

# DOWNLOAD PDF USING LITIGATION TO CHANGE POLICIES AND PRACTICES

## Chapter 1 : In-Place Hold and Litigation Hold | Microsoft Docs

*Litigation and the threat of litigation can be powerful forces in changing policies and practices that affect obesity. Two speakers at the workshop discussed the advantages and disadvantages of litigation, while a third warned of its risks and discussed its shortcomings in enacting policy change.*

Learn how to engage policymakers in improving community conditions by creating and implementing policy changes. What do we mean by social planning and policy change? Why should policymakers engage in a participatory social planning process? Why should the community engage in a participatory social planning process? When is social planning and policy change appropriate? Who should be involved in social planning and policy change? How can policymakers engage effectively in social planning and policy change? How can communities engage effectively in social planning and policy change? Sometimes, the impetus for community health and development efforts come from social planners and policy makers. For instance, data on the level of diseases or educational outcomes may be used to raise issues on the public agenda. This section discusses how social planning approaches can inform change efforts. Social planning is the process by which policymakers - legislators, government agencies, planners, and, often, funders - try to solve community problems or improve conditions in the community by devising and implementing policies intended to have certain results. These policies may take the form of laws, regulations, incentives, media campaigns, programs or services, information - a wide range of possibilities. A community or state Board of Health that adopts a regulation banning smoking in particular places, for example, is trying both to protect the public from second-hand smoke and to reduce smoking in general. There is a long history in the U. Traditionally, this has meant that policymakers decided what they thought was good for a community or a population, and imposed policy that was meant to bring about the results they wanted. At worst, social planning has been used largely for the benefit - economic or political - of the policymakers and their friends and supporters. In other cases, well-intentioned planning has led to negative consequences. In fact, it often had that effect only for the people who moved into new housing and businesses after the original population had been displaced, and given nowhere else to go. In many cases, it destroyed vital, unblighted communities. Gans showed how this urban neighborhood functioned like a rural village, with social structures and institutions that made for a strong sense of community, even in the midst of a large, 20th Century city. Generations of immigrants, particularly Italians and Eastern European Jews, had become Americans there, while retaining their cultural and family ties. Far from being blighted, although it was composed largely of tenements, the neighborhood was a true community with a colorful and lively street life, beloved by its residents. It was knocked down and replaced by a luxury apartment complex bounded by highways and surrounded by a chain-link fence. While these requirements were often honored more in the breach than in the observance, they acknowledged that social initiatives work better, and generate better policy, when those affected by them are involved in creating them. Top-down planning, though well-meaning, may fail to take into account the realities of the situation it is addressing. This failure can stem from: Ignorance of the community, and of the fact that what works in one community may not work in another. Community social patterns, history especially past attempts to deal with the issue in question, or economics may work, individually or in combination, to create a unique situation. That situation has to be understood before the creation of successful policy can follow. Ignorance of the lives of those at whom the plan is aimed. The cultural assumptions of immigrant groups, or those from particular ethnic or racial backgrounds, may be totally foreign to those engaged in planning for them. Even if the division between the policymakers and the population at whom their policies are aimed is solely economic, there may be vast differences in the ways they see the world, as well as vast differences in the worlds they inhabit. Unintended consequences that are not apparent initially. Sometimes, a plan or policy that seems positive on its face has results that are profoundly negative. The public housing complexes erected in the U. Instead, their institutional character and isolation from the mainstream life of their communities bred

