

An Investigation of the Fair Labor and Standards Act and Social Identity

Michael Newhouse-Bailey, The University of Texas at Austin

Marlene A. Dixon (Advisor), The University of Texas at Austin

Legal aspects

May 30, 2009

Poster

Abstract 2009-219

3:00 PM

(Lexington/Carolina Prefunction)

Passed in 1938, the Fair Labor Standards Act (FLSA) was intended to protect worker's rights. Under the act, employees are either deemed "exempt" or "non-exempt" depending on a number of factors including salary, title and others. Employees who are deemed non-exempt by the standards or the FLSA are allowed to claim overtime compensation while employees that are judged to be exempt may work overtime without compensation in the form of compensatory time or overtime pay. The Fair Pay Overtime Initiative (FOI) was passed in 2004 in order to make more institutions comply with the Fair Labor and Standards Act (FLSA). Prior to the passage of the FOI in 2004, the FLSA had not been amended since 1954 and the Department of Labor had become inundated with a large volume of litigation concerning overtime benefits (Honor233;e, Wyld, & Juban, 2006). The purpose of the FOI was to set clear guidelines in defining who was exempt and who was non-exempt and to enact critical updates to reflect current worker needs. The intent of the FOI was to provide employees with fair pay and treatment, including provisions for overtime pay. While the FOI brought about positive changes for many employees, helping them balance work and family and helping reduce worker abuses (Wilkins & Wald, 2005), it may have also introduced negative consequences by redefining employee positions. That is, if the FOI redefined employees' positions from exempt to non-exempt or vice versa, it could have changed their group identity, which could impact their job attitudes (Ashforth & Mael, 1989).

By investigating the influence of the FOI on social identity we can discover if, in addition to financial benefits, there are any effects on employee social identity that may impact employees' job experiences. Athletic departments often function as interdependent units. Effective departmental operation, therefore, requires group functioning both within and between units. If the group properties are altered, this may also alter group functioning. Complying with the FLSA may change the groups and group dynamics within an athletic department creating managerial challenges for athletic directors. Regarding social identity, Tajfel and Turner (1986) note the importance of the fact that people define themselves and others in a comparative fashion. Individuals define themselves in relation to individuals in other categories (Ashforth & Mael, 1989). In order for an individual to maintain a positive social identity, one must differentiate themselves from their own groups and others, specifically on positive traits (Brewer & Kramer, 1985). Beyond individual differentiation, groups themselves seek comparison with other groups. Groups with a lower status will generally act in one of three ways.

Group members will either seek to leave their current group for a higher group, restrict inter-group comparisons to subordinate groups, or seek social change that will benefit their group (Tajfel & Turner, 1982). The social differentiation that forms from the creation of in-groups and out-groups can create conditions for inter-group conflict and for personal dissatisfaction (Brewer, 1999). As in-groups seek to maintain their positive distinction from out-groups, in-group bias is likely to occur. In-groups will seek ways to maintain their distinct identity and increases the salience for the members, but at the same time this creates tension and mistrust from the out-group (Brewer, 1999). At the individual level, out-group membership can negatively impact a person's self-esteem, job, and life satisfaction (Brewer, 1999).

The purpose of this study, therefore, is to examine the impact of the FOI on employee's social identity in a college athletics setting. The following specific research questions guide the inquiry: 1. Does the implementation of the FOI lead to the creation of in-groups and out-groups? 2. What is the effect on the social identity of employees who undergo a transition from exempt to non-exempt (or vice versa) from FLSA? 3. How does the strength of subgroup identification affect overall social identity? 4. What is the effect of social identity on job satisfaction and commitment?

Using a critical incident based approach, interviews are being conducted with ten intercollegiate staff members. The semi-structured interviews focus on the subjects' identification with the in-group and/or out-group, inter-group differentiation, resistance to change, and satisfaction with the status quo (Bond & Hewstone, 1988). Through the participants' answers about the overall perceived culture of the department, they will define themselves as members of the in-group or the out-group. In addition, they will help identify what factors led to any changes in their group membership. Once the interviews are transcribed, two trained researchers will independently review them (Neuman, 2000). In this study, the themes utilized will be derived from the existing literature, with special attention to Bond and Hewstone's measure of social identity (Bond & Hewstone, 1988). The two researchers will then compare codes until agreement is reached on the themes generated, thus establishing inter-coder reliability (Neuman, 2000). After coding is complete, data will be analyzed using NVIVO 8 qualitative software.

2009 North American Society for Sport Management Conference (NASSM 2009)

The expected findings are that the implementation of the FOI on athletic departments will redefine in-groups and out-groups. Because of work expectations in a college athletics subculture, individuals that were classified as non-exempt from FLSA may likely associate as members of the out-group. If so, this identification with the out-group could have a negative impact on their social identity and thus their overall work satisfaction. The degree of negative impact may be dependent on staff position, where employees with more “like” employees in their department may not be as negatively affected as those where shifts created great disparities in positions.

Given a need to better understand the actual effect that FLSA has had in athletics departments, this investigation explored the effect that FLSA has had on social identity. Through this analysis we can begin to develop sound theory of intergroup processes that inform sport management and other literatures as well. We can also use the information to make specific recommendations regarding the FLSA and other similar legislation that will improve sport management practice.