

Chapter 4

The “Private Face” of Nonprofits: Legal and Ethical Human Resource Practices

Sarah Caffisch
Hamline University, USA

ABSTRACT

Financial and social costs for nonprofits that do not follow legal and ethical human resources policies, procedures and practices, are substantial for social welfare nonprofit organisations. Especially, a knowledge deficiency in the area of employee discipline and discharge suggest that nonprofits struggle when these challenges occur. Often, such deficiencies have led to costly litigation, loss of funding and diminished public good will. Data is obtained from nonprofit social welfare service providers using surveys and interviews. This chapter contributes to the generation of knowledge in the areas of legal and ethical human management particularly as these relate to employee performance management and discipline, discharge and termination issues and concludes with alternative solutions, approaches and future research directions.

INTRODUCTION

If you build both the moral and the ethical foundation, as well as the business and the experience foundation, then the building won't crumble. Henry Kravis, financier and investor

The introduction of human resource policies, procedures and practices contributes to a safe, productive and ethical workplace environment (Malloy & Agarwal, 2001). As Gross-Schaefer & Zaller (1998) pointed out, social service non-profit organisations must abide by codes of ethics and ethical behaviour when serving vulnerable populations, fundraising, securing social and financial capital and maintain organisational reputation and public credibility. However, as the Panel on the Nonprofit Sector (2007) revealed although many nonprofit organisations are expected to adhere with numerous codes of ethics, ethical behaviour and ethical human resource management, internal organisational management poli-

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cies, processes and practices, organisational day-to-day operations, board of directors, management capabilities of nonprofit social welfare service providers, are increasingly scrutinised.

Still, very little research has been undertaken to examine the number of nonprofit social welfare providers with current and up-to-date effective and ethical human resource policies, procedures and practices, the social and financial capital resources and costs associated with not following ethical human resource practices and the barriers prohibiting small and mid-size nonprofit social welfare organisations from adhering to legal and ethical human resource management policies, procedures and practices. Of particular interest in this discussion is the prevalence of organisational failure to enforce ethical human resource management practices.

The introduction lays the foundation for the remaining chapter followed by a background on US-based non-profit social welfare service providers. A qualitative approach is adopted to explore small and mid-size nonprofit social welfare organisations in the Saint Paul regional area of Minneapolis, Minnesota, United States (US). The discussion is limited to four legal and ethical human resource management challenges, each are further elaborated following the background section. These four legal and ethical human resource management challenges are:

1. General Legal and Human Resource Management.
2. Resource (social and financial) Management.
3. Organizational Culture.
4. Mediation and Early Intervention.

BACKGROUND

Internal Revenue Services (IRS) Form 990, introduced in 2010, is the accountability and transparency methods for American non-profit social welfare services providers. The IRS Form 990 also provides an avenue for donor research giving opportunities and includes questions about employee and industrial relations such as whistle-blower policies and other personnel guidelines, policies and procedures and provides a human resource management framework (O’Connell, Hurd, & Spurlock, 2007). Many labor experts correctly predicted that an increase in labor-friendly laws and practices in the US would be mandated by President Obama’s administration, such as protection for non-union employees under union rules and a demand for third-party witnesses for any disciplinary or termination procedure (Lian, 2008). Major philanthropists and lawmakers are growing more and more vigilant about holding nonprofits accountable for ethical work environments and practices (Panel on the Nonprofit Sector, 2007). Indeed, for the past decade, funders and governmental agencies that fund nonprofits are using performance management, effective supervision, and infrastructure more and more as methods of evaluation and accountability (Martin & Kettner, 1997).

According to Van Bogaert & Gross-Schaefer (2005) one of the most costly human resource management practices is discipline, discharge or termination. Although the non-profit sector is driven by values, one unethical non-profit workplace environment incident can result in devastating financial and social costs, capital loss and also negatively impact organisational capacity and productivity (Davenport, 1999). Consequently, the financial and social risks and costs associated with unethical, ineffective and inefficient human resource management are high. A viable alternative would be a best practice and early interventionist approach to execute workplace discipline, discharge or termination. This view is

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