alienation and despair in their residents, and led to crime and horrible living conditions. The Cabrini-Green projects in Chicago, notorious for drugs and crime, were recently torn down and replaced by mixed-income housing designed to be part of the neighborhood, with a fair number of units reserved for former Cabrini-Green residents. Practitioners - especially those who also have academic credentials - know that the difference between theory and reality can often be vast. In addition, social planning can be used to further goals that have nothing to do with the welfare or advancement of those who are affected by them. Such goals may be intended to benefit friends or supporters of powerful politicians, or merely to generate political capital. In these cases, they are likely to be badly planned and administered, and to have little effect. Citizen participation can help to prevent the social planning process from failing in these ways. The Community Tool Box sees social planning and policy change as a partnership between the community and policymakers to create policy that brings about positive social change. As a result, we will look at social planning and policy change from two angles: From a grassroots perspective, i. In addition, community participation, as we will discuss later in this section, is a process that demands time, commitment, organization, and a good deal of work from everyone concerned. Why, then, is it worth it to policymakers - who usually have the ability to impose their own plans - to involve the community in social planning and policy change? There are, in fact, a number of compelling reasons, both short- and long-term: Furthermore, community members can inform policymakers and planners of the real needs of the community, so that the most important problems and issues can be addressed. Community participation leads to community ownership and support of whatever initiatives come out of a social planning effort. The same is rarely, if ever, true about plans that are imposed on a community from outside. Policymakers - particularly elected officials - can gain politically from involving the community. They will be seen as respecting their constituents, and will also gain respect and credibility if initiatives they sponsor prove effective. If they can help improve the quality of life for community members, their political capital will increase. Community members can inform policymakers about changes in circumstances that demand changes in policy over time. What is effective or appropriate today may not be in five years. Community participation puts eyes and ears in the community to pick up changes that policymakers may not be aware of, and to keep programs and initiatives from becoming outmoded or stale. Community participation can create community relationships and partnerships among diverse groups who can then work together. By involving all sectors of the community, it can bring together groups and individuals who would normally not have - or might not want - contact with one another, and help them understand where their common interests lie. Community participation helps keep community building going over the long run. By placing planning and decision-making power partly or wholly with the community, the process assures that those who started the effort will remain interested and involved, and not be distracted by other issues, or by changes in the political climate. Community participation contributes to institutionalizing the changes brought about by changes in policy. Their support over time will lead to permanent change. Community participation energizes the community to continue to change in positive directions. Once community members see what they can accomplish, they will be ready to take on new challenges. Community participation can change their attitude about what is possible - probably the single most important element to creating change. It can take time and effort to make it possible for community members to contribute. They may have the skills to participate, but need to be motivated to do so. The rewards for the community, however, can be great. Many of the reasons for the community to embrace participation are reflections of the reasons why policymakers would want it. Some of them are: Community members can help policymakers understand their lives - the difficulties they face, the strengths they bring, and what they feel must be addressed. Participation allows community members to help create policy that really works to meet their needs. By participating in their development, community members can see policies put in place that actually improve their lives, rather than having no effect or imposing added burdens on them. Participation affords community members the respect they deserve. Rather than being seen as victims or nuisances, community members engaged in a participatory social planning process are seen as colleagues and concerned citizens working to improve their community.

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Participation puts community members in control of their own fate. Those who take part in the process both learn and exercise leadership skills, and also start to see themselves as having the capacity to be leaders. The most important step to leadership, and to taking action to influence events that affect you, is to believe that you have the ability to do so. Participation energizes the community to take on other issues or policy decisions in the future, and to see itself as in control of its future. Thus, the community development process will continue over time. Participation leads to long-term social change. As community members take more control over more areas of their lives, as a result of the skills and attitudes gained from the participatory process, they will create and institutionalize changes that improve the quality of life for everyone in the community. As discussed briefly above, policymakers can pay lip service to community participation while getting around it or ignoring it. There are, in fact, levels of community participation, and each might be appropriate at different times and in different circumstances. The community asks for it. It may ask policymakers or an outside source for help. In other cases, however, the process may be a response to an ongoing condition e. There is a long-standing major issue - poverty, violence, housing, hunger, etc. Because of media publicity or public opinion, elected officials, agencies, or others in a position to do something about it feel the need to respond. Extreme poverty has always existed in the U. Poverty in the United States. The book shocked many Americans, who had been unaware of how serious the problem was, and forced the government to take action. There are resources made available to address the issue. The federal, state, or local government may decide to appropriate funds for a specific purpose, for instance, or a large foundation might turn its attention - and financial resources - to a specific issue. The Gates Foundation is currently putting huge amounts of money into eradicating various diseases in the developing world, a fact that makes it necessary to create structures for evaluating research, distributing medication, teaching prevention techniques, and otherwise spending the money effectively. A powerful figure - a president or prime minister, a leader in Congress or Parliament, a governor, a mayor - is concerned about a particular problem, issue, or population, and determines to do something about it. A strategic or economic planning process that policymakers engage in determines that a particular issue must be addressed, or that particular communities or populations need some kind of assistance.

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## Chapter 2 : Retention tags and retention policies in Exchange Server | Microsoft Docs

*Of all the expenses a small business incurs, few are as significant and perhaps avoidable as employment-related litigation. Business owners who take a consistent and thorough approach to workplace policies, HR documentation, and management training can be less likely to find themselves facing employment litigation.*

