on management or supervisory jobs; the employee’s primary duty is to manage a specific department, subdivision, or group of two or more full-time employees. An executive spends the majority of his/her time in directing and managing a group of employees, and he/she holds a primary authority in decision-making regarding issues concerned with their employees. A professional differs from an executive in that the professionally exempt employee “must work in a learned or artistic profession” more than 50% of the time. Professional employees must have an advanced knowledge in a specific field of learning that results from extensive training, instruction, or education. The work of a professional is mostly intellectual and specific to a field in which it “cannot be standardized in relation to a given period of time.” Professional exemptions include teaching, instructing, and lecturing for an educational institution. In order to fall under the administrative exemption, an employee must have the main duty of performing office or non-manual work that relates to managing employees or general business. An administrative employee position requires regular discretion and independent judgment and either regularly assists an executive employee or performs work requiring specific training, experience, or knowledge under general supervision. Administrative exemptions usually typically include consultants, purchasing agents, advisors, and other similar job roles.

As a manager or executive, it is vital to recognize and distinguish different job positions within a company in order that the job structure can be properly organized and that the employees can be properly compensated in a legal manner. While the FLSA regulations may seem fairly clear cut, there still exist some cases of discrepancy among the classification and compensation structure of employees. Because a salaried employee must first pass the “salary basis” test and then must pass a professional, executive, or administrative exemption test in order to be legally classified as a salaried employee under the FLSA, employers must pay close attention to their employee work policies regarding flexible work time. If managers do not properly approach these policies and their effects on employees, litigation and other legal obligation may result. A strong example of a distortion of the differences between salaried and hourly workers is present in the circuit court case Abshire v. County of Kern. This case was a class action suit against Kern County in which employees of Kern County Fire Department sought the amount of overtime pay plus interest which was thought to be owed to them under the Fair Labor Standards Act. Working under the classification as salaried employees, the battalion chiefs of the fire department argued that their pay was subject to deductions for work absences of less than a full day’s work. If this statement proved true, the employees would not pass the FLSA “salary basis” test as this “salary basis” test states that employees paid under salary are not allowed to have pay deductions against their salary for work absences less than a full day. While Kern County did not directly deduct from the pay of the fire department employees, the county implemented a policy in which they charged the missed hours of the employee towards the employee’s bank of accrued paid time off. Although the county argued that no actual deduction was made, the court decided that a part-
day reduction in accrued paid time off could lead to an actual reduction in pay in the future. With this decision, the circuit court stated that these battalion chiefs were not paid on a “salary basis” and therefore must be classified as hourly, non-exempt employees. This new classification entitled all of the employees to their specific amount of overtime wages from past hours overtime hours worked. [10]

Although the Abshire v. County of Kern case does not provide a concrete interpretation of the “salary basis” test for all employers and employees to utilize as guidelines, this case and many others should open the eyes of all employers to the consequences of each specific work policy. As technology and different communicative methods call for an expansion and new flexibility of the workplace, employers must take into account how their work policies affect employee productivity and the legal rights of exempt and non-exempt employees. Throughout the continued growth and dynamic changes in the way firms, organizations, institutions provide services and produce goods, managers will have to adapt their managerial approach in order to avoid legal consequences.

5. Adaptations to a Changing Workplace

As a manager, it is simple to recognize the importance of a motivated, productive team of employees when striving to increase firm or organization profitability. In developing employee talent and focusing on placing employees in positions where their individual values match the company’s incentives and goals, management can successfully carry out the organization’s vision and plans. Moving forward into a rapidly developing corporate world and a changing workplace, the most important question businesses may face is that of the exact position in which they can place employees to foster high productivity.

