



Proceedings

A monthly newsletter from McGraw-Hill Education



March 2017 Volume 8, Issue 8

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Dear Professor,

Spring is near! Welcome to McGraw-Hill Education's March 2017 issue of Proceedings, a newsletter designed specifically with you, the Business Law educator, in mind. Volume 8, Issue 8 of Proceedings incorporates "hot topics" in business law, video suggestions, an ethical dilemma, teaching tips, and a "chapter key" cross-referencing the March 2017 newsletter topics with the various McGraw-Hill Education business law textbooks.

You will find a wide range of topics/issues in this publication, including:

1. An article addressing the number of women in corporate boardrooms in the United States compared to Europe;
2. Facebook's recent decision to increase paid family leave for its employees;
3. A lawsuit filed by the parents of Fatima Larios against Chadron State College for their daughter's suicide;
4. Videos related to a) a lawsuit filed against West Virginia public schools due to bible classes and b) bills filed in the United States House of Representatives to eliminate the Environmental Protection Agency and the Department of Education;
5. An "ethical dilemma" related to a recent decision by the Trump Administration to halt penalties against firms that punish nuclear whistleblowers; and
6. "Teaching tips" related to Video 2 ("House Republicans Put 2 Federal Departments on the Chopping Block") of the newsletter.

I hope spring arrives soon for everyone!

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Of Special Interest

This section of the newsletter covers three (3) topics:

1) An article addressing the number of women in corporate boardrooms in the United States compared to Europe;

2) Facebook's recent decision to increase paid family leave for its employees; and

3) A lawsuit filed by the parents of Fatima Larios against Chadron State College for their daughter's suicide.

Hot Topics in Business Law

Article 1: "U.S. Lags Way Behind Europe in Number of Women in The Boardroom"

<https://www.forbes.com/sites/davidschrieberg1/2017/02/08/women-in-the-boardroom-u-s-lags-way-behind-europe-report-shows/#2f61bff11f1a>

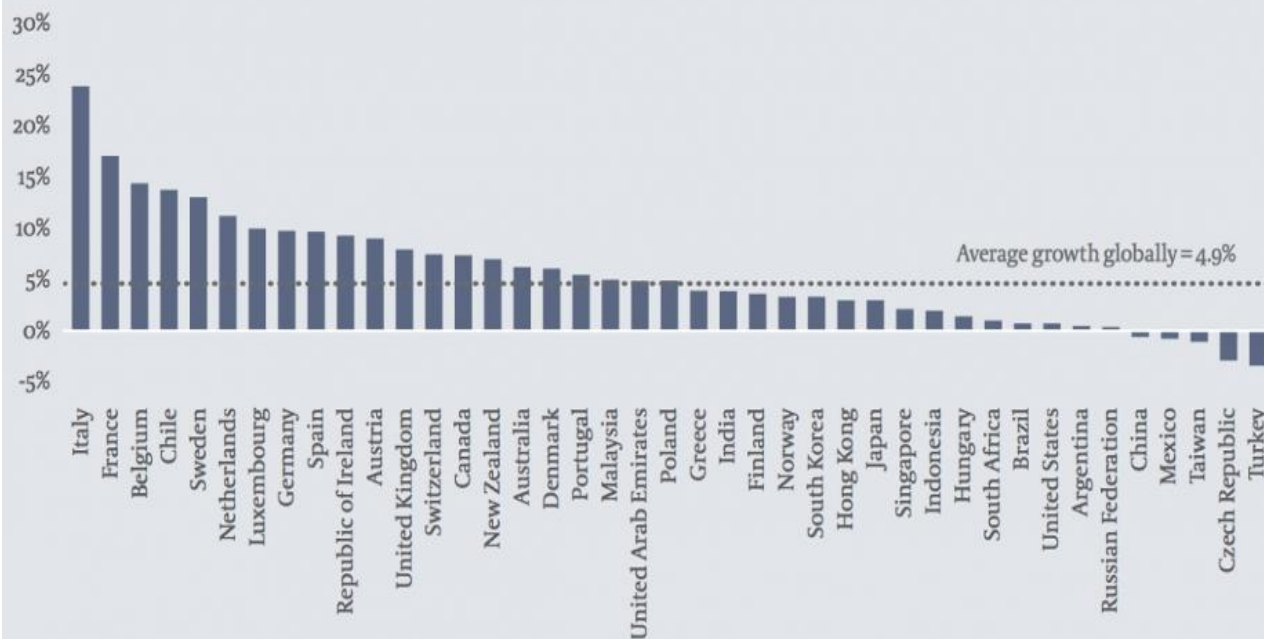
Note: This is an opinion piece written by David Schrieberg, an American journalist and entrepreneur in Europe.

