Understanding Human Resources Management A Canadian Perspective (Canadian) 1st edition Peacock Solutions Manual

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CHAPTER 2: Operating Within the Legal Framework

ESSENTIAL OUTCOMES

The purpose of this chapter is to provide the students with an overview of the legal aspects of human resources management. The chapter discusses the various federal and provincial employment laws and the impact of the laws and decisions of courts on the actions of all employees but particularly supervisors and managers. Human rights legislation and the complaint process of alleged violations will also be reviewed. Managers in all types of organizations must be aware of the laws and court rulings in this area in order to carry out their jobs in a responsible manner. And beyond the legislation, our society expects that employees be treated with respect, so following the law is actually good for business.

LEARNING OUTCOMES

After studying this chapter, students should be able to:

1 Explain the impact of laws on the behaviour and actions of managers.

2 Discuss the legal framework of HRM in Canada.

3 Describe discrimination and harassment in the workplace.

4 Outline the manager's role in creating a work environment that is free from harassment and discrimination.

5 Identify the general types of employment laws in Canada.

6 Explain the relationship between employment equity, diversity, and inclusion.

7 Discuss the concept of ethics in the management of human resources.

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KEY CONCEPTS

- Identification of federal and provincial employment laws
- Discrimination and harassment in the workplace
- How managers help create positive work environments
- Employment equity
- Diversity
- Ethics

STUDENT MOTIVATION

All organizations in Canada function under a legal framework. It is important for students to understand the laws that apply to work and employment.

BARRIERS TO LEARNING

Students may be unfamiliar with legislation in general. Because there are a number of employment laws, both federally and provincially, that can impact organizations students may have difficulty understanding how the laws interact. Students who have worked may have experienced a situation where the legality of the action was questioned and have reached certain conclusions. Through in-class activities and out-of-class work, students can become more familiar with employment laws and what these laws mean to them.

ENGAGEMENT STRATEGIES

Ways of engaging students at outset of class:

For current HR issues/topics and ideas of how to incorporate these into your teaching check out the bi-monthly blog post, *Inspired Teaching in Intro to HR*: http://www.nelson.com/introhrblog/

The following relates to LO 1:

- *Discussion*: Ask students to provide any experiences that they've had with a supervisor or manager at work that had a legal implication. Examples could be whether or not work provided overtime pay, whether they received vacation pay, or whether there was a situation of harassment or discrimination.

The following relates to LO 2:

- *Activity:* Using the information provided in Figure 2.1 ask students to name organizations in their city that would fall under the ***Canada Labour Code***. Examples may include Bell Canada, Bank of Montreal, CN Railway, Port Authority of Quebec, Rogers, Canada Post Corporation, Manitoba Pool Elevators, Shaw Radio Ltd., Air Canada, WestJet, and the Canadian Armed Forces. In addition, ask students to name companies that they know in their local community that would be covered by **provincial** legislation. McDonald's, Tim

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Hortons, and Hudson's Bay are examples of companies that are covered by provincial legislation. Probe students' understanding of the legislation that affects them at their place of work. Determine if students know how to access information about relevant employment laws in their province.

The following relate to L0 3:

- *Review:* Using Figure 2.2, probe students on their understanding of discrimination and what that means in the workplace.

- *Facilitate:* One of the Canada's more prominent gender discrimination cases is the class-action lawsuit filed by 400 female employees against the RCMP. Divide students into groups of four or five and ask them to research the matter and share their results in class ("More women alleging harassment want to join lawsuit against RCMP," *CBC News,* May 31, 2015, http://www.cbc.ca/news/canada/british-columbia/more-women-alleging-harassment-want-to-join-lawsuit-against-rcmp-1.3089534).

  The following article could also be used for facilitated discussion: https://globalnews.ca/news/4478901/gender-equality-in-canada-progress-made-but-work-still-needs-to-be-done/

- *Discussion:* Using the information in Ethics in HRM 2.1, ask students their opinions on whether the decision was ethical. This can also be set up as a debate, with one team arguing that the decision was ethical and another team taking the opposing view.