At various times, other factors have contributed as well. The increase in U. These increases, in turn, are a product of the proliferation in nearly every state and in the federal system of laws and guidelines providing for lengthy prison sentences for drug and violent crimes and repeat offenses, and the enactment in more than half the states and in the federal system of three strikes and truth-in-sentencing laws. The increase in the use of imprisonment as a response to crime reflects a clear policy choice. In the s and s, state and federal legislators passed and governors and presidents signed laws intended to ensure that more of those convicted would be imprisoned and that prison terms for many offenses would be longer than in earlier periods. No other inference can be drawn from the enactment of hundreds of laws mandating lengthier prison terms. The Growth of Incarceration in the United States: Exploring Causes and Consequences. The National Academies Press. A has increased the percentage of convicted violent offenders sentenced to prison; B has increased the average prison time which will be served in prison by convicted violent offenders sentenced to prison; C has increased the percentage of sentence which will be served in prison by violent offenders sentenced to prison. Yet while individual laws clearly reflected a policy choice to increase the use and length of incarceration, it is unlikely that anyone intended, foresaw, or wanted the absolute levels of incarceration that now set the United States far apart from the rest of the world. In this chapter, we describe and then assess the development of U. The first section reviews the profound shifts in the U. The second section details principles of justice that have undergirded punishment policies in the United States and other democratic countries since the Enlightenment and demonstrates that many policies enacted over the past 40 years are inconsistent with those principles. The third section examines the disjunction in recent decades between policy-making processes and the available social science evidence on the effects of punishment policies. The fourth section surveys and analyzes disproportionate and damaging effects of recent U. In , the incarceration rate had been falling since see Figure in Chapter 2. The federal system and every U. Indeterminate sentencing had been ubiquitous in the United States since the s. Statutes defined crimes and set out broad ranges of authorized sentences. Sentence appeals were for all practical purposes unavailable. Because sentencing was to be individualized and judges had wide discretion, there were no standards for appellate judges to use in assessing a challenged sentence Zeisel and Diamond, For the prison-bound, judges set maximum and sometimes minimum sentences, and parole boards decided whom to release and when. Prison systems had extensive procedures for time off for good behavior Rothman, ; Reitz, Few people questioned the desirability of indeterminate sentencing. Within a few years, however, the case and support for indeterminate sentencing collapsed. University of Chicago law professor Albert Alschuler described the sea change: Criticisms of indeterminate sentencing grew. Researchers argued that the system did not and could not keep its rehabilitative promises Martinson, Unwarranted disparities were said to be common and risks of racial bias and arbitrariness to be high e. Critics accused the system of lacking procedural fairness, transparency, and predictability Davis, ; Dershowitz, Others asserted that parole release procedures were unfair and decisions inconsistent Morris, ; von Hirsch and Hanrahan, Not all objections focused primarily on consistency and procedural fairness. A first set of sentencing guidelines developed by the Pennsylvania Sentencing Commission was rejected by the legislature after conservatives characterized them as being insufficiently severe Martin, Those criticisms sparked major changes in American sentencing and punishments, and ultimately in the scale of imprisonment. In retrospect, three distinct phases are discernible. The second phase, from the mids through , aimed primarily to make sentences for drug and violent crimes harsher and their imposition more certain. Three strikes laws typically required minimum year sentences for people convicted of a third felony. State truth-in-sentencing laws typically

required that people sentenced to imprisonment for affected crimes serve at least 85 percent of their nominal sentences. The third phase, since the mids, has been a period of drift. The impetus to undertake comprehensive overhauls or make punishments substantially harsher has dissipated. No states have created new comprehensive sentencing systems, none has enacted new truth-in-sentencing laws, and only one has enacted a three strikes law. Mandatory minimum sentence laws have been enacted that target carjacking, human smuggling, and child pornography, but they are much more narrowly crafted than were their predecessors. Most of these laws are relatively minor and target less serious offenses. The National Conference of State Legislatures for many years compiled annual summaries of uncertain comprehensiveness and maintains a searchable database beginning with developments in [http: The Sentencing Project](http://www.ncsl.org/publications/sentencing/) e. None of these, however, is comprehensive or cumulative. Page 74 Share Cite Suggested Citation: In the first of these examples, severe mandatory penalties for many offenses continued to be required New York State Division of Criminal Justice Services, ; in the second, a lower but still high "to-1" drug quantity differential for offenses involving pharmacologically indistinguishable crack and powder cocaine was established Reuter, Changes Aimed at Increased Consistency and Fairness Sentencing reform initiatives proliferated in the aftermath of the rejection of indeterminate sentencing. These initiatives were followed by statutory determinate sentencing systems and presumptive sentencing guidelines. Parole Guidelines Parole guidelines were the first major policy initiative of the sentencing reform movement, although one foot remained firmly in the individualization logic of indeterminate sentencing. In the s, the U. Parole Board and boards in Minnesota, Oregon, and Washington created guideline systems for use in setting release dates. Sentencing Commission, , p. In federal fiscal year , nearly 40 percent of defendants sentenced under mandatory minimum sentence laws benefited from this provision U. Sentencing Commission, b, Table Page 75 Share Cite Suggested Citation: The four pioneering systems were abandoned in the s, replaced in each case by presumptive sentencing guideline systems that also sought to achieve greater procedural fairness and consistency. One advantage of parole guidelines is that they can make case-by-case decision making within a well-run administrative agency faster, less costly, and more easily reviewable than decisions made by judges. A second advantage is that, as commonly happened during the indeterminate sentencing era, parole boards can address prison overcrowding problems by adjusting release dates e. A major disadvantage, however, is that parole boards have authority only over those sentenced to imprisonment. Parole guidelines can reduce unwarranted sentence-length disparities among prisoners, but not between them and others sentenced to local jails or community punishments. Voluntary Sentencing Guidelines During the s, local courts and, occasionally, state judiciaries in most states created systems of voluntary sentencing guidelines Kress, ; National Research Council, Most early voluntary guideline systems were abandoned or fell into desuetude. Evaluations through the late s, most notably of judicially crafted systems in Maryland and Florida, showed that they had few or no effects on sentencing decisions or disparities Rich et al. Voluntary guidelines have attracted renewed interest because of two recent U. Supreme Court decisions U. A small number of states now operate voluntary guideline systems, but credible research evidence on their effects on sentencing disparities is not available. However, prison population growth in two especially well-known systems using voluntary guidelines "in Delaware and Virginia" has long been below national averages. Page 76 Share Cite Suggested Citation: California came second, enacting the Uniform Determinate Sentencing Act of ; the act abolished parole release and set forth recommended normal, aggravated, and mitigated sentences for most offenses. Evaluations concluded, however, that the laws had little if any effect on sentencing disparities Cohen and Tonry, ; Tonry, No additional states have created comprehensive statutory determinate sentencing systems since the mids. Presumptive Sentencing Guidelines In , Minnesota enacted legislation to create a specialized administrative agency "a sentencing commission" with authority to promulgate presumptive sentencing guidelines. Judges were required to provide reasons for sentences not indicated in the guidelines; the adequacy of those reasons could be appealed to higher courts. Oregon, Pennsylvania, and Washington created similar systems in the s. Evaluations showed that well-designed and -implemented presumptive guidelines made sentencing more predictable, reduced