I am happy any time I can blow the horn for Luxembourg, my adopted home. On that score, the latest Global Diversity Analysis from professional services firm Egon Zehnder that surveys women in boardrooms around the world offers a few nice notes - although the global symphony they sit within sounds a bit off-key.

First, the relatively good news. According to the study, gender parity internationally is on an upward swing in the 1,491 public companies in 44 countries they surveyed - with women occupying 19% of board seats of the largest companies, compared to 14% in 2012, and increasing a "modest" three percentage points in the past two years.

Zehnder notes that since it began tracking the issue 12 years ago "diversity is most effectively manifested in those countries where gender diversity has sparked a movement through social, cultural, regulatory, leadership or political ambition, or the simple power of persuasion."

Four-Year Growth, Percentage of Board Positions Held by Women, 2016 vs 2012



The highest flyers - Italy and France, among others - "have been literally transformed" as a result of government quotas, with the share of women on Italian boards increasing from 8% to 32% and in France from 21% to 38%.

My little plug for Luxembourg comes here: It ranks seventh on the list in terms of growth of boardroom diversity at about 12%. That compares with the U.S. at about 1%.

Overall, in fact, the global winner is Western Europe, where board diversity has grown from 8% in 2004 to 26% last year (compared to 18.5% globally) - with a full one-third of that in the past two years alone, indicating a notable acceleration. Moreover, nine of the top 10 countries in terms of progress over the past four years were in the region.



"Our findings show that 84% of all large company boards globally (market capitalization of at least € billion) include at least one woman director, up from 76% in 2012," Egon Zehnder CEO Rajeev Vasudeva notes.

However, I cannot gloss the negative with too much positive. Because Vasudeva and the report overall - the company's most comprehensive to date - are not so positive.

"Despite social and economic progress in other areas of the business world, diversity at the leadership level, particularly in the boardroom, has not kept pace," he concludes. "We see that, sadly, progress is slow. In some countries or regions, there is virtually no improvement. Change in the gender diversity of boards is not occurring at the rate commensurate with how the world is evolving in many other ways."

One culprit is low annual turnover on boards. "Our experience and independent research suggest that, for gender diversity to start to have a meaningful impact on governance, a board must have three women directors," Vasudeva recommends. That magic number signifies a "tipping point for transformative and sustainable change" that was documented in a 2006 Harvard Business Review diversity study on Fortune 500 companies.

At the current growth rate, that tipping point will not be hit before 2021 - and gender parity is two decades down the road.



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The United States is particularly weak - "an example of a market that has fallen behind when it comes to reaching this critical mass for true diversity change, despite being an early pioneer of diversity globally." It has been "stagnant" for the past four years, with just one 1% growth and at 2.1 women per board, "fallen far short" of the tipping point. Overall, it has been relatively frozen at about 20% diversity for the past four years.

The report also notes that the U.S. is one of only two countries in the world that does not guarantee new mothers any paid maternity leave, which "has hindered women from looking beyond the childbearing years to reach the executive positions that enable them to enter the pipeline for board-level positions."

Again, Western Europe gets kudos for its "much stronger social benefit systems to support the needs of different genders."

Zehnder's "Diversity Champions" list - 16 countries that have hit the encouraging "3" - goes in this order (those with asterisks have set legal quotas): *France (5.2), *Germany (4.6), *Italy (4.1), Sweden (4.1), *Norway (3.9), *Belgium (3.8), Austria (3.2), Canada (3.1), South Africa (3.0), *Spain (3.0), *Denmark (2.9), United Kingdom (2.8), *Finland (2.6), Republic of Ireland (2.6), *Netherlands (2.5) and Poland (2.5).

There is documented financial incentive for diversity. Zehnder cites a 2016 Peterson Institute for International Economics study of some 22,000 global companies that claimed an average 15% increase in net revenue margin among companies that went from no women on their boards to 30%.

Discussion Questions

1. As the article indicates, "Italy and France... 'have been literally transformed' (in terms of female representation on corporate boards) as a result of government quotas, with the share of women on Italian boards increasing from 8% to 32% and in France from 21% to 38%." In terms of eliminating gender or any other form of discrimination, are quotas (either imposed by the government or self-imposed by corporations) a good idea? Why or why not?