- *Discussion:* Ask students to identify an example of a bona fide occupational qualification (BFOQ) that they feel may be justified for business requirements. Some examples can be safety-sensitive positions, such as good eyesight for airline pilots, lack of colour blindness for people who work with electrical wiring, and a certain proficiency in speaking French in Quebec.

- *Discussion:* Ask students to read At Work with HRM 2.1 and then have students respond to the Critical Thinking Question. Determine if there is a consensus on the answer and then ask students to explain their reasoning.

The following relate to L0 4:

- *Discussion:* Using At Work with HRM 2.2, have students work in small groups to answer the Critical Thinking Question. Determine if there are any common themes or suggestions and ensure that students understand the financial consequences of human rights violations.

- *Discussion:* Use HRM and the Law 2.1 to probe students' understanding of the impact of someone actively participating in behaviours that could be considered harassing.

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- *Discussion:* Ask students to bring a newspaper or magazine article highlighting the issue of either sexual or workplace harassment.

- Also, determine if your college or university has a harassment policy and whether it applies to students. Discuss the implications of the policy on the student population.

- *One-minute paper:* Ask students to develop a harassment policy and/or program by using the guidelines in Toolkit 2.1. Students will share their results with the entire class. You may also wish to use this as an opportunity to further discuss bullying and psychological harassment.

The following relate to LO 5:

- *Discussion:* Ask students to explain the general nature of each of the employment laws.

- *Activity*: Have students select one of the employment practices detailed in Toolkit 2.2 and then conduct research to find a company that is currently using this practice.

The following relate to LO 6:

- *Discussion:* Referring to At Work with HRM 2.4, have students determine what else organizations could do to create an environment that supports diversity.

- *Invitation:* Using Ethics in HRM 2.2, engage students in a conversation on workplace practices to enhance diversity. Determine if students agree with the statement that "diversity initiatives are reverse discrimination."

The following relate to LO 7:

- *Activity:* Ask students to do an Internet search on "business ethics stories" and ask them to share a recent news items with the rest of the class.

- *Discussion:* Ask students to provide a definition for "whistleblowing" and determine if they've heard the word before; if so, ask students to describe the context in which they heard the word.

ASSESSMENT TOOLS

You may wish to make use of the test bank, web quizzes, or at the end of a class ask a student to summarize the key points from the lesson.

REFLECTION ON TEACHING

1. What worked? What didn't?
2. Were students engaged? Were they focused or did they go off on tangents?
3. Did my assessments suggest that they understood the key concepts?

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4. What could I do differently next time?
5. How can I gather student feedback?
6. How can I make this more relevant to students?

ADDITIONAL RESOURCES

Opening Vignette

The year 2018 marked a major milestone in Canadian history with the legalization of marijuana. Previously available only by prescription as a medical substance, cannabis was suddenly being distributed across the country in much the same way as alcohol and that legalization opened up the need for an entirely new industry. This is the story of Aurora Cannabis Inc., a company that has expanded in response to these changes. Cam Battley, Chief Corporate Officer, notes the various HR issues that have to be addressed, within the strict legal framework that the company must abide by.

Lecture Outline

Learning Outcome #1

Impact on Managers

Presentation Slide 5

Employment laws affect managers and what they are expected to do to successfully manage the people they are responsible for. Laws have been written to protect the employer and the employees. Besides addressing legal issues, laws can also be very emotional, such as human rights legislation. As a result, all employees, including supervisors and managers, need to be aware of their own personal biases.

Learning Outcome #2

Presentation Slide 6

The Legal Framework in Canada

Explain to students that Canada has two sets of legislation: federal and provincial. Provide some examples of organizations that are covered only by federal legislation (such as banks and airline companies).

Presentation Slide 7

Federal Employment Laws

Describe the two primary laws that apply to federally regulated companies: the *Canada Labour Code* and *Canadian Human Rights Act*. Explain to students that the *Labour Code* covers basic employment conditions, labour relations, and health and safety matters and that human rights legislation will be discussed in more detail later.

