

*You have a job and now you are an employee. What are your rights?*

## **Understanding the Employment Standards Act of BC and the BC Human Rights Code (as it applies to employment)**

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### **Teacher Introduction**

The Planning 10 IRP refers to the Employment Standards Act of BC and the BC Human Rights Code as topics for consideration. Many students at this age are about to formally enter the workforce for the first time. This resource is intended to help students learn about the most important features of employment law and human rights as they apply in the workplace.

The most likely questions or concerns students have with regard to formal employment and entering the workforce are addressed by the scenarios. These include hours of work, rates of pay, vacation, lay off and termination, conditions of work, allowable deductions and various Human Rights concerns such as harassment, disability, religious issues and employers duty to accommodate.

The resource presents ten realistic workplace scenarios followed by statements of the problems that could arise from that scenario. The students' task is to prepare answers to the questions presented in the problem statements. With each scenario a website is provided that will give students quick access to the information they need to address the scenario and related problems.

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### **Background for Students**

When you are an employee in British Columbia you have certain rights and your employer has certain responsibilities that are set out in law. The law governing employee rights and employer responsibilities is called the Employment Standards Act of BC. This law sets out rules on such matters as hours of work, minimum pay, holidays and firing.

In addition to the Employment Standards Act you and your employer are affected by the BC Human Rights Code. This law covers issues such as discrimination, harassment and how rights such as religious practice are to be respected in the workplace.

These laws apply to every working person in BC including part-time or casual workers, regardless of age.

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### **Procedure**

Each of the following scenarios describes a common workplace situation. The scenario sets out a problem or issue that is covered by the Employment Standards Act (ESA) or the Human Rights Code. With each scenario is a link to a resource that will help you answer the questions that are presented in the "problem" section. Once you have investigated these scenarios you will have a good understanding of the important laws that affect you as an employee in this province.

# Scenario 1

<http://publiclegaled.bc.ca/snapfiles/Publications/Working%20in%20BC%20Final.pdf>

After working for a landscape company for the summer of 2008, James decided to use his experience and apply for a job with another landscaping company that was advertising for workers for the upcoming summer season. At his interview the owner of the company agreed to employ James at the \$6.00 an hour “training wage” permitted by the government. James pointed out that he had already worked for one summer at that wage and was hoping for a bit more.

## **The Problem:**

**James may be entitled to a higher wage if certain conditions apply.**

1. *What are those conditions?*
2. *If he is entitled to a higher wage what is the least an employer can pay him (per hour)?*
3. *What should James do if the owner offers to employ him at \$8.00 an hour but tells him he is working “under the table”?*
4. *Why should James be concerned about this arrangement? (What does “working under the table” mean and what is wrong with it?)*
5. *What are some reasons the owner might want James to “work under the table”?*

# Scenario 2

<http://publiclegaled.bc.ca/snapfiles/Publications/Working%20in%20BC%20Final.pdf>

After two weeks of work at \$10.00 an hour Jasmine receives her first pay cheque. She has worked a total of 70 hours so is expecting \$700.00. The cheque is for \$500.00 because of various deductions. Jasmine wonders if this is some kind of a rip-off and where her \$200.00 could have gone.

## **The Problem:**

1. *What deductions is an employer permitted or required to make from an employee’s pay cheque?*
2. *What information should Jasmine’s pay cheque have other than her actual pay?*
3. *What are some examples of deductions an employer is not permitted to make from employee pay cheques?*

## Scenario 3

<http://publiclegaled.bc.ca/snapfiles/Publications/Working%20in%20BC%20Final.pdf>

Sarah works as a server in a very busy restaurant. The manager often has problems keeping enough staff on the floor to attend to all of the customers. Sarah is frequently asked to miss her break. In addition, because of staff shortages, she is often called in to work after only one day off. She is also regularly asked to work a split shift beginning at 7:00 am for a breakfast service which ends at 11:00 am and then a dinner service beginning at 5:00 pm that often does not end until 10:00 pm. Sarah believes she should be paid some overtime but her employer claims she is getting extra tips from working longer hours and is therefore not entitled to overtime.

### **The Problem:**

**At least four of Sarah's rights under the Employment Standards Act are being violated.**

1. *What are they and what can she do about it?*

## Scenario 4

<http://publiclegaled.bc.ca/snapfiles/Publications/Working%20in%20BC%20Final.pdf>

Omar works for a small computer repair company. The hours are irregular, shifting between very busy and very quiet days at the shop. He does, however, often have to work more than 40 hours a week. His employer says he does not have enough money to pay him overtime but will make another arrangement to compensate him for extra time worked.