Although this is an opinion question, quotas are arguably not a good idea since they consider the number of a protected class eligible for employment more than the qualifications of those candidates. Quotas arguably constitute reverse discrimination, since they could serve to block from employment consideration a candidate who is not part of the protected class if the number of protected-class candidates has not yet been achieved.

2. As the article indicates, "the United States is particularly weak (in terms of female representation on corporate boards) – 'an example of a market that has fallen behind when it comes to reaching (the) critical mass for true diversity change, despite being an early pioneer of diversity globally.' It has been 'stagnant' for the past four years, with just one 1% growth and at 2.1 women per board...Overall, it has been relatively frozen at about 20% diversity for the past four years"



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In your reasoned opinion, what accounts for the stagnation in gender diversity on corporate boards in the United States in recent years?

This is an opinion question, so student responses may vary. Unless this is a statistical anomaly, or unless there is an articulable and justifiable reason why gender diversity on corporate boards has remained stagnant in recent years, the stagnation could be indicative of gender discrimination.

3. Comment on the following quote from the article:

“(T)he U.S. is one of only two countries in the world that does not guarantee new mothers any paid maternity leave, which has hindered women from looking beyond the childbearing years to reach the executive positions that enable them to enter the pipeline for board-level positions.”

This could explain why female representation on corporate boards is so low in the United States. Obviously, paid maternity leave substantially assists new mothers in making both short- and long-term career plans.

Article 2: “Facebook Doubles Down on Paid Family Leave”

<http://money.cnn.com/2017/02/07/technology/facebook-bereavement-leave/index.html>

According to the article, Facebook was one of the tech companies that helped kick off an arms race in corporate America for better parental leave.

Now it is hoping to do the same for bereavement leave.

Facebook employees now receive up to 20 days paid leave to grieve the loss of an immediate family member and up to 10 days after the death of an extended family member.

The policy doubles the amount of time employees used to receive for bereavement. It went into effect at the beginning of the year, but was not announced publicly until recently.

Employees will also get up to six weeks paid time off to care for a sick relative and three days to care for a family member facing a short-term illness.

"I hope more companies will join us and others making similar moves, because America's families deserve support," Sheryl Sandberg, Facebook's COO, wrote in a Facebook post.

Sandberg framed the new employee perk with her own experience. Sandberg's husband, Dave Goldberg, died suddenly in 2015 leaving her to balance grief and raising two young children with her role as a powerful technology executive.



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"Amid the nightmare of Dave's death when my kids needed me more than ever, I was grateful every day to work for a company that provides bereavement leave and flexibility. I needed both to start my recovery," Sandberg wrote.

"I know how rare that is, and I believe strongly that it shouldn't be," she added. "People should be able both to work and be there for their families. No one should face this tradeoff."

U.S. companies are not required by federal law to offer bereavement leave. Paid time off varies widely for those that do offer it.

Discussion Questions

1. As the article indicates, Facebook employees now receive up to 20 days paid leave to grieve the loss of an immediate family member and up to 10 days after the death of an extended family member. In your reasoned opinion, should bereavement leave be mandated by state and/or federal law? Why or why not?

This is an opinion question, so student responses may vary. Bereavement leave is not covered by the Family Medical Leave Act, and only Oregon mandates it as a matter of state law. Currently, if the employee receives bereavement leave, it will be due to company-established policy.

2. As the article indicates, Facebook employees will receive up to six weeks paid time off to care for a sick relative and three days to care for a family member facing a short-term illness. In your reasoned opinion, should such family leave be mandated by state and/or federal law? Why or why not?

This is an opinion, so student responses may vary. Although the Family and Medical Leave Act (FMLA) mandates that employees are entitled to up to twelve (12) weeks of leave per year to care for a sick (immediate) relative, FMLA does not mandate that the employer pay the employee for the leave. Many employees do not take leave pursuant to FMLA because they simply cannot afford it.

3. Does the Family and Medical Leave Act cover any of the family leave issues addressed in the article? Explain your response.

The Family and Medical Leave Act (FMLA) does not provide for bereavement leave, but it does mandate up to twelve (12) weeks of leave to care for a sick (immediate) family member. As mentioned in response to Article 2, Discussion Question Number 2 above, FMLA does not mandate that the employer pay the employee for the leave.



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Article 3: “Parents Sue Nebraska College over Daughter’s Suicide”

<http://www.cnn.com/2017/02/03/us/nebraska-parents-sue-college-daughter-suicide/index.html>

According to the article, the parents of a softball player at Chadron State College are suing the school, alleging the Nebraska school did nothing to prevent their daughter's suicide.