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racial and other unwarranted disparities, facilitated systems planning, and controlled correctional spending Tonry, , Chapter 3. Kansas, North Carolina, and Ohio created similar systems. The population constraint policies worked. During the periods when they were in effect, those states experienced prison population growth well below national averages. The primary policy goal of the early presumptive guideline systems was to reduce disparities and unfairness Lieb and Boerner, ; Frase, ; Kramer and Ullmer, The approach was proceduralist and technocratic, focusing primarily on the development of procedures for improving consistency and predictability and of population projection models for use Page 77 Share Cite Suggested Citation: This aim was realized: Population constraint policies made obvious sense to the early sentencing commissions and the legislatures that established them. From the mids through , policy making in this area ceased to be significantly influenced by concerns about evidence, fairness, and consistency. In Minnesota, the legislature instructed the commission to abandon its population constraint policy. In Oregon, the committee that had drafted and monitored the guidelines was disbanded, and the guidelines were trumped by a broad-based mandatory minimum sentence law enacted in The Pennsylvania Commission on Sentencing survived, but state supreme court decisions effectively converted the nominally presumptive guidelines into voluntary ones Reitz, ; Kramer and Ulmer, More generally, presumptive sentencing guidelines fell from favor. The three most recent presumptive guideline systems—those of Kansas, North Carolina, and Ohio abandoned in —were established in the mids. A few voluntary systems have been developed since then. A number of studies have concluded that sentencing guidelines, especially with population constraints, help control the size of the prison population. Marvell compared prison population growth from to in nine states that had voluntary or presumptive guidelines with the national average and concluded that guidelines based on population constraints produced lower rates of population increase. Nicholson-Crotty , using prison data for in a state analysis, concluded that guidelines based on capacity constraints tend to moderate growth in incarceration and that guidelines not based on such constraints exacerbate it. Stemen and colleagues analyzed state sentencing patterns in the period and concluded that states that adopted presumptive guidelines and abolished parole release had lower incarceration and prison population growth rates than other states. The promulgation of federal sentencing guidelines, which took effect in , signaled the end of the phase of modern U. The Sentencing Reform Act of directed the U. Commission on Sentencing to develop guidelines for reducing disparities, to provide for nonincarcerative punishments for most nonviolent and nonserious first offenses, and to be guided by a prison population constraint policy.

## Chapter 3 : 5 Law & Policy - The Open Standards for the Practice of Conservation

*Best practices for addressing A.I. in vendor contracts, including assignment of liability and indemnification obligations. Who you will hear: John Frank Weaver, is an attorney whose practice focuses on AI and autonomous technology.*