What exactly is changing about the workplace? The relatively recent development and growth of two specific trends have played a large role in reshaping workplace location and employee work tendencies. It is the growth of business communication technology and the priority of familial responsibilities of employees that have caused and may continue to cause employers troubles when trying to motivate their employees and structure their work policies. The same technology (unlimited phone, computer, and internet access) that provides all organizations the golden opportunity to forever increase efficiency also opens the door of workplace autonomy as employees hold the capability to essentially work in any location at any time. Under a new workplace policy, an employee can find his or herself in a variety of different work situations, working a variety of week and weekend hours in a variety of locations. Exempt and nonexempt employees alike make habit of checking email until endless hours of the night at home, talking on conference calls during vacation hours, and working minimal hours in the actual office. The workplace now has no boundaries, as it travels with the digital device.

As work lives become more fast-paced, men and women in the workplace must strive harder to maintain a work-life balance in their familial obligations and their own health lives. As discussed in Barbara Schneider’s article “The Human Face of Workplace Flexibility”, the combination of inflexible work schedules and school schedules inadvertently causes a great amount of pressure and unhealthy stress on working parents, which in turn affects workplace productivity. An increasing amount of employees are placing higher value on flexible work arrangements and varying time off policies that will allow employees the opportunity to produce results “on their own time”. As employees are calling for more workplace flexibility, employers are placing value on employee work schedule flexibility which can take form in last minute travel plans, late night hours at the office, and off-site work expectations. [11] How do these factors affect the approach taken by managers and employers? The growth in
technology and call for workplace flexibility are forcing managers to adapt.

5.1 Employer Concerns

As many organizations begin to embrace the idea of workplace flexibility, managers and corporate leaders should pay close attention to the possible consequences of their adapted, dynamic work policies. When addressing work policies and employment law, managers must operate within certain boundaries, boundaries which have been distorted as a result of a growing corporate work culture and management methods. The heart of these boundaries lies in the Fair Labor Standards Act, or FLSA, which clearly defines the federal labor regulations regarding overtime wages. The FLSA also describes the different employee classifications and conditions of exempt and nonexempt employees, as discussed earlier. This is of utmost importance to employers, because as the workplace and employee work policy becomes more flexible, the distinction between exempt/nonexempt employees and the clarity of hours actually worked can grow unclear. With this lack of clarity, a small difference in employee and employer expectations can develop into large legal obligations for employers.

In order to understand the ambiguity of the situation, envision the work of a female clerical worker within a firm, working under a nonexempt classification. This employee, not classified under a professional or administrative role, is instructed to work as many hours as needed until the work is complete. Working under a fluctuating work week, the employee begins to travel once or twice a month alongside her manager, an exempt employee. While travelling, the exempt and nonexempt employee must attend meetings all day and entertain clients during the night, all while keeping track of work projects remotely from their location. Over the course of client entertainment, remote work, and travel time, the nonexempt clerical employee logs 20 overtime hours per trip. While she is compensated for hours towards client entertainment, the woman notices that she has never been compensated for the remote work hours and travel hours worked for the past three years of her employment with the term. In speaking with her lawyer, she discovers that she can file suit against the employer for overtime back pay, amounting in the total number of overtime wages she should’ve received for the past two years. With this two year statute of limitation, the employee files for back pay of 25 overtime hours a month, equaling 600 hours of overtime wages for the past two years, which will be compensated with at least 1.5 times her hourly wage.

What message does this example portray to managers? The methods and styles in which managers classify, motivate, and manage their employees have a monumental impact on the potential exposure to employee overtime and unpaid wage claims. Coventry Health Care, Inc. experienced this legal exposure in dealing with specific overtime claims from employee and plaintiff Julia Rieve. [12] In her 2011 claim, Rieve accused the defendants, Coventry Health Care, Inc and Coventry Health Care Workers Compensation, Inc. of improperly classifying her as an exempt employee from the regulations and overtime requirements of the Fair Labor Standards Act and the California Labor Code. Within the company that focused on providing service to its clients in the areas of workers’ compensation cost reduction, Rieve worked as a Field Case Manager and aided client’s injured workers in returning to work in the safest, most efficient manner. The employee was a registered nurse, which was a position requirement, and she received a fixed weekly salary ranging from $954 to $1096, regardless of the hours and quality of work. In the legal dispute regarding employee exemption, the claim focused on the factual evidence as to whether Julia Rieve qualified as professional and received the professional exemption under the Fair Labor Standards Act.
While analyzing her job description and actual daily job duties, the court found that her duties and position required a sufficient amount of professional knowledge and skills, which in turn classified her as a professional under the FLSA. The claim, however, sought protection from the legal regulations of the California Labor Code. When the employee’s job description and duties were analyzed within the California labor regulations, the court found that in some cases, specifically in Julia Rieve’s case, registered nurses are not exempt from California state law overtime coverage. In the outcome of the case, the court granted the defendant, CHC, a summary judgment that Rieve was exempt as a professional under the FLSA, but the court sided with Rieve as they granted her a summary judgment that she was not an exempt professional under the California Labor Code. [12]