Fatima Larios' parents say in documents filed in United States District Court that their daughter, who was found dead in her dorm room in January 2015, was physically and emotionally abused by her boyfriend, a football player, for months before her death.

The lawsuit calls Chadron State, which has about 3,000 students, "deliberately indifferent to sex-based dating violence." It says had the school followed its policies and Title IX regulations and acted on reports of the abuse, Larios' death could have been prevented.

Chadron State did not respond to the media's request for comment. Colleges often decline to comment during ongoing litigation.

The lawsuit names the university and the board of trustees of the Nebraska State College System as defendants. It says reports of abuse reached the school's then-Title IX coordinator, Shelley Dunbar, in November 2014.

Dunbar sent a letter and an email to Larios, notifying her she was the school's Title IX coordinator, the lawsuit says. The mailings included information about the university system's policies related to sexual violence. Dunbar also sent information about services and resources Larios could use. Larios also met with the softball coaches.

The court filing says Larios told her teammates about the abuse, but did not tell her coaches or Dunbar. The school was obligated to respond to third-party reports about the violence, the suit alleges.

Campus police were never asked to investigate and the boyfriend was never charged with any crime, the court document says.

Larios originally went to another university but transferred to Chadron State in northwest Nebraska to be with her boyfriend. She was 19 when she died.

The parents, Nelson Larios and Lissette Roohbakhsh, both of whom live in California, are asking for monetary damages to be established by a trial jury.

Discussion Questions



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1. What is “Title IX?”

Title IX of the Education Amendments of 1972 (“Title IX”) is a federal civil rights law that prohibits discrimination on the basis of sex in federally funded education programs and activities. All public and private elementary and secondary schools, school districts, colleges, and universities receiving any federal financial assistance must comply with Title IX.

On April 4, 2011, the Office for Civil Rights (OCR) in the U.S. Department of Education issued a Dear Colleague Letter on student-on-student sexual harassment and sexual violence (“DCL”). The DCL explains a school’s responsibility to respond promptly and effectively to sexual violence against students in accordance with the requirements of Title IX.

Specifically, the DCL:

- *Provides guidance on the unique concerns that arise in sexual violence cases, such as a school’s independent responsibility under Title IX to investigate (apart from any separate criminal investigation by local police) and address sexual violence.*
- *Provides guidance and examples about key Title IX requirements and how they relate to sexual violence, such as the requirements to publish a policy against sex discrimination, designate a Title IX coordinator, and adopt and publish grievance procedures.*
- *Discusses proactive efforts schools can take to prevent sexual violence.*
- *Discusses the interplay between Title IX, the Family Educational Rights and Privacy Act (“FERPA”), and the Jeanne Clery Disclosure of Campus Security and Campus Crime Statistics Act (“Clery Act”) as it relates to a complainant’s right to know the outcome of his or her complaint, including relevant sanctions imposed on the perpetrator.*
- *Provides examples of remedies and enforcement strategies that schools and OCR may use to respond to sexual violence.*

For more information regarding Title IX and its compliance requirements, please see “Questions and Answers on Title IX and Sexual Violence” from the United States Department of Education Office for Civil Rights at the following internet address:

<https://www2.ed.gov/about/offices/list/ocr/docs/qa-201404-title-ix.pdf>

2. In your reasoned opinion, did Chadron State College violate Title IX in this case? Explain your response.

Unless the case is settled prior to trial, a jury will have to determine whether Chadron State College violated Title IX regulations. If (as the plaintiffs’ complaint alleges) reports of Fatima Larios’ abuse by her boyfriend reached the school’s then-Title IX coordinator, Shelley Dunbar,



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in November 2014 but the college failed to follow-up with an investigation in a timely manner, the jury could conclude that the college violated Title IX.

3. In all likelihood, the Larios lawsuit against Chadron State College is at least partially based on the legal theory of negligence. In your reasoned opinion, was Chadron State College negligent in this case? Why or why not?

If (as the plaintiffs' complaint alleges) Chadron State College received notice of Fatima Larios' abuse by her boyfriend but failed to follow-up with an investigation in a timely manner, a trial jury could easily conclude that the college was negligent. Negligence is the failure to do what a reasonable party would do under the same or similar circumstances. To prevail in a negligence case, the plaintiff must prove (by a preponderance of the evidence) that a) the defendant owed a duty of care to the plaintiff; b) the defendant breached the duty of care; c) such breach resulted in harm to the plaintiff; and d) the plaintiff sustained damages as a result. Title IX establishes that an educational institution owes a duty to its student to investigate sexual violence. A jury could use evidence introduced by the plaintiffs (Fatima Larios' parents) to conclude that such duty was breached due to the college's failure to follow-up with an investigation in a timely manner. In terms of the remaining elements of negligence, the victim was certainly harmed, and damages can certainly be established for the loss of life.