In , the U. Sentencing Commission established the most recognized standards for an effective Program within its Sentencing Guidelines Manual "Guidelines". These Guidelines are closely aligned with the principles set forth in compliance guidance that various agencies have developed over time. These include guidance related to investment companies , companies interacting with foreign officials , hospitals , nursing homes , pharmaceutical companies, and government contractors to name a few. These Guidelines and this guidance have been used by organizations to design and implement their Programs. While there is no "one-size-fits-all" Program for every organization, there are several core components that must exist to have an effective Program. These components are set forth below. The foundation of these controls should be a code of conduct. The code should contain an overall description of the program and address in a practical manner the compliance risks that are relevant to the organization. It should identify clearly those who are responsible for administering the program, the role of the governing authority, and provide general guidance on the business behavior expected of all employees. The code should also identify clear channels for reporting misconduct or violations of the code, and make clear that disciplinary action will be taken if an employee violates the code. In addition to the code, an organization needs to have more specific policies and procedures to provide detailed guidance on the approach the organization wants employees to follow, or avoid, in its business relationships. These can be policies that address areas such as conflicts of interest, political contributions, agent and vendor due diligence, internal accounting practices, anti-corruption expectations, record retention, government funded projects, export controls, and custom issues. Depending on the industry, there are several guidance manuals, such as those identified above, that attempt to explain the types of areas that should be addressed. Specific individuals among high-level management should be assigned overall responsibility for the Program. One or more individuals should be assigned responsibility for the "day-to-day" operations of the program. Those individuals should have direct access to the governing authority and report to it periodically. This direct access is necessary to ensure that compliance information is channeled to those with the ultimate accountability for the organization. Those responsible for running the program should have adequate resources to operate the program effectively. What is deemed adequate will vary depending on the size and operations of the organization. It is further expected that corporate leadership strive to foster a culture that promotes compliance with the law. This "culture of compliance" can be achieved through publicly rewarding compliant behavior and making clear that the reporting of non-compliant behavior benefits the organization and will not be met with retaliation. Reasonable Efforts to Exclude Bad Actors From Managerial Ranks An organization should take reasonable steps to ensure that individuals with substantial authority have not engaged in illegal activities or conducted themselves in a manner inconsistent with the Program. This would include background checks and following up with prior employers or references in connection with hiring and promoting. The EPLS identifies those tagged with administrative and statutory exclusions across the entire government, as well as individuals barred from entering the United States. Similarly, an organization that receives revenue or payments from federal healthcare programs, like Medicare and Medicaid, should consider steps to ensure that employees are not listed on the OIG Excluded Parties List. This list is maintained and published by the OIG and lists all persons and entities who have been "excluded" from participation or involvement in federal health care programs. Proper training typically includes training on the code of conduct, and basic components of the compliance and ethics program. Depending on the size of the organization, additional specialized training should also take place for the various policies and procedures applicable to specific employees who need them to properly perform their jobs. It is recommended that training be tracked, attested to, documented, and followed-up. This is an essential component of the Program as it allows the organization to evaluate whether it

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is effective and is being followed. In general, the audit should assess compliance with the code of conduct as well as the policies and procedures adopted to promote adherence with laws and regulations. Whether the audit is conducted internally by someone within the organization or by an outside entity, it should be done by individuals who are independent from the area being audited. Effective lines of communication with employees regarding compliance concerns, questions, or complaints are critical. Employees must be comfortable speaking with a compliance officer or management regarding compliance concerns that may arise. Utilizing a reporting system, such as a hotline or helpline, is important to provide a means for employees and agents to report or to seek guidance about potential or actual improper conduct. The Guidelines and several compliance guidance also recommend that the reporting system incorporate a non-retaliation policy and that an organization should allow for anonymous or confidential reporting. The non-retaliation policy should be clearly documented, communicated to employees, included in training, and strictly enforced. Few things will chill a compliance reporting process more than if employees perceive that they will be punished in some way for reporting problems or asking for guidance. What is an appropriate incentive on disciplinary action will be "case specific. Appropriate disciplinary actions could range from a reprimand with additional training, to a demotion, to termination. Ultimately, in order to be effective, the incentive or disciplinary action should be proportional to the conduct. The failure to prevent or detect improper conduct in and of itself does not mean that a Program is ineffective. Thus, it is important for appropriate remedial measures to be taken. Such measures may include anything from disciplinary measures aimed at the person responsible for the improper conduct to modifying the compliance Program that is currently in place. This assessment usually entails evaluating factors such as audit results, recent litigation or settlements, compliance complaints, employee claims, industry enforcement trends, and the existence and sufficiency of policies covering an area. Organizations are now implementing formal risk assessment processes, whereas before they were frequently done more informally. The organization should map the results of a risk assessment on a "matrix" to show the level of risk for each area examined, the likelihood of a violation and the likely damage to the organization from a violation. These "risk matrices" should then be used to help prioritize program activities for the coming year. An organization should conduct a risk assessment at least once a year. Conclusion The importance and complexity of compliance programs have skyrocketed in recent years. It has become a key element for employees, investors, regulators, and everyone interested in running, protecting, and evaluating an organization. Although some of the best guidance comes from the federal sentencing guidelines, by the time a problem gets to the sentencing stage, it is far too late to implement a compliance program. These eight components provide the essential foundation to begin -- today to protect any highly regulated organization. The time to start is now.

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## Chapter 4 : Policies | Starbucks Coffee Company

*The answer is found in between, with the right number and types of policies and practices that are focused on a primary goal--improving individual performance in the workplace.*

