

LEGAL RIGHTS AND RESPONSIBILITIES

Laws Governing the Workplace

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After studying this chapter, you should be able to:

- Explain the sources of law that apply to human resource management;
- Distinguish between a binding and a persuasive judicial decision;
- Determine if a law or proceeding is criminal, civil, or administrative in nature;
- Identify the main laws that create the framework for human resource management and explain each one's purpose and basic requirements;
- Recognize employment practices that raise legal concerns; and
- Spot situations in which a human resource professional or lawyer should be contacted.

Your right to swing your arms ends just where the other man's nose begins.

—Zechariah Chafee

People do not have the same rights on their jobs that they have as citizens. Individuals who want to be employed must arrive on time, follow orders, accept limits on their speech and privacy, and conform to a variety of other rules, regulations, and norms. Those who manage must leave their personal prejudices at home and enforce workplace rules, such as safety protocols, even if they decrease productivity or are otherwise unpopular. Broadly conceived, the ultimate paradox presented by employment is this: To get something (money, responsibility, opportunity to make a difference), employees must give up something (liberty, time, discretion).

Most of the obligations and restraints that exist in the workplace have a basis in the law, some which are several centuries old and others which reflect a shift in society's values. Successful and valued leaders of organizations—public or private; big or small—must be familiar enough with the law and its application and effect to anticipate and prevent problems from developing into formal legal actions in the first place. Even a case successfully defended by an employer consumes enormous resources: time, emotion, money, and, in many cases, morale and culture of the organization. In other words, managers must embrace the law to avoid the law.

Those entrusted with supervising or managing others must master the laws which apply to the workplace for another reason: to gain the confidence to know when and how to act, even when that means making tough and potentially life-changing personnel decisions, such as discharging an employee. While these decisions are usually emotionally-charged and carry potentially high risk, an educated and confident manager can make decisions based on facts, not emotions, and use