

efforts raise troubling questions affecting individual rights.

3. Give some examples of how technology is creating employer/employee rights and policy issues. Then suggest some possible actions that may be needed.
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HR requesting a leave of absence to enter a drug rehabilitation program. The managers were not aware of the substance abuse issues relating to these employees. Consequently, management recognizes that a drug-free workplace program will help improve workplace safety and health. These programs also play an important role in fostering safer and drug-free families and communities. To assist HR in developing a drug-free workplace program, visit this website at www.dol.gov/workingpartners.

- A. What are the key components that should be included in your company's drug-free workplace program to best meet the needs of both employees and the company?
- B. Identify the steps a manager should take if an employee's actions create a suspicion that the employee has reported to work under the influence of substances.

CASE

"Evaluate" before "Terminate"

The move to terminate potentially violent or dangerous employees can be a difficult one. If the decision is made haphazardly or hastily, firing problem employees can open up an organization to claims of wrongful termination or even illegal discrimination. If individuals are retained, a company can be found negligent, ultimately being held responsible for any wrongdoing and harm that occurs as a result of keeping them around. Consequently, companies must try to strike a reasonable balance between being too proactive, and not being judicious enough.

Such decision-making difficulties and dilemmas are illustrated in the recent court case *Mary Wolski v. City of Erie*. The City of Erie had fired Ms. Wolski, a fire truck driver who had been employed in the fire fighting group for many years, because the organization believed that she was a safety problem in the workplace. Years previously, her mother had passed away, causing Ms. Wolski to become very depressed. As a result, she took extensive leave from work to seek treatment and

recover from her psychological troubles. While on leave, she attempted to poison herself with carbon monoxide by starting a fire at her father's house and consuming an overdose of medication.

Such conduct was considered highly dangerous by her employer, and an investigation was initiated by the City of Erie. The findings of the inquiry resulted in her termination, so Ms. Wolski subsequently filed a lawsuit claiming that the organization's decision to terminate her violated requirements of the ADA. The court ruled in her favor because the organization did not conduct an "individualized assessment" of Ms. Wolski before the termination decision. The move to fire her appeared to be based largely on an evaluation of her conduct, which was likely caused by her documented depression.

This case presents many important implications for HR professionals. For instance, employers should get the proper input from medical professionals who understand the mental and physical challenges that impair employees' ability to perform

their work. HR also needs to talk with employees to determine whether individual impairments negatively impact their performance of essential job activities. In addition, reasonable accommodations should be identified, and employee requests for assistance should be secured in writing. Finally, retention and termination decisions should be business-related and objective in nature.⁶⁴

QUESTIONS

1. Based on your work experiences, identify examples of behaviors that might be considered

dangerous by managers, supervisors, and/or coworkers. How did your employers respond, and was anyone terminated?

2. If you were an HR professional, how would you handle the termination of a potentially dangerous employee? What policies might you create to make your organization less susceptible to wrongful termination or discrimination lawsuits?

SUPPLEMENTAL CASES

Dealing with Workplace Bullying

This case explores the problems that occur when “bullying” bosses or employees are present in the workplace. (For the case, go to www.cengage.com/management/mathis.)

George Faces Challenges

This case describes the problem facing a new department supervisor when HR policies and

discipline have been handled poorly in the past. (For the case, go to www.cengage.com/management/mathis.)

Employer Liable for “Appearance Actions”

This case discusses a California court ruling on terminating a female for her personal appearance. (For the case, go to www.cengage.com/management/mathis.)

NOTES

1. Based on Peter Cappelli, “Managing the ‘Difficult’ Employee,” *Human Resource Executive Online*, June 20, 2011, www.hreonline.com; “How Disruptive Behavior by Employees Can Devastate a Workplace,” Knowledge@Wharton website, The Wharton School, University of Pennsylvania, March 27, 2013, www.knowledge.wharton.upenn.edu.
2. Stuart L. Gillan, Jay C. Hartzell, and Robert Parrino, “Explicit versus Implicit Contracts: Evidence from CEO Employment Agreements,” *The Journal of Finance*, 64 (2009), Issue 4, 1629–1655.
3. Mark J. Garmaise, “Ties that Truly Bind: Noncompetition Agreements, Executive Compensation, and Firm Investment,” *Journal of Law, Economics, and Organization*, 27 (2011), Issue 2, 376–425.
4. Matthias Krakel and Dirk Sliwka, “Should You Allow Your Employee to Become Your Competitor? On Noncompete Agreements in Employment Contracts,” *International Economic Review*, 50 (2009), 117–141.
5. Chris Arbery, “Noncompete Valid if Reasonable and Balanced,” *HR Magazine*, August 2010, 81.
6. Robert J. Orelup and Christopher S. Drewry, “Judicial Review and Reformation of Noncompete Agreements,” *The Construction Lawyer*, Summer 2009, 29–32, 44, 52–55.
7. Emily B. York, “Does a Noncompete Agreement Really Offer Any Protection?” *Workforce Management*, October 13, 2009, www.workforce.com.
8. Roger M. Milgram and Eric E. Benson, “Use of Agreements to