



Understanding the Employment Relationship

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Florida is a “Right to Work” state

- employee has right to work without joining a union or paying union dues

At-Will Employment

- **employee can be dismissed by an employer for any reason (without having to establish "just cause" for termination), and without warning, as long as the reason is not illegal (e.g. firing because of the employee's race, religion, etc.)**

Why “at will” matters

- employer does not need “just cause” to terminate an employee
- leaves the discretion to make decisions based on business needs in the hands of the employer

Ways to destroy “at will” status

- Contract language
- Offer letter
- Handbook
- Promises

Contract Language

- do **not** promise employment for any specific length of time
- do **not** use language such as “cause” or “just cause”
- do state the employment is at will
- do maintain discretion to alter the terms and conditions of employment

Offer Letters

- do **not** promise employment for any length of time
- do include at will language
- do **not** use words such as “permanent”
- do include discretion to alter the terms and conditions of employment
- do include qualifying language “subject to change at the discretion of the company”

A word about “conditional” offers

- do **not** create a detrimental reliance claim
- do use broad language
- do **not** make verbal offers
- do train hiring managers

Handbooks

- do include at will language
- do **not** include an exhaustive list of misconduct
- do include language leaving the company discretion
- do **not** use words such as “permanent”
- do include language regarding revisions (subject to change)
- do include language that handbook is not a contract

“Probationary” Periods

- do **not** use words such as “permanent”
- do **not** use title of “probationary”
- do include explanation in employee handbook

Promises

- do **not** make promises of continued or permanent employment
- do train managers and supervisors
- do **not** use promissory language in evaluations, etc.

Independent Contractors

- **totality of the circumstances**
- **entrepreneurial opportunity**
- **employer control**

Temporary Workers

- who is considered the employer?
- who is potentially liable?
- steps to protect your company

Employees on leave or reduced schedules

- check your benefits plans for definition of employee
- cost of a mistake is high!

Applicants

- **Fair Credit Reporting Act**
- **Americans With Disabilities Act**
- **Title VII, ADEA, Florida Civil Rights Act**

Recent Developments

- new proposed rule for exempt employees under FLSA
- US SC to decide whether Title VII prevents discrimination based on sexual orientation, transgender and sexual stereotyping
- EEO-1 Report comp data



QUESTIONS?