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**The Top 5 Things Employers Need
to Know About
BC Human Rights Law**

by C. Nicole Mangan

1. “Employment” Covers Many Relationships

- The defined term includes “the relationship of master and servant, master and apprentice and principal and agent, if a substantial part of the agent’s services relate to the affairs of one principal”.
- Don’t assume that definition is complete!
- “Control” and other key factors can expand this term to capture many other relationships such as formal volunteer relationships and independent contractors.

2. No Discrimination “Regarding” Employment

- Section 13(1)(b) of the Code requires that “a person must not . . . discriminate against a person regarding employment or any term or condition of employment”.
- This captures a broad range of relationships and has been applied to outside companies or people who can influence someone’s employment where there is no direct relationship.

3. Limit Job Descriptions, Job Requirements and Ads to “BFORs”

- A “BFOR” is a bona fide occupational requirement which is something legitimately needed to perform a job.
- Carefully review your position advertising and job descriptions to ensure everything listed is a “BFOR”. If the usual duties of a position don’t require lifting 50 lbs. or having a car then not listing these criteria helps avoid complaints.

4. Explore “Accommodation”

- If a prohibited ground of discrimination is impacting someone’s ability to perform their legitimate job duties then explore alternatives.
- Accommodation to the point of “undue hardship” is required of the employer.
- The affected person must participate in this process. A complaint can fail if the person rejected a reasonable accommodation or refused to participate in the process.

5. Never “Retaliate”

- Section 43 of the Code requires that “a person . . . not . . . discharge, suspend, expel, intimidate, coerce, impose any pecuniary or other penalty on, deny a right or benefit to or otherwise discriminate against a person because that person complains or is named in a complaint, gives evidence or otherwise assists in a complaint or other proceeding under this Code”.

Conclusion

- Human Rights legislation will be interpreted broadly by the courts and the impact of that can be seen in the relationships captured by the Code.
- Exercise caution in: direct and indirect relationships; the steps taken to avoid complaints; and manage the reaction to any complaint and any employees supporting a complainant.



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