In your author's opinion, the defendant Chadron State College's best argument to counter liability for negligence would be the fact that Fatima Larios chose to take her own life. The college could argue that this was an "intervening and superseding cause" that effectively eliminates its liability. Admittedly, the fact that the deceased victim and her parents are sympathetic plaintiffs could make it difficult for the college to effectively make this argument before a trial jury. The jury could still reach the conclusion that the college's breach of duty ultimately caused Fatima Larios' death, even if she did commit suicide.



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Video Suggestions

Video 1: “West Virginia Public Schools Sued over Bible Classes”

<http://www.cbsnews.com/news/lawsuit-to-end-bible-class-west-virginia-mercero-county-public-schools-separation-church-state/>

Note: In addition to the video, please see the following article included at the above-referenced internet address:

“West Virginia Public Schools Sued over Bible Classes”

According to the article, some parents in West Virginia are fighting to put an end to a Bible class in public schools.

For nearly 80 years, Bible stories have been taught in Mercer County as part of the regular school week and they are extremely popular in the community. In a new lawsuit, however, a major lobby for the separation of church and state is arguing that “popular” is not the same as “legal.”

In church, Cherilyn Thomas has built a deep relationship with God. And as a parent, she appreciates that her daughter, Teagan, can continue that relationship at school.

“It is very important that what we teach at home can be moved on to the school and instilled there and moved to the church and it’s still there so that it moves in a circle,” Thomas said.

The school portion of that circle is provided by a program called “Bible in the Schools.”

“Is it a religious course?” Dokoupil (CBS news correspondent) asked.

“It’s the Bible,” Thomas replied.

“Is that a yes?” Dokoupil asked.

“I would say it is the Bible. It does not teach one religion. It’s not a Baptist Bible, it’s not a Presbyterian Bible; it’s the Bible, and it is God.”



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Created by volunteers in 1939, the program now provides more than 4,000 kids a weekly course of Bible study.

“How do you like class?” Dokoupil asked Teagan.

“I like it very much because I want to learn all the stuff in the Bible,” Teagan said.

The voluntary program is paid for through private donations and administered by the school district. The enrollment rate among the county’s 19 elementary schools is 96 percent.

“Do all the kids in your class go to Bible class too?” Dokoupil asked.

“Only one goes out and plays on the computer, because she can’t hear what the Bible says,” Teagan said.

“How come?” Dokoupil asked.

“Because her dad just doesn’t want her to hear all the Bible stuff,” Teagan said.

“What do you think about that?” Dokoupil asked.

“I think that that’s bad. She needs to go to Bible class,” Teagan said.

Comments like these are part of what attracted the Freedom From Religion Foundation, a Wisconsin-based lobby for the separation of church and state. In a lawsuit filed jointly last month with Jane Doe – a mother of a Mercer County kindergartener who wishes to remain anonymous -- the group accused the county of running “Bible indoctrination classes” that endorse the literal truth of the Bible.

“If you want them to have a religious education, that burden’s on you. That burden should not be on the school system,” said Elizabeth Deal, who, like Doe, believes the Mercer County program violates the rights of parents who wish to keep schools a secular place.

Deal moved her daughter, Sophie, out of the school system after she was bullied for opting out.

“They taunted her about it. They told her that she was going to hell, that I was going to hell, that her father was going to hell,” Deal said.

“How did you feel when you heard that story?” Dokoupil asked.

“It was very hurtful of course because she is my daughter and I don’t want her to hurt,” Deal said.

In a statement, Mercer County schools said the Bible is worthy of study for its “literary and historic qualities.” The question for the courts is whether it is actually being taught that way.



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“To completely eliminate a Bible course would be an unprecedented and drastic step,” said Hiram Sasser, a lawyer representing the school board. “The only issue it’s ever arises is any kind of implementation.”

“The public school would just have to ensure that it really did have a secular purpose,” said Nelson Tebbe, a professor of constitutional law and religious freedom at Brooklyn Law School. “But because this program and programs like it are structured just around the Bible, courts will be skeptical as to whether they really have that kind of neutral impact.”

For Teagan, she just hopes her class stays.

“How would you feel if Bible class went away?” Dokoupil asked.