This case truly highlights the complex and fragile nature of business management policies. An employer, Coventry Health Care, Inc. employs a well-qualified, registered nurse with 3+ years of field-related experience in hopes of maximizing their service productivity to their clients through the employee’s abilities to complete job tasks and duties. In managing Julia Rieve, they believe to have properly classified her as exempt, they provide her a sufficient salary, and they instruct her to work however many hours it takes in order to properly serve the clients. In what seems like a well-thought out managerial approach, Coventry Health Care, Inc. fails to abide by California Labor Code and is now in a position where the employer potentially owes its employee large amounts of money in back pay due to state overtime coverage.

### 5.1.1 State Sovereignty

The Julia A. Rieve v. Coventry Health Care, Inc. and Coventry Health Care Workers Compensation, Inc also provides reason for employers to pay close attention to their state’s labor laws and how those regulations affect their specific industry, business, or institution. In reaction to a wage order that left approximately eight million workers in California without right to overtime pay, the state of California Legislature passed the “Eight Hour Day Restoration and Workplace Flexibility Act of 1999”. This piece of legislation provides nonexempt employees in California with a greater protection of overtime wage rights, as the law required overtime pay for California hourly employees that work more than eight hours in one day or forty hours in one week. [12] The law also called for a clarification of the specific qualifications for employee exemption from overtime in an effort to further protect those California employees who may be losing their right to overtime pay. While this law doesn’t affect employers in other states, the legislation had a direct effect on the case with Julia Rieve, costing Coventry Health Care backpay and litigation costs. This situation speaks to the responsibility of the employer to develop work policies and manage their employees under state employment laws in addition to FLSA regulations. An example of this responsibility is evident within law firms across the state of California. The recent update of the California Labor Code in 2000 clearly classifies all licensed attorneys as exempt employees; the law also states that all legal secretaries, paralegals, and other clerical employees are not exempt and are entitled to overtime wages. Law office managers who do not follow these compensation regulations will face legal consequences. In a similar situation to California employment law, states may implement laws that surpass the requirements of the FLSA, requiring employers to cater their policies to state legislation. Other states, such as Indiana, may regulate employers solely according to the FLSA when it comes to overtime wage law. Regardless of the situation, the growth of workplace and work hour flexibility calls for employers to take close note of specific state employment regulations in order to avoid litigation.
Do the Fair Labor Standards Act employment regulations affect all employers? This is not always the case, especially in lawsuits with employees of the state. Under the doctrine of state sovereign immunity, employees of the state may not file private lawsuits against the state (employer) for overtime pay and liquidated damages under the FLSA. How far does this sovereign immunity reach? Because of the concept of sovereign immunity of the states, many different “arms” and branches of the state are considered protected from private lawsuits under the FLSA. As the courts continue to maintain the idea of the sovereign immunity of states, this decision will be a large factor in determining the management approach and the work policies of state and local government employers. [13]

