# **Business Law Name \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

# **Ch. 1 Ethics & Law**

# I. How Ethical Decisions Are Made

A. What do we base our decisions on?

1. Systems of Religion & Philosophy?

2. Systems of Government (Laws)?

3. Conflicts arise when standards of conduct differ.

B. Morality vs. Ethics

1. Morality - The values that govern a society's attitude

toward right and wrong.

a. a moral person - A person who lives by certain

social values.

b. an immoral person - A person who does not live

by certain social values.

c. an amoral person - A person who doesn't care!

2. Ethics - Attempts to develop the means for

determining what those values should be.

a. Ethics tries to create **rules** keeping with those

values.

b. Ethics & morality are used interchangeably.

C. 3 Ways of Making Decisions

- Feeling & Opinions

- Greatest Good for the Greatest Number of People

- The Golden Rule

1. **Feelings & Opinions**

a. May change from person to person & situation to

situation.

b. Many people believe that ethics are based on

changing feelings and opinions.

c. The US was founded on a tradition of tolerance.

d. The US is a country of immigrants from a variety of cultures with different ethical values.

e. Example 1, pg. 7

f. Some people have a problem basing ethical

decisions on feelings and opinions.

1) They argue that if ethics are just a matter of

opinion or feelings, then no one can ever do

anything wrong.

g. Example 2, pg. 7

h. How can people figure out that theft is wrong

even without a law telling them it is wrong?

1) Look at how an action helps or hurts the

people affected by it.

2) It can also set a bad example for others to

follow.

2. **The Greatest Good**

a. People live and work in society and their actions

affect others.

b. If someone does something that hurts a lot of

innocent people, many others would feel that

action is wrong.

1) These people would say that they make their

ethical decisions based on the greatest good

for the greatest number of people affected

by the action.

2) The more good that results, the more ethical

the action.

3) The more bad that results, the less ethical

the action.

c. Greatest Good principle is often used because

they see it as a natural way to make ethical

decisions.

d. Many question this principle because it often

results in decisions that seem unfair and because

it can often be misapplied.

e. Example 3, pgs. 7 - 8

1) Greatest good Principle is Misapplied.

2) Refusal to identify the 10 guilty doesn't help

the greatest number of students.

3) Keeping quiet is not fair to the innocent

student taking the blame.

3. **The Golden Rule**

a. "Do unto others as you would have them do unto

you."

b. Preferred of the 3 Ways - Very Consistent

c. Identified with Christianity & other religions.

d. Empathy

1) Putting yourself in the other person's

position.

2) The "heart" of the Golden Rule.

3) "Would I want to be treated this way?"

e. Good Sportsmanship

f. Example 4, pg. 8 - Often abused by individuals

placing their own self-interest first.

g. Example 5, pg. 9 - You must respect the dignity

and worth of individuals.

h. Example 6, pg. 9 - People want to be treated with

respect.

i. Example 7, pg. 9

1) What does a promise mean to you?

2) Promises are "very important."

3) A world without promises would be a world

without commerce, credit, or social engagements.

j. Example 8, pg. 9 - Once you have made a

promise, keep it.

# The Relationship Between Ethics & Law

1. 3 Ways to Make Ethical Decisions
2. Rely on **Opinions & Feelings.**
3. Gauging the **Greatest Good for the Greatest Number of People.**
4. Following the **Golden Rule.**

## The Outcome

1. If people always acted on those results there would be no need for Law.
2. However, even when everyone agrees that a certain type of conduct is wrong, that doesn’t stop people from engaging in that conduct. (Ex: Cheating, Drug Use)
3. Why Law Is Necessary
4. Ethics tells us what we ought to do.
5. Law
6. Consists of “Rules of Conduct” established by the government of a society to maintain **stability** and **justice** in that society.
7. Law is needed because people don’t always do what they ought to do.
8. How Law Works
9. It defines the legal rights and duties of the people.
10. It also provides a means of enforcing these rights and duties through law enforcement agencies, courts, legislatures and regulatory agencies.
11. Law cannot always make people do what is right but it does have “The Power to Punish” for wrongful acts.
12. The law must draw the line between permissible and impermissible conduct so that people don’t hurt themselves and one another.

5. Example 9, pg. 11 – The law cannot control the

situation Amalfi, but it will punish Jake.

E. Ethical & Legal Conflicts

1. Law is imperfect because it is made by people.
2. Legislators & Judges bring their own personal opinions and views on ethics and morality to the law making process (therefore law will always be in conflict).

3. Example 10, pg 11 – Conflict between ethics of

journalism and legal order of a judge.

1. Laws Come from 5 Main Sources

A. Federal and State Constitutions

B. English Common Law

C. Statutes

D. Court Decisions

E. Administrative Law

1. Federal and State Constitutions
2. Laws
3. Def. - Rules of conduct established by the gov't.
4. Laws come from the Government.
5. A Country’s Constitution spells out the principles by which that countries government operates.
6. The U.S. Constitution is our most fundamental form of law.
7. The U.S. Constitution (Federal)
8. The broad, basic foundation for the laws of the country.
9. It sets the fundamental rights of citizens.
10. It defines the limits within which the federal and state governments may pass laws.
11. It describes the functions of the various branches and divisions of our national government.