“I would feel kind of angry and sad,” Teagan said.

Sasser said the school is open to changes to the curriculum if needed to keep the program going. But in its lawsuit, the Freedom From Religion Foundation is not asking for changes; it wants the program to go.

The school board has just a few weeks to respond to the courts to prove that they can effectively keep the program.

Discussion Questions

1. Describe the “Establishment” and “Free Exercise” Clauses of the First Amendment to the United States Constitution.

*According to the First Amendment of the United States Constitution, “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof...”
Constitutional scholars have interpreted the Establishment and Free Exercise Clauses to mean that government must take an “even-handed” approach to religious belief in the United States, not favoring one particular religion over another, and allowing citizens to practice (or not practice) religion as they see fit.*

2. As referenced in the article, according to parent Cherilyn Thomas, “It is very important that what we teach at home (a “deep relationship with God”) can be moved on to the school and instilled there and moved to the church and it’s still there so that it moves in a circle.” Analyze this statement in the context of the Establishment and Free Exercise Clauses of the First Amendment to the United States Constitution.

Arguably, if a public school (a government entity) were to instill in students “a deep relationship” with God, such inculcation could constitute an “establishment” of religion in violation of the Establishment Clause of the First Amendment to the United States Constitution.



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Although such inculcation would arguably not prefer one religion over another (since it merely emphasizes a “deep relationship with God”), it could still arguably constitute an “establishment” of religion. Notice that the First Amendment Establishment Clause does not refer to the establishment of “a” religion; instead, it proscribes the establishment of religion.

3. Analyze the following interchange between parent Cheryl Thomas and CBS news correspondent Dokoupil concerning the “Bible in the Schools” program in the context of the Establishment and Free Exercise Clauses of the First Amendment to the United States Constitution:

“Is it a religious course?” Dokoupil asked.

“It’s the Bible,” Thomas replied.

“Is that a yes?” Dokoupil asked.

“I would say it is the Bible. It does not teach one religion. It’s not a Baptist Bible, it’s not a Presbyterian Bible; it’s the Bible, and it is God.”

Please refer to the answer to Video 1, Discussion Question 2 included previously in this newsletter.

Video 2: “House Republicans Put 2 Federal Departments on the Chopping Block”

<http://www.newsy.com/stories/bills-introduced-to-abolish-epa-and-department-of-education/>

Note: In addition to the video, please see the following article included at the above-referenced internet address:

“House Republicans Put 2 Federal Departments on the Chopping Block”

According to the article, Republicans in the House of Representatives have introduced bills to abolish the Department of Education and the Environmental Protection Agency (EPA).

Representative Tom Massie of Kentucky sponsored the bill to end the Education Department. In a statement he wrote, “States and local communities are best positioned to shape curricula that meet the needs of their students.”

Representative Matt Gaetz of Florida, a freshman lawmaker, found two co-sponsors to sign onto a bill that would end the EPA.



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"I would take the resources that we use to fund the bureaucracy at the EPA and would downstream those resources to states and local communities. We can have people closest to environmental assets ascertain the importance of those assets and protect them appropriately and responsibly," Gaetz said.

Efforts to eliminate or make major changes to government departments are not unheard of.

The 1996 Republican Party platform called for eliminating the Department of Education, as well as the departments of Commerce, Energy, and Housing and Urban Development.

In 2011, Sen. Richard Burr of North Carolina introduced a bill to merge the EPA with the Energy Department, but that bill did not go anywhere.

During the 2012 presidential campaign, Newt Gingrich proposed abolishing the EPA. And Rick Perry listed — or tried to list — three departments he wanted to eliminate as president.

"It's three agencies of government when I get there that are gone: commerce, education and the, uh, what's the third one there?" Perry said during a debate.

Considering the precedents, these latest bills could have a dim future. If they do get support, it might come from President Donald Trump. On the campaign trail, Trump said he would gut the EPA and Department of Education to help pay for his proposed tax cuts.

Discussion Questions

1. As the article indicates, in support of his bill to end the United States Department of Education, Representative Tom Massie of Kentucky claims that "(s)tates and local communities are best positioned to shape curricula that meet the needs of their students." Do you agree or disagree with Representative Massie? Explain your response.

In your author's opinion, Representative Massie's argument might be acceptable if one were to assume that all states were diligent in terms of meeting the educational needs of their students. However, what if certain states fail to meet such needs? What if those states fail to establish proper and effective educational standards on a "grass roots level" and/or provide the resources (financial and otherwise) necessary to ensure the achievement of those standards and overall academic success? In light of this possibility, a federal administrative agency (the United States Department of Education) is necessary to ensure that states are accountable for meeting the needs of students. Education is not just a local concern; instead, it is a national concern.

