

LGO2222 Human Resource Management in LGO.

Collect and Rearrange By
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The Ethical Dimension of HRM Chapter 5.

Ethics in the workplace is increasingly important.

Employees are looking for workplaces that:

- Address sexual harassment proactively
- Address Diversity, Equity and Inclusion
- Have harmonious work environments

Employees turn to Human Resources to assure an ethical workplace

- Making an ethical decision requires three things:
 - **Commitment:** the desire to do the right thing even if it isn't easy
 - **Consciousness:** the awareness to act consistently and apply moral convictions to daily behavior
 - **Competency:** the ability to collect and evaluate information, develop alternatives, and foresee potential consequences and risks.

Josephson Institute of Ethics, UC San Diego

Ethics for the HR Professional

- Commitment: Policies that require ethical behavior – a code of conduct, sexual harassment policies, EEO policies
- Consciousness: Treating all employees fairly and equitably, following policies, and holding employees to a high ethical standard
- Competency: Hearing complaints, investigating, coming to reasoned decisions and implementing fair consequences
- Community: Employees are all in this together.

Issue #1: Illegal Behavior

- Under Arizona law, an employee (even an at will employee) states a claim for wrongful termination if the employee is terminated for:
- Refusing to violate state law or constitution or
- Disclosing information or a reasonable belief
 - That the employer has violated, is violating or will violate State law or the Constitution of Arizona
 - To a representative of the employer who the employee reasonably believes has the authority to investigate and take action
 - Or to a public body or state agency

ARS 23-1501(A)(3)(c)(i) and (iii)

“Whistleblowing”

- This provision of the Arizona Employment Protection Act addresses what people commonly refer to as whistleblowing. (There is also a federal law.)
- The HR professional is protected by this law, but is also usually a “representative of the employer” who an employee would expect to be able to investigate and address such a report.

Issue #2: Privacy & Confidentiality

- HR professionals deal with a lot of information that is confidential – from social security numbers to medical records.
 - Policies and practices should be clear to avoid ethical and legal problems.
 - Ethical obligations vs. legal rights
- But sometimes obligations are not that clear
 - “Can I tell you something in confidence?”
 - How do you answer?

Issue #2: Privacy & Confidentiality

- What if the employee asks you to keep it confidential after they tell you?
- How do you conduct an investigation without putting the reporting party or victim in danger of retaliation?
 - Can you investigate without revealing your sources?
- Make boundaries clear in policy and practice

Issue #3: Conflicts of Interest and Favoritism

- Conflicts of interest arise when a person has a personal interest in a professional decision.
 - Conflicts can be financial or personal.
- Favoritism is not illegal (unless it's discriminatory) but it creates a negative environment; it's unethical and unprofessional
 - Picking a vendor who is a friend, or who provides gifts, or treating one employee better than another

Issue #3: Conflicts of Interest and Favoritism

- Favoritism can lead to legal issues and a negative environment.
 - Claims of discrimination, lack of trust, lack of motivation, lack of cooperation.
- Policies should address these issues and be followed; Treat everyone fairly, which may not mean treating everyone the same.
 - Confidentiality issues
 - A reputation for fairness

Issue #4: Beyond Discrimination

- Ethics in the workplace goes beyond what is legal and involves what is right.
- Diversity and Inclusion: Ebay's Chief Diversity Officer says that, "If diversity is being invited to the dance party, inclusion is being invited to dance."
- Inclusivity in policies, practices, events, attitudes.

Issue #4: Beyond Discrimination

- HR professionals set the standard for diversity and inclusion in their organization.
 - Develop a list of company values
 - Provide training so employees know their rights, know what not to do, and understand what is fair.
 - Support bystander intervention – it takes everyone to make a respectful workplace

Issue #4: Beyond Discrimination

- Understand implicit bias:
 - Stereotypical associations that are so subtle that the actor is unaware of when they are triggered or how they have affected his or her actions
- Research has shown that:
 - Implicit biases are pervasive
 - People are often unaware of their implicit biases
 - Implicit biases predict behavior
 - People differ in levels of implicit bias

Issue #4: Beyond Discrimination

- Avoid defensiveness. Biases come from everything in our culture and personal histories. We can't help having them but we can learn to recognize them and work to overcome them.
- Implicit biases are more likely to shape decision-making in ambiguous situations where the decision-maker exercises discretion
 - Hiring selection
 - Work advancement
 - Termination
 - "Cultural fit"

Issue #4: Beyond Discrimination

- If everyone has implicit biases, why does this matter?
 - Can lead to discriminatory decisions
 - Acting on biases is not fair or right
 - Decisions not in the best interest of the company
- How can you address it in your workplace?
 - Think about your biases
 - Consider contradictory information
 - Learn about how implicit bias works
 - Assess your organization's culture– help build the culture you want

Brad Federman, *Blinded by Bias*, 24 No. 12 Ariz. Emp. L. Letter 5 (2018).