C. **7 Articles** of the **U.S. Constitution**

1. Articles I, II, III – Set forth the “structure” and

“powers” of the three branches of the federal gov't.

2. Article IV – Requires each state to accept the laws of

another state.

3. Article V – Tells how the Constitution may be

amended or changed.

4. Article VI – Contains the Supremacy Clause. It

states that the U.S. Constitution and the Laws of the

U.S. Treaties shall be the supreme law of the land.

1. Article VII – Last Article – provided for ratification of the Constitution (took place in 1787).

## D. The **27 Amendments** to the US Constitution

1. Bill of Rights

a. First 10 Amendments to the Constitution.

b. Limits the powers of the government.

c. The Basic Purpose is to protect 2 kinds of rights:

1. Right of Individual Liberty
2. Right of Persons Accused of Crimes

E. There have been 27 Amendments (we focus on 2).

1. **14th Amendment** (The Equal Protection Clause)
2. “No State shall deprive any person of life, liberty or property without Due Process of law; nor deny to any person within its jurisdiction the equal protection laws.”
3. Requires state governments to give to their citizens the same rights that the Federal Government must give to US citizens under the 5th Amendment.
4. Example 11, pg. 12
5. 26th Amendment
6. Most recent in your textbook, enacted in 1971.
7. Gives 18 year olds the Right to Vote.
8. It does not prohibit any state from allowing citizens less than 18 to vote if it so chooses.

F. The State Constitution

1. Each State has its own Constitution.
2. Similar but not identical to the Federal Constitution.
3. Sometimes they are more restrictive.

4. Example 12, pg. 14

1. English Common Law
2. Legal System in the US *(except Louisiana)* is rooted in English Common Law.
3. It came with the early colonists from England.
4. A court system is used.
5. In early times there was no written law, decisions were based on the customs and traditions of the people.
6. Judges shared their decisions with other Judges.
7. All efforts were made to share the same law in “common” with everyone else.
8. Eventually court decisions were written down.
9. This led to the Doctrine of “Precedent.”
10. Doctrine of Precedent: “A Judge is required to follow an earlier court decision when deciding a case with similar circumstances.”
11. Also called: Doctrine of Stare Decisis = Let the decision stand.
12. English Common Law has been eroded by passing state statutes and court decisions; however, some parts are still the same.
13. Statutory Law
14. Statutes – Laws specifically passed by a governing body created for that purpose.

1. Consists of laws passed by:

a. US Congress

b. State Legislatures

c. Local City Councils

d. Town Meetings

2. Also found in:

a. State and Federal Statutes

b. City Ordinances

c. Town Bylaws

1. The differences in terms tell us at which level of government a law was passed.

### State Statutes

1. Each state has its own body of lawmakers (Legislature) with the job of creating or passing Statutory Law.
2. Most State Legislatures are set-up like Congress (different parts do different things).
3. What they do:
4. A statute may **order you to do something** (Example: Pay taxes or wear seat belts).
5. A statute may **forbid an act** (Example: Prohibit purchasing or consuming alcohol until you are 21).
6. The US Constitution (Federal) is the Supreme Law of the land.

a. State Legislature must not conflict with the US

Constitution

b. If it does it will be declared unconstitutional.

1. Federal Statutes
2. Passed by the US Congress and signed by the President of the US.
3. Based on powers given to the Federal Government by Article I of the US Constitution.
4. Included:
5. Power to Spend b. Power to Tax

c. Regulate Commerce d. Declare War

e. Borrow Money f. Set-up Federal Courts

1. Statutes passed by Congress generally regulate matters that concern the nation as a whole.

#### Court Decisions

1. Court-Made Law
2. Case Law
3. Court Decisions
4. Judge-Made Law
5. Laws made by Common Law tradition by interpreting statutes by judicial review.
6. The highest court of the state may change the line of precedent.
7. When a statute is confusing, incomplete or unclear, judges cannot interpret a statute unless it is involved in a dispute between two parties in a lawsuit before the judge.
8. Courts can declare a law or action unconstitutional (make it no-longer valid).
9. Supreme Court – Final authority regarding the constitutionality of all laws and governmental action.
10. Administrative Regulations
11. Federal, State & Local Legislatures may need to regulate some activities in public interest.
12. Legislators may not have the *proper knowledge* of a field or the *time* to give their complete attention – *therefore* – Legislators often give “***the power to regulate***” an activity to an administrative agency.
13. Administrative Agency – Regulatory Agency, a department of government formed to administer particular legislation.
14. They must have an unusually wide range of powers.
15. They can:
16. Make their own rules.
17. Enforce their rules.
18. Investigate violations of their rules.
19. Decide the guilt or innocence of those who violate their rules.
20. Administrative Law consists of those rules and procedures established by regulatory agencies.
21. Courts have ruled such agencies to be constitutional.
22. The Legislature that created an agency always has the power to end that Agencies existence or to change its power.
23. Any final decision by an Agency can always be reviewed by a court.