2. As the article indicates, in support of his bill to end the Environmental Protection Agency, Representative Matt Gaetz of Florida argues that state and local communities are closer to environmental "assets" and therefore better positioned to "ascertain the importance of those assets and protect them appropriately and responsibly." Do you agree or disagree with Representative Gaetz? Explain your response.



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In your author's opinion, Representative Gaetz's argument might be acceptable if one were to assume that all states were diligent in terms of ensuring environmental protection (or as he refers to it, managing "environmental assets.") However, what if certain states fail to ensure environmental protection? What if those states fail to establish proper and effective environmental standards on a "grass roots level" and/or provide the resources (financial and otherwise) necessary to ensure the achievement of those standards? In light of this possibility, a federal administrative agency (the United States Environmental Protection Agency) is necessary to ensure that states are accountable for addressing environmental concerns. The environment is not just a local concern; instead, it is a national concern.

3. If state and local communities are better positioned to regulate education and the environment, why were the United States Department of Education and Environmental Protection Agency even created?

Both the United States Department of Education and the Environmental Protection Agency were created (at least in part) based on the assumption that since education and the environment are not just local concerns but national concerns as well, a federal administration is necessary to ensure that proper educational and environmental stewardship is realized. Matters related to education and the environment do not just affect what goes on within a particular state; instead, they affect the entire United States.



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Of Special Interest

This section of the newsletter addresses a recent decision by the Trump Administration to halt penalties against firms that punish nuclear whistleblowers.

Ethical Dilemma

“Trump Administration Halts Penalties against Firms That Punish Nuclear Whistleblowers”

https://www.washingtonpost.com/news/powerpost/wp/2017/02/08/trump-administration-halts-penalties-against-firms-that-punish-nuclear-whistleblowers/?hpid=hp_hp-cards_hp-card-fedgov%3Ahomepage%2Fcard&utm_term=.158eeb73b97f

According to the article, the Department of Energy has temporarily halted an Obama administration regulation that allowed for civil penalties against federal nuclear contractors that retaliate against whistleblowers who report waste, fraud, abuse and dangerous conditions.

In procedural rules published in the Federal Register, the DOE said the regulation would be frozen from January 31 until March 21 in keeping with President Trump’s “plan for managing the Federal regulatory process at the outset of the new Administration.”

A department summary of the rule says it “stays DOE regulations for the assessment of civil penalties against certain contractors and subcontractors for violations of the prohibition against an employee who reports violations of law, mismanagement, waste, abuse or dangerous/unsafe workplace conditions, among other protected activities, concerning nuclear safety.”

Whistleblower advocates worry the rule could discourage the reporting of violations.

“There is already a chilled atmosphere for DOE whistleblowers and the rule that has now been stayed was meant to help address that problem,” said Lydia Dennett, an investigator with the Project on Government Oversight. “Halting the regulation from going forward does nothing to help the department and certainly will not encourage whistleblowers to come forward with legitimate safety concerns.”

Added Louis Clark, executive director and chief executive of the Government Accountability Project: “We have had to engage in pitched litigation against contractors who routinely fire any whistleblower who dares to expose contract fraud, extraordinary public health and safety dangers, and massive



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contamination of the environment and the workforce — 80 percent of the DOE’s entire budget goes to these contractors.

“This effort has nothing to do with deregulation so that business can thrive. These are government contractors running government facilities,” he continued by email. “These contractors must not be allowed to remain unaccountable, free from meaningful oversight, and able to attack whistleblowers and defend themselves through subsidies supplied by the very taxpayers who they have screwed over.”

Discussion Questions

1. What is whistleblower protection?

Whistleblower protection, which traditionally exists on both state and federal levels, lends protection to an individual who reports to the appropriate government authorities a legal violation committed by his or her employer. Essentially, whistleblower protection guarantees that an employer cannot retaliate against its employee for reporting such a violation (i.e., the employee cannot be fired, demoted, etc. for “blowing the whistle.”)

2. Comment on the merits of the Obama administration regulation referenced in the article.

As mentioned in the article, the Obama-era Department of Energy (DOE) regulations provide for the “assessment of civil penalties against certain contractors and subcontractors for violations of the prohibition against an employee who reports violations of law, mismanagement, waste, abuse or dangerous/unsafe workplace conditions, among other protected activities, concerning nuclear safety.”