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Explain that human rights legislation for federal companies is the *Canadian Human Rights Act*. Point out that the Canadian Human Rights Tribunal administers the act. Explain that the Canadian Human Rights Tribunal (CHRT) works like a court of law but that it deals only with cases of discrimination. The Tribunal's main goal is to ensure that the act is applied fairly and impartially. Suggest to students that they may wish to look at some of the decisions and cases handled by the Tribunal. This can be done by accessing the Tribunal's website at www.chrt-tcdp.gc.ca.

Human Rights Legislation (Federal and Provincial)

Presentation Slide 8

Describe to students that human rights legislation has far-reaching implications for employment conditions in all Canadian organizations. Reinforce that human rights legislation is paramount over other employment laws, and therefore decisions on human rights complaints can and do influence other employment decisions.

- Explain that Human Rights legislation addresses the following key concepts, which will be explored in greater detail in the upcoming slides: Discrimination (intentional or unintentional), Bona fide occupational requirement, Reasonable accommodation, and Harassment.

Learning Outcome #3

Systemic Discrimination

Presentation Slides 9-10

Explain that the core of human rights legislation is prohibiting discrimination. Use Figure 2.2 to determine the name and coordinates for the human rights agency in your province. You may wish to ask your students to determine which prohibited grounds exist in your province and compare them to the list be found at the Canadian Human Rights Commission website, www.chrc-ccdp.ca.

Help students understand that discrimination can be intentional (or direct) ("only males, 5 feet 7 inches in height, will be hired") or unintentional (indirect), such as advertising job openings only in English-speaking newspapers.

Bona Fide Occupational Qualification (BFOQ)

Presentation Slide 11

Explain that in certain situations employers are permitted to discriminate only if the employment preference is based on a **bona fide occupational qualification (BFOQ)**. A BFOQ is justifiable discrimination based on business requirements, including safety needs.

Duty to Accommodate and Reasonable Accommodation

Presentation Slides 12 - 13

Describe for students that **reasonable accommodation** is another concept that has arisen from human rights decisions. Employers are expected to change the working environment in order to avoid charges of discrimination. While early accommodation decisions focused on people with disabilities, it can now encompass any of the prohibited grounds of discrimination. Explain that

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employers must demonstrate flexibility in meeting certain needs of employees and that employers are expected to exercise that flexibility to the point of "undue hardship."

Reverse Discrimination ***Presentation Slide 14***

Conclude the discussion on discrimination by explaining **reverse discrimination**. Explain that employers can be accused of giving preferential treatment (such as making a concerted effort to hire more people with disabilities) leading others to feel as if they are being disadvantaged.

Harassment ***Presentation Slides 15 - 16***

Provide students with an understanding of workplace harassment by ensuring that they know and appreciate that harassment deals with behaviours that people in the workplace perceive as unacceptable. Explain that harassment is also against human rights legislation. Focus on your provincial human rights legislation and convey whether only sexual harassment or all forms of workplace harassment are covered, such as bullying.

You can also use the *Ontario Human Rights Code* to illustrate definitions of sexual harassment. Specifically, the code identifies: (1) when someone says or does things of a sexual nature that you do not want or welcome; (2) when a person who has authority or power to deny you something makes sexual suggestions or requests that you do not want or welcome; (3) when a person with authority or power to deny something punishes you, or threatens to do something to you, for refusing a sexual request.

You may also wish to reinforce that the concept of harassment has been broadened to include psychological harassment, more popularly known as "bullying." Probe your students about their experiences with bullying, especially when social media are involved.

Further explain that many organizations have developed harassment policies and programs to deal with harassment issues. Stress that for a harassment program to be successful, it must operate on the principles of confidentiality and zero tolerance.