### **The Problem:**

1. *Under the Employment Standards Act what are the possible arrangements Omar and his employer could make to compensate Omar for extra time worked other than straight cash payment for overtime?*

## Scenario 5

<http://publiclegaled.bc.ca/snapfiles/Publications/Working%20in%20BC%20Final.pdf>

Roberto started working at a produce store as soon his exams ended on June 20. One of his friends told him that if he has to work on the Monday in August that is a statutory holiday (British Columbia Day) he is entitled to extra pay.

### **The Problem:**

1. *Is this true?*
2. *What is the rule in the Employment Standards Act that could apply in Roberto's case?*
3. *If he is entitled to extra pay, how much is it?*

## Scenario 6

<http://publiclegaled.bc.ca/snapfiles/Publications/Working%20in%20BC%20Final.pdf>

Natalie had thought for some time that her employer was not pleased with her work performance and they had a number of conflicts over recent weeks. One day the owner/ employer suggested Natalie should quit and that if she didn't, she would be fired. The owner also said that if she didn't quit, she would give Natalie a bad reference. Natalie is confused about what to do. Should she quit or wait for a Notice of Termination or severance pay?

### **The Problem:**

1. *What are the disadvantages to Natalie if she decides to quit?*
2. *What is the difference between Notice of Termination and severance pay?*
3. *What are the requirements of an employer when s/he decides to end your employment by firing you?*

## Scenario 7

<http://www.ag.gov.bc.ca/human-rights-protection/pdfs/DisabilityDiscrimination.pdf>

Peter has been working for most of the summer for a lumber yard/ building supply company. His main job has been to unload and warehouse deliveries. It is heavy, physically demanding work. One day while unloading a truck Peter injured his back. The injury has disabled him from doing his job in the warehouse. He is able to do other lighter work such as inventory or sales. His employer has told him, however, that if he can't do the warehouse job he will have to lay him off.

### **The Problem:**

1. *Is Peter's employer entitled to lay him off because of his injury?*
2. *According to the BC Human Rights Code, does Peter have any rights or protection from the Code in this situation?*
3. *If so, what could happen in this case and what feature of the Human Rights Code could apply to this case?*

## Scenario 8

<http://www.chrc-ccdp.ca/en/timePortals/milestones/148mile.asp>

Ashley has always wanted to work in the woods during the summer. She always thought that being a forest fire fighter would be an interesting and challenging job. When she turned 18, she applied for a job with a company that has contracts with the government to fight forest fires. As part of the qualification for the job she and all the applicants must meet a fitness requirement. The fitness standards are the same for males and females. Since Ashley and all the female applicants must meet the same fitness standard as the males, she is doubtful women will get any of the jobs.

### **The Problem:**

1. *Is an employer allowed to have a fitness requirement that expects all applicants, male and female, to meet the same standard?*
2. *What does current law describe as the allowable physical fitness requirements for employees. (These are called the “bona fides occupational requirements or BFORs”.*

## **Scenario 9**

<http://www.go2hr.ca/ForbrEmployers/Legal/HumanRightsCode/EmployeesReligiousNeeds/tabid/1008/Default.aspx>

Aziz is a practicing Muslim. He applied for a job at a gaming company as a game reviewer. At his interview he said it was important that he have a schedule that will allow him to attend his mosque on Fridays. The management of the company has told him they do not make special arrangements with employees for religious reasons such as his. Saturday and Sunday are the days the offices are closed and Aziz will have to make his religious observances on those days.

### **The Problem:**

1. *Is the company allowed to do this?*
2. *From what you can determine from the website provided, what would be the most likely outcome if Aziz were to challenge the company under the Human Rights Code of BC?*

## **Scenario 10**

<http://www.go2hr.ca/ForbrEmployers/Legal/HumanRightsCode/Harassment/tabid/628/Default.aspx>

Paula has been working as a cashier at a busy organic foods store for three months. During a coffee break one day her supervisor heard her tell one of her co-workers she was dyslexic. The next day the supervisor started making jokes to the other workers about Paula’s dyslexia.

### **The Problem:**

1. *Is this just teasing or is it something more serious?*
2. *What does the BC Human Rights Code say about personal harassment?*
3. *What is personal harassment and would the action of the supervisor be considered personal harassment?*
4. *What can happen to an employer if they do not do something about personal harassment in their workplace?*