Posted in Employee Benefits Traditional leave programs segregate time off into categories like vacation, sick time and personal time requiring HR professionals to track both the time off and the reason it is being taken. Sick time abuses are addressed by tightly monitoring the reasons for sickness-related absences and disciplining employees for excessive absenteeism. Once PTO is exhausted, time off is unpaid and subject to the attendance discipline policy. This certainly sounds like a great idea, but here are some practical and legal considerations in converting from a traditional sick pay program to a PTO plan: Changes in leave policies should be coordinated with either the end of the leave year period or some other workplace change like moving to a four-day workweek. For employers using anniversary date leave years, it is too difficult administratively to run dual programs, so they should pick a date and change over for everyone. Effect on Four-Day Workweeks Employers need to remember that a change in workweek from five eight days to four day ten hour days also affects time off policies. However, a workday, which used to be an 8-hour day, is now a hour day. Converting the whole PTO bank to hours can address this situation. What Are The Legal Issues? Addressing the Perception of a "Take Away": Converting to PTO means combining vacation, sick days, personal days, and other time off into one bank. Employers almost never credit the entire amount of sick time to PTO banks. Therefore, employers need to address the perception that employees are losing sick time. I have found that referring to the statistic mentioned in the prior posting average 8 sick days, use 5 makes some sense. Dealing with Accumulated Sick Time: Some employers allow the accumulation of unused sick time as an incentive not to use it. This practice drives accountants crazy. The accumulated time may be used in some of the following ways: Employers may seize the opportunity to clean up their balance sheet and pay out a portion of the accumulated time or convert it to PTO. This approach softens the blow of the perceived take away mentioned above. Be careful not to create a claim for unpaid fringe benefits under the Pennsylvania Wage Payment and Collection Law. Employees who use all of their PTO are unpaid for additional absences and are subject to discipline under the attendance policy. Some traps for the unwary include: FMLA administration becomes more challenging in a PTO program since the employer is not necessarily aware of the reason for an absence. A serious health condition under the FMLA triggers an obligation to notify an employee of his or her FMLA rights and starts the counting of the time against the 12 weeks of leave. Some sick leave policies were designed to integrate with the waiting period for STD benefits. A move to PTO creates a disconnect. The disconnect can be mitigated by allowing an employee with accumulated sick time to use it to satisfy the waiting period if he or she becomes eligible for STD benefits. Otherwise, PTO or unpaid time is used during the waiting period. Employers might address hardships by creating a PTO donation program where employees may donate unused PTO to a fellow worker who needs additional time. An employee who is fired for excessive absences after "squandering" PTO, may still be eligible for unemployment if the absence that gave rise to termination was for a legitimate illness. A written policy on PTO is strongly suggested and it should address at least the following areas:

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### Chapter 5 : Establishing an Effective Compliance Program: An Overview to Protecting Your Organization

*3 Policies and Practices Contributing to High Rates of Incarceration. High rates of incarceration in the United States and the great numbers of people held in U.S. prisons and jails result substantially from decisions by policy makers to increase the use and severity of prison sentences.*

Litigation can take a long time to succeed. In the case of tobacco, it began in the s, but the first verdict to be upheld and result in payment by industry did not occur until In the meantime, however, good things can happen. Litigation can raise awareness among the public or policy makers about a problem or the occurrence of misconduct. The discovery process, in which litigants exchange documents and other evidence to prove or disprove claims, can shed light on industry practices. Litigation can increase prices or costs for manufacturers, which can reduce consumption. Whistleblowers may emerge from within companies to tell their stories in public. And all of these consequences can cause the media and legislators to take a hard look at an industry. Hearings on tobacco in the s, for example, made a deep public impression and damaged the industry even before any cases had been won. Regulatory rulemaking and legislation are much more direct and conventional means of achieving specific public health policy goals. Progress is being made on various fronts, although perhaps not as rapidly as people would like. In the case of food, litigation may be a valuable complement to rather than a replacement for legislation, regulation, and industry change. The first obesity cases were filed in the early s as people became more aware of the obesity problem. The first was a case on behalf of a man named Barbar, who sued a number of fast food companies. That case was quickly dismissed, but a subsequent case, *Pelman v. Gottlieb* recounted that the case was based partly on consumer protection grounds but also on traditional product liability approaches around negligence and failure to warn, as might be the case in a lawsuit against cigarette manufacturers. The campaign against obesity-related litigation dwelled on some of the differences between tobacco and food. Cigarettes cannot be healthy, whereas foods can. Also, there are so many foods and so many food manufacturers and distributors Page 53 Share Cite Suggested Citation: Legal Strategies in Childhood Obesity Prevention: The National Academies Press. The use of consumer protection laws to prevent obesity can be much more effective, suggested Gottlieb. Such laws complement the authority of the Federal Trade Commission FTC by giving state attorneys general and, often, private parties rights of action to prevent unfair and deceptive practices in sales and marketing at the state level. In some cases and in some states, class actions are also available, so many consumers who were deceived can bring a single case. Despite these differences, Gottlieb explained, all states prohibit representations that may mislead or deceive consumers. Several recently decided cases in California used consumer protection laws in an effort to protect child health. In , the case *McKinniss v. General Mills* targeted the makers of Trix Yogurt, Sunny Delight, and Froot Loops for deceptively implying the presence of fruit in their products. However, the court ruled that a reasonable consumer would never expect real fruit to be in these products. In , the case *Williams v. Gerber* produced the same result, but the decision was reversed on appeal when the Ninth Circuit Court ruled that a consumer should not have to check the Food and Drug Administration FDA -mandated Nutrition Facts panel to verify front-of-package representations. If the *McKinniss* case had been appealed to the Ninth Circuit Court, said Gottlieb, that earlier decision might also have been overturned, suggesting that further cases of this type could be successful. Food companies market both to parents and to children. Children can pressure their parents to buy something and also are the direct target of advertising. They spend billions of dollars on their own each year, and their primary spending category is sweets, snacks, and beverages. He noted that consumer protection laws protect the target of the marketing, whether children or parents. The use of state consumer protection law requires understanding whether the purchaser was misled or deceived. Thus, the threshold may be easier to meet for children than for adults. An argument can be made that any kind of marketing to younger children is inherently unfair because they are unable to distinguish advertising from content. For example, one lunch product contains messages for parents on the front of the package that the product is good for children,