5.1.2 Equity in the workplace

In what other areas can employers find themselves in legally “sticky” situations? As managers work to promote productivity of all employees through management practices and work policies, the management methods may raise controversy over equity in the workplace. Visualize the same hypothetical female employer discussed previously and place her in an exempt employee role. She is still required to travel frequently, work remotely, and put in enough hours to get the job done; however, she does this as a salaried employee under a professional exemption. As a working mother with a young family, the female employee becomes comfortable under a flexible work schedule and begins to alter her natural work hours. Instead of working at the office from nine in the morning to five in the evening, the employee begins arriving at the office more regularly at ten and leaving earlier in the afternoon around three. Under these conditions, the female employee can cater to her familial needs and maternal responsibilities while working remotely when needed in order to complete her individual tasks and reach her goals. From a managerial perspective, this change in work schedule may not pose a large threat, as long as the employee continues to produce efficient results. The growth in autonomy in the workplace, however, may have a profound effect on the actions and performance of other employees. Envision a slightly older male employee in a job position that is equivalent to that of the female employee. Seeing the freedom and flexibility of the female’s work hours, this male employee, who already lacks intrinsic motivation, begins to take the liberty in exercising longer lunch hours and shorter hours during the day in the office. As a result of his decreased motivation, his productivity lacks and he makes habit of missing important meetings. In response to the change in behavior, the manager talks with the male employee and explains that he must boost his work hours and productivity. The manager begins to require this male employee to work more specific hours in order to make up for lost work time and missed meetings. What seems like a logical, reasonable management decision made to maintain employee work efficiency and commitment may lead to unforeseen legal consequences. With this reaction to the male employee’s lack of production, the manager may have crossed the boundaries in regards to employee discrimination under the Civil Rights Act. As the male and female employees perform similar job functions and begin to develop similar workplace habits, the manager alters his or her treatment of the two employees due to their difference in values and motivations. While trying to maintain strong employee productivity, the manager exposes the company to legal liability as the male employee can present an argument of gender discrimination, a right protected by the Civil Rights Act. Although no there was no mal intent, a manager may subconsciously offer more privileges or work freedom to one employee over another with an equal job description, which is an illegal employee discrimination practice.
In addition to a Civil Rights employee discrimination lawsuit, the manager must give proper attention to the treatment of employees in regards to their classification. In reacting differently to situations of the male and female employee, management begins to “walk a fine line” in their action towards the male employee. By insisting that the employee compensate for his lack of office hours and missed meetings, it can be perceived that the manager is treating the employee as if he were non-exempt or hourly. If the court finds that the manager has been treating the employee as non-exempt, the male would have the right to recover overtime wages for his overtime hours worked in the past. Under the Fair Labor Standards Act, the employee has a right to recover back pay for the past two years in most cases and for the past three years in willful violations by the employer. In this case, a manager and the corporation would be battling to avoid paying back pay for past overtime wages and the court fees of the male employee. This situation provides a strong example as to why managers must be careful in their management approach towards their employees; company productivity and profit may come at an unforeseen, higher risk and higher price.

6. Conclusion: The Most Efficient Workplace

When managing employees and trying to decide how to develop the most effective work policies, employers must analyze a number of different factors. These factors begin with the motivation, personality, and values of the employees. By designing and perfecting a management method catered to the individual values and motivations of the employees, a manager can develop a productive work culture conducive to delivering results and working efficiently. In adjusting for the values and desires of your employees, managers and executives must finally focus on the cost of their productivity. While analyzing all of the best management styles and the importance of work schedule flexibility in a growing workplace, employers must ask themselves: at what cost am I willing to achieve these results? In the ultimate strive to cut production costs, increase productivity, and foster efficient workplace tendencies, new flexible work policies may serve in a counterproductive manner due to the possible legal ramifications of growing workplace autonomy. There is no specific way to determine the correct or incorrect management approach for all firms and organizations, but managers do have the power in their hands. Through the careful consideration of the strong, powerful connection between management policies and state and federal labor laws, management and executives can properly avoid an aggressive “results in lieu of method” management style and manage their employees in an effective, efficient manner under employment law regulations.

References
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**Online Search Phrases**

1. Adaptations to a changing workplace
2. Management theory
3. Results in lieu of method
4. Workplace autonomy
5. State sovereign immunity