Learning Outcome #4

Enforcement of Human Rights Legislation ***Presentation Slide 17***

Whether organizations are covered under federal or provincial human rights legislation, enforcement of the law is relatively similar. Agencies such as the Canadian Human Rights Commission or the Ontario Human Rights Commission have been created to deal with complaints concerning violations of the law. Explain that the legislation is complaint-driven, relying upon individuals to access the Commission with a formal complaint about discriminatory practices.

Use the flowchart in Figure 2.3 to guide students through the way complaints are finally determined.

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Learning Outcome #5

Employment Standards Legislation ***Presentation Slide 18***

Describe the range of obligations under employment standards legislation. As an extra exercise, you can have students access the website of their provincial legislation and explain what information is readily available.

Labour Relations Legislation ***Presentation Slide 19***

Explain to students that this legislation governs the conduct of trade unions and employers that are unionized. Inform students that all aspects of labour relations will be covered in Chapter 10.

Health and Safety Legislation and Workers' Compensation ***Presentation Slide 20***

Introduce students to the concept of legislation governing health and safety in the workplace. Also explain that employers can be required to continue paying an employee if the person is injured on the job. Remind students that this area will be explored further in Chapter 8.

Learning Outcome #6

Employment Equity ***Presentation Slides 21–22***

Explain that the federal government enacted legislation over 20 years ago to bring certain groups of people into the mainstream of Canada's labour force. These groups—women, visible minorities, people with disabilities, and Indigenous peoples—are considered disadvantaged in employment, and therefore the federal government passed laws to accelerate changes to match what was happening in Canada's multicultural society. Some of the disadvantages include high unemployment and limited opportunity for career progress.

Pay Equity ***Presentation Slides 23–24***

Pay equity came about from a 1978 amendment to the *Canadian Human Rights Act*. Under this amendment, it is illegal for federally regulated employers to discriminate based on job requirements. Explain that pay equity means "equal pay for work of equal value" and that it is based on two principles: (1) equal pay for equal work, (2) equal pay for similar or substantially similar work. The primary goal of pay equity is to eliminate the historical wage gap between men and women for similar work. Help students understand that it is difficult to find ways to value dissimilar work.

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Diversity and Inclusion

Presentation Slides 25–27

Explain that diversity management addresses the need to create a fair work environment that will use the potential of a diverse Canadian workforce. Describe that diversity management is voluntary, broader, and more inclusive than employment equity. Diversity management includes religion, personality, lifestyle, and education—in short, treating everyone as individuals and recognizing the unique contributions that each person can make to the success of any organization.

Explain that it is important to link any diversity initiatives directly to business objectives and goals. Further, explain that it is important to include training as part of any diversity approach so that people can learn to work with and relate to each other as individuals. Conclude by identifying that success in diversity management requires an organizational culture that respects and values differences. Review At Work with HRM 2.5 and the successes the Osoyoos Indian Band is having with its business initiatives.

Learning Outcome #7

Organizational Ethics

Presentation Slides 28 - 29

Review with students the definition of ethics and its applicability in a workplace. Ensure that students understand business ethics has gained much more prominence in the last 10 years as certain organizations were convicted of conducting business in a fraudulent way. Further, explain that the concept of whistleblowing also came into existence about the same time and is intended to provide a mechanism, particularly for employees, to report any wrongdoing by their employer.

Explain to students that throughout the text book they will be encouraged to review and discuss ethical issues relating to each specific topic/area with human resources management.

Emerging Trends

Before moving on to the end-of-chapter materials, you may wish to review Emerging Trends 2.1 with students. Ask them if they can identify other emerging trends.

ANSWERS TO END-OF-CHAPTER MATERIALS

HRM Close-up Application

1. What are the two primary federal employment laws that apply to Aurora Cannabis?

Students can discuss how the Canada Labour Code and/or the Canadian Human Rights Act and or the Personal Information Protection and Electronics Documents Act (PIPEDA) impacts Aurora Cannabis.

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2. What requirement did Health Canada initially require of Aurora?

Security, such as cameras and fencing, were required. Battley notes that Health Canada has dialled back these requirements.