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and the back of the package is dominated by cartoon characters. Yet the Nutrition Facts label on the side of the package notes that the product contains milligrams of sodium and 20 grams of sugar. State consumer protection laws may be able to fill that regulatory gap by helping to protect children from unfair marketing practices. State consumer protection litigation is currently underused, said Gottlieb. It can change practices, educate the public, and engage regulators and policy makers. Attorneys general in every state are empowered under state consumer protection law to investigate and enforce laws, and private groups can act to push back against unfair marketing practices in states with strong consumer protection statutes. Obesity has many potential causes beyond overeating and lack of exercise. Viruses, endocrine disruptors in the environment, or maternal obesity may contribute to childhood obesity, for example, and the physical infrastructure of society makes it difficult to walk and easy to drive. Reducing obesity will require many steps, including improving maternal health, eliminating chemicals from the environment, removing junk foods from schools, changing advertising, and enhancing education. Jacobson observed that litigation has many limitations. Lawsuits generally target just one company at a time and require considerable resources. Page 55 Share Cite Suggested Citation: At the same time, litigation does have a role. A lawsuit can reverberate elsewhere. For example, if one company is sued with a successful outcome, other companies may change their practices to avoid future lawsuits. CSPI began using litigation several years ago after hiring a director of consumer protection who worked in state attorney general offices in Texas and New York. It has brought or threatened lawsuits involving unsafe ingredients, deceptive labeling, and information not provided to consumers that is material to their choices in the marketplace. Some of these lawsuits were related to obesity, although usually in an indirect way. Meetings continued for about 6 months to address such issues as diet drinks, after-school purchases, and vending machines near gymnasiums. Finally, CSPI set a 2-week deadline for reaching a final agreement on the parameters of a settlement. Jacobson recounted that this precipitated a swift reaction from the beverage companies. It is hard to know how much the litigation was a factor in their decision, but I suspect that they would rather have been at a press conference with President Clinton than with CSPI. A CSPI survey found that many of the foods marketed to children on Saturday morning television were high in sugar, sodium, and fat. The announcement generated considerable publicity and eventually a settlement. The agreement was not entirely satisfactory to either side, Jacobson said. Jacobson noted that CSPI was even willing to allow more sugar if whole grains were used, but the company would not agree to this compromise. Government is also a potential target of litigation, although Jacobson noted that it is difficult to prevail against the government. It is easier to sue the government for delays in responding to petitions or implementing regulations. For example, 5 years ago CSPI petitioned the FDA to require health notices on such products as cigarettes and sugar-sweetened beverages. After 5 years the FDA has not responded to this petition. But that is another gambit in the litigation area. But it can be useful in making progress on specific issues in the battle against obesity or other health problems. Coercion does not yield good public policy, he suggested, and it does not build the consensus needed to make lasting policy changes. Courts generally adjudicate a single dispute based on the evidence presented by the parties in that case. As a result, litigation is narrow and case-specific and may give a distorted view of the larger issues involved. Litigation generally revolves around monetary damages, not around policy considerations, and it may not be able to effect broader change. Litigation also may lead to a result that suffices for the specific dispute but not as public policy. In that case, society at large may have to deal with the ramifications of an inadequate or slanted case presentation or resolution. An attorney has an ethical duty to the client he or she represents in a specific case, and that ethical duty may not be consistent with the duty to create public policy at a broader level. Also, because the laws in every state are different, different results may follow from the same facts in different jurisdictions. Those selected as jurors are expected to know nothing about the case or Page 57 Share Cite Suggested Citation: Then they are supposed to be able to answer questions to which science and medicine do not have the answers. Furthermore, decisions made at the trial level are not binding because they can be appealed. National class action lawsuits often cost millions of dollars to prosecute and to defend, and if policy issues are involved, costly appeals are

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almost always going to occur. If these costs are passed on to consumers, higher prices may reduce the use of an unhealthy product. However, Price cited the example of cigarettes, noting that even though they are extremely expensive today compared with what they cost in the past, people still buy them. Tobacco litigation took 40 years to yield the first productive results, and if and when damage payments are made, they usually go to the parties involved, not to policy or educational initiatives. Furthermore, there are no guarantees that classes will be certified in these cases. The courts have been certifying classes less frequently than in the past, and Price suggested that these cases are worthless to pursue without class action, because the problem is defined by its scale. Legal defenses against these cases can be very strong, suggested Price, and preemption also can be an issue. Moreover, defense lawyers, who Price said will be diligent and creative in their efforts, can challenge the validity of the scientific evidence. They often rely on the concept of personal responsibility to defend against lawsuits, an idea that resonates with juries, said Price. Litigation designed to prevent obesity differs in many ways from tobacco litigation. Tobacco in any form and any amount can be harmful to health, whereas food is not only good for health but essential. Addiction to tobacco is not the same as addiction to food, since without food no one could live. There is no question that tobacco can cause disease, but it is much more difficult to establish that obesity causes disease. Showing connections among food, obesity, and disease raises many other issues. Are working families responsible for obesity because there is less time to cook at home? Do food stamps used to buy soda cause obesity? Does obesity result from the failure to have good grocery stores in low-income neighborhoods?

