

Chapter 1 - Business and the Legal Environment

Introduction

- Law consists of enforceable rules governing relationships among individuals and between individuals and rest of their society. Laws establish rights, duties, and privileges consistent with the value system of a society or of its ruling group.
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Business activities and the legal environment

- Many Different Laws Affect a Single Business Transaction
- Linking Business Law to the Six Functional Fields of Business
 - Corporate management
 - Production and transportation
 - Marketing
 - Research and development
 - Accounting and finance
 - Human resource management
- The Role of Law in a Small Business
 - The small business owner is the most general of managers.
 - All of the different managerial roles of a small business owner are linked to the law.

Sources of American law

- Constitutional Law
 - United States Constitution is the supreme law of the land.
 - Also found in case decisions and text arising from federal and state constitutions.
- Statutory Law
 - Laws enacted by the United States Congress and by state legislatures.
 - Local ordinances.
 - Uniform laws and codes, such as the Uniform Commercial Code.
- Administrative Law
 - Federal or state agencies
 - Agency creation
 - Administrative agencies can be independent regulatory agencies, such as the Food and Drug Administration.
 - Rulemaking
 - Rules, orders and decisions of administrative agencies.
- Case Law and Common Law Doctrines
 - Case law - Rules and decisions made by courts
 - Governs all areas of law not covered by statutory or administrative law.

The Common Law Tradition

- Early English Courts
 - King's courts established the common law – the body of general legal principles applied throughout England.
 - King's courts used precedent to build the common law.
- *Stare Decisis*
 - Deciding new cases based on precedent. A higher court, or an earlier decision by the same level court, is a precedent that has binding authority on the lower court.
 - Departure from precedent only if good reason.
 - What if there is no precedent?
- Equitable Remedies and Courts of Equity
 - Remedy: Enforcing a right or compensating for injury to that right.
 - Remedies in equity: Based on justice and fair dealing, a chancery court, or court of equity, does what is right.
 - Merging of law and equity
 - Most courts today can award remedies in law or equity.
- Schools of Legal Thought
 - Jurisprudence: The science or philosophy of law.
 - A judge's philosophical approach to law can determine how he or she will apply the law to a particular case.
 - Natural law school
 - "Higher" law
 - System of moral and ethical principles
 - Dates back to Aristotle and the ancient Greeks
 - Natural rights
 - Legal positivism
 - Positive law, written law of society at a particular time
 - There is no higher law than a nation's positive law.
 - Whether law is "good" or "bad" is irrelevant.
 - Historical school
 - Emphasizes the evolutionary process of law by concentrating on the origin and history of legal systems.
 - The laws that have withstood the test of time are the best laws.
 - Legal realism
 - Law is just one of many institutions in society shaped by social forces and needs.
 - Judges should take human and economic factors into account when deciding cases.

Classifications of law

- Substantive law: Laws that define and regulate rights and duties.
- Procedural law: Laws that establish methods for enforcing and protecting rights.
- Civil Law and Criminal Law
 - Civil law: The branch of law dealing with the definition and enforcement of all private or

- public rights, as opposed to criminal matters.
- Criminal law: The branch of law that defines and punishes wrongful actions committed against society.
- National and International Law
 - National law: Law that pertains to a particular nation.
 - International law: The body of written and unwritten laws, and treaties, observed by nations when dealing with each other.

Finding and analyzing the law - Appendix to Chapter 1

Finding statutory and administrative law

- *United States Code*
- State Codes
- Administrative Rules

Finding case law

- State Court Decisions
 - Regional Reporters: published by West Group
 - National Reporter System divides the country into: Atlantic, North Eastern, North Western, Pacific, South Eastern, South Western, and Southern reporters.