Issue #5: It's wrong, not illegal

- Several of the issues we have touched on involve conduct that is wrong but not illegal.
- In my practice, this is most often raised as an issue of harassment.
 - Sexual comments that fall short of "severe and pervasive"
 - Conduct that makes others uncomfortable
 - Harassment that is not based on a protected characteristic

Issue #5: It's wrong, not illegal

- Bad behavior leads to practical and legal problems:
 - Fear of reporting
 - A lack of trust
 - Continued behavior that becomes illegal
 - Complaints (internal and external) that have to be addressed

Issue #5: It's wrong, not illegal

- Good policies are your best tool in addressing bad behavior.
- Having the tough conversations avoids problems later.
- Find ways to be heard:
 - Reference policies and training
 - Evoke empathy
 - Make yourself clear

Issue #6: Bullying

- The Workplace Bullying Institute defines workplace bullying as, "the repeated, health-harming mistreatment of one or more persons (the targets) by one or more perpetrators."
- Bullying is abusive and can take place through threats, humiliation, intimidation, and interference with getting work done.

Issue #6: Bullying

- But is bullying illegal?
- Usually not. A boss or co-worker who bullies everyone is an equal opportunity harasser.
- Obviously, that doesn't make it okay.

Issue #6: Bullying

- How can an HR professional address bullying?
 - Can you address what is motivating the bully?
 - Set boundaries for all employees
 - Don't text or call outside work hours, e.g.
 - Document – including the impact of the conduct
 - Mediation
 - Discipline
 - Unethical can turn illegal: discrimination, assault, battery

Issue #6: Bullying

- The tough boss gives constructive criticism; the bullying boss gives destructive criticism.
- It all centers on the motive: Is the goal to intimidate or to inspire?

Issue #7: What if your Boss is the Bad Actor?

- Document – even if the boss does not want you to. This relates to documenting the boss's conduct and the conduct of others.
- Turn to your policies.
- Find allies where appropriate
- Do the right thing:
 - Go to the board
 - Report externally
 - File a charge of discrimination

Issue #8: Values Statements

- An ethics or value statement can set the tone for expectations and make the HR professional's job easier.
 - It provides a common ground for moving forward
 - It provides a standard by which to analyze behavior
 - It can help you hold people accountable

Issue #8: Values Statements

- When drafting a values statement, some questions to consider include:
 - What do we stand for?
 - What behaviors do we value above all else?
 - How will we conduct our activities to achieve our mission and vision?
 - How do we treat members of our own organization and our community?

<https://www.batonglobal.com/post/how-to-write-mission-vision-and-values-statements-with-examples>

Issue #8: Values Statements

- IKEA
 - Humbleness and willpower.
 - Leadership by example.
 - Daring to be different.
 - Togetherness and enthusiasm.
 - Cost-consciousness.
 - Constant desire for renewal.
 - Accept and delegate responsibility.

Issue #8: Values Statements

- Starbucks Coffee
 - Creating a culture of warmth and belonging, where everyone is welcome.
 - Acting with courage, challenging the status quo and finding new ways to grow our company and each other.
 - Being present, connecting with transparency, dignity and respect.
 - Delivering our very best in all we do, holding ourselves accountable for results.

A sample D&I Vision Statement

The New York Times Company is committed to diversity in its most inclusive sense, so it's not simply an issue of race or ethnicity. We seek to attract, develop and retain people from a rich variety of experiences, ethnic backgrounds and cultures. In a rapidly changing world, our diverse workforce will strengthen our competitive position in the global marketplace and help us to achieve our company's core purpose, which is "to enhance society by creating, collecting and distributing high quality news, information and entertainment."

Issue #9: Codes of Conduct

- A code of conduct goes beyond prohibiting conduct that could lead to liability; it establishes expectations for the workplace community.
- An excellent code of conduct will be drafted – and regularly reviewed – by an inclusive group of employees.
- Risk-mitigating legalese vs. a values-driven approach.

Issue #9: Codes of Conduct

- Key Ideas:
 - Your mission and/or values statements should be reflected in the code of conduct
 - Your code of conduct should be consistent with and reinforce policies on anti-discrimination, retaliation, harassment, confidentiality
 - Use plain language and examples where necessary

Issue #9: Codes of Conduct

- Identify options for resolving concerns
- Include a process for reporting complaints:
 - Offer more than one option
 - Consider an anonymous option
- Explain what will occur when a report is made
- Make it clear that retaliation for reporting will not be tolerated

Issue #9: Codes of Conduct

- Enforce the Code of Conduct and take complaints seriously.
- Follow up with concerns that have been addressed – 3 months later or as appropriate.
- Review and revise the Code of Conduct every year.

Concluding Thoughts

You are the voice of ethics in the workplace.

- Protect your company from intolerant, unethical and illegal conduct by providing an alternative perspective.
- Practices and policies that are inclusive and respectful are the best choice for employees and the organization both because they avoid costly legal battles but also because they improve morale, performance, and loyalty.

Concluding Thoughts

- Policies and Training are your two top tools in creating an ethical workplace:
 - Code of Conduct
 - Confidentiality
 - Anti-nepotism/conflict of interest
 - Anti-bullying
 - Anti-retaliation
 - Training on policies, discrimination, bystander intervention, and implicit bias

Concluding Thoughts

Recognize unethical behavior: this is not okay.

Intervene: “Remember when we talked about respectful workplace conduct?”

Show empathy: “I saw what was happening – what can I do to help?”