In your author’s opinion, regardless of political affiliation, nuclear safety is in the best interest of everyone. It seems logical to have government regulation that seeks to encourage employees to report employer activities that might serve to undermine nuclear safety, and discourage employers who sanction employees for choosing to do so.

3. In your reasoned opinion, is government regulation of business “good” or “bad?” Explain your response.

This is an opinion question, so student responses may vary. In your author’s opinion, overgeneralizing whether government regulation is entirely “good” or “bad” is clearly indicative of a lack of critical thought. In your author’s opinion, “good” government regulation is good, while “bad” government is bad. The “devil is in the details” in determining the difference between the two!



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Of Special Interest

This section of the newsletter will assist you in addressing Video 2 (“House Republicans Put 2 Federal Departments on the Chopping Block”) of the newsletter.

Teaching Tips

Teaching Tip 1 (Related to Video 2-“House Republicans Put 2 Federal Departments on the Chopping Block”):

For further information regarding the mission of the United States Department of Education, please see the following internet address:

<https://www.ed.gov/>

Teaching Tip 2 (Related to Video 2-“House Republicans Put 2 Federal Departments on the Chopping Block”):

For further information regarding the mission of the Environmental Protection Agency (EPA), please see the following internet address:

<https://www.epa.gov/>



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Chapter Key for McGraw-Hill/Irwin Business Law Texts:

	Hot Topics	Video Suggestions	Ethical Dilemma	Teaching Tips
Barnes et al., Law for Business	Chapters 7 and 25	Chapters 1, 4 and 47	Chapter 3	Chapters 1 and 47
Bennett-Alexander & Hartman, Employment Law for Business	Chapters 3, 8 and 16	N/A	N/A	N/A
Kubasek et al., Dynamic Business Law	Chapters 9, 42 and 43	Chapters 5, 44 and 46	Chapter 2	Chapters 44 and 46
Kubasek et al., Dynamic Business Law: Summarized Cases	Chapters 9, 42 and 43	Chapters 5, 44 and 46	Chapter 2	Chapters 44 and 46
Kubasek et al., Dynamic Business Law: The Essentials	Chapter 7 and 24	Chapters 4 and 5	Chapter 2	Chapter 4
Liuzzo, Essentials of Business Law	Chapters 4 and 32	Chapters 5, 6 and 36	Chapter 2	Chapters 6 and 36
Mallor et al., Business Law: The Ethical, Global, and E-Commerce Environment	Chapters 7 and 51	Chapters 3, 47 and 52	Chapter 4	Chapters 47 and 52
McAdams et al., Law, Business & Society	Chapters 7, 12 and 13	Chapters 5, 8 and 17	Chapter 2	Chapters 8 and 17
Melvin, The Legal Environment of Business: A Managerial Approach	Chapters 10, 12 and 13	Chapters 2, 18 and 19	Chapter 5	Chapters 18 and 19
Pagnattaro et al., The Legal and Regulatory Environment of Business	Chapters 10, 20 and 21	Chapters 6, 15 and 19	Chapter 2	Chapters 15 and 19
Sukys, Brown, Business Law with UCC Applications	Chapters 6 and 23	Chapters 2 and 33	Chapter 1	Chapters 2 and 33



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This Newsletter Supports the Following Business Law Texts:

- Barnes et al., Law for Business, 13th Edition ©2018 (1259722325) – *New edition now available!*
- Bennett-Alexander et al., Employment Law for Business, 8th Edition ©2015 (0078023793)
- Kubasek et al., Dynamic Business Law, 4th Edition ©2017 (1259723585) – *New edition now available!*
- Kubasek et al., Dynamic Business Law: Summarized Cases, 1st Edition ©2013 (0078023777)
- Kubasek et al., Dynamic Business Law: The Essentials, 3rd Edition ©2016 (007802384X)
- Liuzzo, Essentials of Business Law, 9th Edition ©2016 (07802319X)
- Mallor et al., Business Law: The Ethical, Global, and E-Commerce Environment, 16th Edition ©2016 (0077733711)
- McAdams et al., Law, Business & Society, 11th Edition ©2015 (0078023866)
- Melvin, The Legal Environment of Business: A Managerial Approach, 3rd edition ©2018 (1259686205) – *New edition now available!*
- Pagnattaro et al., The Legal and Regulatory Environment of Business, 17th Edition ©2016 (0078023858)
- Sukys, Brown, Business Law with UCC Applications 14th Edition ©2017 (0077733738)