3. What legal requirement did Aurora have to meet that was more stringent than for liquor producers?

See above noted comment regarding security requirements. Also, there were requirements for what are known as RPICs—responsible persons in charge—were that they have to be background-checked by the RCMP, and it's a deep, deep background check. See response to next question for further explanation.

4. What is an RPIC, and where was it required?

RPICs—responsible persons in charge—require employees to have a deep background-checked conducted by the RCMP. An RPIC must be conducted on employees working anywhere cannabis is present and Battley notes that "you can imagine in a cannabis production facility there are a lot of places that cannabis is present."

Critical Thinking Questions

1. Although people know that harassment and discrimination are illegal, why would an employee or potential employee be reluctant to complain?

An employee may be reluctant for fear of retaliation by the employer, including job loss, and a potential employee may fear a lost job opportunity. This is an opportunity to discuss the #MeToo movement, and surrounding issues, with students.

2. There is much concern about how people behave in the workplace and use words such as "respectful" to indicate how employees are to treat everyone. What does respectful look like to you?

Students will have a variety of answers. Ensure that students describe actions towards Treating each other. Determine if there are any common themes and use those themes for a more discussion.

3. You see a part-time job posted in your community for a tutor in a specific foreign language that also requires that the tutor be from the country of that language. Would being from a specific country be a justifiable BFOQ? Why or why not?

The person or organization seeking a tutor probably could not justify the requirement of being from a specific country. However, a justifiable BFOQ would be for the person to be fluent in the language.

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4. A friend of yours has heard you are taking a business course that focuses on human resources management and wants some help. Your friend, a parent of two small children, has learned that the daycare centre is changing its closing hours from 6:00 p.m. to 5:30 p.m. Your friend's work ends at 5:00 p.m., and it takes approximately 45 minutes to get to the centre. The organization at which your friend works has a large office complex with more than 1000 employees. Is this a case for reasonable accommodation? Why or why not?

The answer for the questions is probably "yes" due to the size of the organization and its ability to accommodate without undue hardship and that it would fit the prohibited ground of family status. Ensure that the students give reasons for their answers to justify whether they said yes or no and to specify what is the prohibited ground(s).

Building Your Skills

Exercises 1, 2, 3, and 6 are designed for use in class. Exercises 4 and 5 are intended for use outside of class and results may be shared with classmates.

NOTES FOR END-OF-CHAPTER CASE STUDIES

Case Study 1: The Bullying Has Got to Stop!

1. Was Sari bullied? Why or why not?

Students should note that managers are allowed to (in fact expected to) address occupational health and safety concerns with employees. Asking employees to follow requirements is not considered bullying.

2. Is there anything else that should be part of the investigation?

It must be determined if other managers are indeed allowing employees to work unsafely and if so, why there is no follow-up or consequences to this unacceptable/risky behavior.

3. If you were Sari, what would you do now?

Students should address the fact that Sari needs to follow all Occupational Health and Safety requirements. If Sari feels that there are other issues present (i.e., that she is being bullied) she can request that someone else (perhaps someone from HR) be present in any future conversations she has with her manager regarding this issue.

4. If you were the manager, what would do now?

Refer to response to question 3 above. Also, the manager must carefully document any conversations held with Sari. Sari should also be asked to these documents to acknowledge that these conversations have, in fact, been held with her.

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Case Study 2: Whistleblowing & the Environment: The Case of Avco Environmental

1. What should Chantale do?

While students might have a variety of opinions, ensure that they discuss the concept of "ethics" and the increasing concern of environmental issues.

2. What are the reasonable limits on loyalty to one's employer?

Students will have a variety of opinions. You might also wish to use this as a debate in class.

3. Would it make a difference if Chantale had a position of greater authority?

Students will have a variety of answers. It is quite possible that she would be in a stronger position to query Angela if Chantale had more authority.

4. Would it make a difference if Chantale had scientific expertise?

Depending on the nature of the scientific expertise, she may have a professional obligation to question the practice.

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