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## Chapter 6 : Chapter 6: Policy Work, Legislative Advocacy and Litigation

*Enforcement & Litigation; from using neutral employment policies and practices that have a disproportionately negative impact on applicants or employees age 40 or.*

**Personal tags** Any number of personal tags **Note:** Many personal tags in a policy can confuse users. We recommend adding no more than 10 personal tags to a retention policy. A retention policy can contain both archive tags tags that move items to the personal archive mailbox and deletion tags tags that delete items. A mailbox item can also have both types of tags applied. The same retention policy is applied to the primary and archive mailbox. As mentioned earlier, a retention policy can have one DPT that uses the Move to archive action and one DPT that uses either the Delete and allow recovery or Permanently delete action. For example, you can use a DPT with the Move to archive action to move items to the archive mailbox in two years, and a DPT with a deletion action to remove items from the mailbox in seven years. Items in both primary and archive mailboxes will be deleted after seven years. For more details, including a list of retention tags linked to the policy, see [Default Retention Policy](#).

**Managed Folder Assistant** The Managed Folder Assistant, a mailbox assistant that runs on Mailbox servers, processes mailboxes that have a retention policy applied. It then stamps items subject to retention with the appropriate retention tags and takes the specified retention action on items past their retention age. The Managed Folder Assistant is a throttle-based assistant. The system resources they can consume are throttled. You can configure the Managed Folder Assistant to process all mailboxes on a Mailbox server within a certain period known as a work cycle. Additionally, at a specified interval known as the work cycle checkpoint , the assistant refreshes the list of mailboxes to be processed. During the refresh, the assistant adds newly created or moved mailboxes to the queue. You can also use the `Start-ManagedFolderAssistant` cmdlet to manually trigger the assistant to process a specified mailbox. You can also disable a retention tag to temporarily suspend items with that tag from being processed. If the item has a tag explicitly assigned to it, the tag always takes precedence over any folder-level tags or the default tag.

**Applying a retention tag to a folder in the archive** When the user applies a personal tag to a folder in the archive, if a folder with the same name exists in the primary mailbox and has a different tag, the tag on that folder in the archive changes to match the one in the primary mailbox. For example, the user has a folder named Project Contoso in the primary mailbox with a Delete - 3 years tag and a Project Contoso folder also exists in the archive mailbox. If the user applies a Delete - 1 year personal tag to delete items in the folder after 1 year. When the mailbox is processed again, the folder reverts to the Delete - 3 Years tag. Existing items that have been stamped with that tag continue to be processed by the Managed Folder Assistant based on those settings and any retention action specified in the tag is applied to those messages. However, if you delete the tag, the tag definition stored in Active Directory is removed. This causes the Managed Folder Assistant to process all items in a mailbox and restamp the ones that have the removed tag applied. Depending on the number of mailboxes and messages, this process may significantly consume resources on all Mailbox servers that contain mailboxes with retention policies that include the removed tag.

**Disabling a retention tag** If you disable a retention tag, the Managed Folder Assistant ignores items that have that tag applied. Items that have a retention tag for which retention is disabled are either never moved or never deleted, depending on the specified retention action. For example, if you want to troubleshoot retention tag settings, you can temporarily disable a retention tag to stop the Managed Folder Assistant from processing messages with that tag. **Note** The retention period for a disabled retention tag is displayed to the user as Never. The same is true for tags with the Move to archive action. You can temporarily suspend retention policies from processing a mailbox for a specified period by placing the mailbox on retention hold. When you place a mailbox on retention hold, you can also specify a retention comment that informs the mailbox user or another user authorized to access the mailbox about the retention hold, including when the hold is scheduled to begin and end. Retention comments are displayed in supported Outlook clients. For more information about mailbox storage quotas, see [Configure](#)

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storage quotas for a mailbox. During long absences from work, users may accrue a large amount of email. Depending on the volume of email and the length of absence, it may take these users several weeks to sort through their messages. In these cases, consider the additional time it may take the users to catch up on their mail before removing them from retention hold. You can create and deploy retention policies and educate users about the policies without the risk of having items moved or deleted before users can tag them. A few days before the warm up and training period ends, you should remind users of the warm-up deadline. After the deadline, you can remove the retention hold from user mailboxes, allowing the Managed Folder Assistant to process mailbox items and take the specified retention action. For details about how to place a mailbox on retention hold, see [Place a Mailbox on Retention Hold](#).