

“Human Rights in the Workplace”

A workshop by C. Kilfoil

(This course can be taught as a 1, 1.5, 2 or 3-day version.)

LEARNING OUTCOMES

On completion of this course, participants will understand:

1. Why we have human rights laws, and their application to the workplace;
2. General concepts of human rights including equality; discrimination and harassment; systemic discrimination; protected human rights characteristics/prohibited heads of discrimination; employment equity and affirmative action; special programs; pay equity; bona fide occupational requirement (BFOR); prima facie discrimination. BFOR defence and others;
3. How human rights impacts how policies are developed and how collective agreements are negotiated;
4. How to process and resolve workplace discrimination/accommodation/harassment issues;
5. How the *B.C. Human Rights Code*, the federal *Human Rights Act* and the *Charter of Rights and Freedoms* are related;
6. The general interpretation of protected human rights characteristics;
7. How an employee may enforce their human rights;
8. How an employer may challenge a human rights complaint or alternatively defend itself against such complaints;
9. The defences and exceptions to discrimination in the workplace.
10. How to initiate and manage special programs and exemptions under human rights legislation.

Through applied exercises, participants will:

1. Become aware of potential human rights issues in the workplace to be able to deal with them proactively;
2. Feel confident in identifying discrimination and responding to it effectively through accommodation, training, policy development, and the like;
3. Be able to avoid or limit liability and costs in dealing with accommodation;
4. Feel confident in developing a pro-active workplace strategy to create and maintain a human rights-compliant workplace.

COURSE DESCRIPTION

This course is an overview of the human rights and obligations of employers, unions, and employees. The specific legal status of human rights legislation and the relationships of human rights legislation to employer's policies and collective agreements will be examined, as well as the procedures under which B.C. employees may enforce their human rights.

The legislation context will be examined with reference to the B.C. *Human Rights Code*, the federal *Human Rights Code*, and the *Charter of Rights and Freedoms*. The international context will be referenced through the Universal Declaration of Human Rights and the International Convention on the Rights of People With Disabilities.

The course will start with a discussion of the legal, social, and political context of human rights generally, referencing the history of human rights in Canada.

Key concepts examined include: equality; discrimination and harassment; systemic discrimination; protected human rights characteristics/prohibited heads of discrimination; employment equity and affirmative action; special programs; pay equity; bona fide occupational requirement; prima facie discrimination; BFOR defense, and others.

Using examples from case law we will review the general principles applicable to the practical application of human rights in our increasingly diverse workplaces. Specifically, we will examine:

- (a) ways in which otherwise neutral workplace rules or policies may have a discriminatory influence;
- (b) ways in which bullying and harassment are interpreted under human rights, workers' compensation, and arbitral jurisprudence;
- (c) ways in which the duty to accommodate arises and can be effectively handled;
- (d) how employers and unions can protect themselves from duty of fair representation and/or human rights complaints;
- (e) how to remove barriers in the hiring/selection/promotion/evaluation/training/work assignment process to insure a more inclusive and equal workplace;
- (f) how to develop effective human rights policies and practices in the workplace and foster, pro-actively, an inclusion and respectful workplace.