



Employment Law Tips for Business Owners in Texas

Business owners and managers with company operations in “at-will” states must abide by certain regulations, despite the freedom for employers and employees to terminate the employment relationship freely. To avoid potential lawsuits, employers should remember the three Ds of employment law: Discrimination, Documentation, and Delivery. These guidelines for hiring and firing will help employers establish a foundation of credibility and respect throughout the employment relationship.

Discrimination

- Discrimination laws compel employers to hire employees based on work experience and skill level, rather than appearance, gender, and physical abilities.
- Anti-discrimination begins with the interview process. When interviewing a potential employee, keep questions centered on qualifications related to the job for which you are interviewing.
- Avoid questions about gender, sex, race, religion, disability, age, military reserve status, pregnancy, national origin, marital status, children, or sexual orientation.
- Employers in at-will states must abide by anti-discrimination laws and other federal statutes such as the following: federal and state anti-discrimination laws like Title VII of the Civil Rights Act of 1964 and the American with Disabilities Act, Whistleblower Statutes, USSERA, the Equal Pay Act, and WARN.

Documentation

- All employment documents should expressly state the arrangement is “at-will.”
- Do not alter the “at-will” relationship with written or verbal promises of job security.
- Record all performance related problems in writing once they occur.
- Use written warnings when reasonable.
- Provide and discuss regular performance reviews and ask employees to sign documents. This way, employees acknowledge that the review has taken place.
- Provide all fired employees with a written notice of termination.
- All employee resignations should be submitted in writing.

Delivery

- “At-will” does not absolve employers from good management.
- When hiring employees, keep the interview focused on the open position. Be prepared to redirect the conversation if necessary.
- Be sure to deliver employee performance reviews promptly and regularly.
- Performance reviews should reflect an objective assessment based on clear standards.
- Answer questions about performance issues directly, and offer specific feedback for a modification of behavior. Comments such as “I’ll know it when I see it,” make employees feel reviews are based on opinions about personality rather than facts about behavior.

- In the event of a firing, employee managers or immediate supervisors should deliver news in a termination meeting.
- Termination meetings should last no longer than 15 minutes.
- Supervisors delivering news of a termination should be sensitive to the employee's feelings, but more importantly, provide honest and open reasons for the dismissal.
- Discuss why the company has come to the decision and avoid over-explanation.
- Be truthful—sugarcoating or glossing over the facts does not save feelings in the long run. It only comes across as insincere.
- Avoid placing blame or accusations without direct proof.
- Consider delivering news on a Friday.
- Avoid firing an employee before important family holidays, like Christmas.
- Remember to inform the employee of available benefits such as insurance, retirement, unemployment, COBRA, etc.