



**Don't Get Lost:
Navigating
The Employment
Law Maze In 2025**

Just Get Rid Of Them

At will employment means that an employee cannot sue the supervisor or the employer.

True False

When You Get Sued It Will Be Because Of...

List the primary protected classes under today's employment laws:

<u>Class</u>	<u>Example</u>
R _____	
G _____	
S _____	O _____
R _____	
A _____	
N _____	O _____
D _____	

Bonus Question: What is the 8th protected class that is missing? _____

Moving Quickly

Jediah, a supervisor at the County, interviews a candidate, Emily. He is thoroughly impressed with both her application and the way that she handles herself in the interview, so he hires her. Emily casually mentions a special trip that she recently took with her girlfriend during some small talk that takes place within the work team. Within a month of Emily's employment, it is clear that she is unable to do even the most basic tasks. Jediah terminates her since she is still within her probationary period. Is there any risk in such a decision?

Interviews That Can Cost Us

Which of the following are legal comments to include on an interview assessment form?

- a. “The candidate is entirely too talkative & had large tattoo on her neck.”
- b. “She said that she would need 3 months off because she is pregnant.”
- c. “Loves the Lord...very active in Church, including missions work and Bible study.”
- d. “Horrible interview – he smelled like rotten eggs, offered mostly one-word answers and I just wanted to finish the interview quick.”
- e. a. and d.

It Is Happening To You

One of your employees has been out on medical leave for more than 12 weeks. Your other employees are forced to pick up the additional work and their complaints have increased lately. The service level of the department has not been impacted but it is absolutely killing morale. Can you now terminate this employee?

“But They Are The Same”

Isaiah, a Black American, works in a role that requires him to regularly enter into a mailroom to perform a variety of his job functions. Those working in the area regularly play aloud music that includes regular profanity (most notably the word “nigga”) and explicit sexual lyrics. Isaiah despises such music and alerts his supervisor of his concerns on multiple occasions. The supervisor indicates that she will address it but never does because the mailroom team is highly productive, and entirely comprised of Black Americans.

Why Am I Not Doing This Better?

Some of the biggest mistakes leaders make when addressing employee performance include:

- a. Failing To Immediately Present & Expect Performance Standards when the employee starts work.
- b. Providing “the sandwich” when sometimes it just needs to be the meat.
- c. Forgetting to separate the person from the performance, yet still asking the “why?”
- d. Not considering the individual’s performance in the context of the fuller team.
- e. Neglecting to document both the failures and the resulting goals in a manner that is both winsome and legally supportive.
- f. All of the above

To Pay Or Not To Pay??

Which of the following practices can create liability?

- a. An employee arriving early to the worksite but not clocking in until they “begin” work.
- b. A supervisor sending text messages to off-duty employees inquiring about scheduling.
- c. A supervisor changing an employee’s timecard without her approval.
- d. A supervisor that requires employees to clock out unpaid for fifteen-minute smoke breaks.
- e. a., b., and c. are correct.
- f. a., c., and d. are all correct.

Soul Talk

Alex believes that his religion should guide every part of his life, including work. He listens to Christian radio aloud in his workspace. He also looks for opportunities to invite coworkers to church for prayer when he knows that they are having a difficult time in their life. And he never comes to work without wearing a cross necklace around his neck. One day, his coworker, Raul, complains about such behaviors and demands that Alex stop his proselytization at work. Alex is wholly offended when he learns of the complaints and explains he was just about to ask if he could lead a Bible study in the lunchroom each day.

Ounce Of Protection Vs. Pound Of Litigation

Which of the following are not legitimate defenses against frivolous discrimination claims?

- a. Established prior precedent with consistent consequence.
- b. Verifiable third-party concerns about the employee.
- c. Extensive verbal coaching.
- d. Demonstrated failure of employee to meet established goals on a corrective action or annual evaluation.
- e. They are all legitimate.

Rushed Hiring Is Negligent Hiring

Monique has been short-staffed in her department for months, so she hires Jessica as soon as their interview ends. No background screening is completed. Four months later, an employee reports one of Jessica's old posts on social media in which she expresses support of Adolph Hitler. Before you can address this finding, you receive a call that Jessica has been arrested for drunk driving after colliding with a teenager at a stoplight. You then learn that this is Jessica's third such incident. A firm with the slogan "For The People" now sends you a letter...

Does It Count???

In her job, Selena works closely with different vendors from outside the County. One such person, Tom, is overly friendly and often compliments her outfits, asks about the name of her perfume, and occasionally touches her shoulder when speaking to her. Selena complains to her supervisor who believes that she is being hypersensitive but does causally tell Tom to “cut it out.” Four months later, Selena is not chosen for a promotion because the other candidate is “a better performer.”

What Juan Needs...

Juan, a larger sized person, requests that the County purchase an eight-hundred-dollar ergonomic chair for him and that he be moved to a larger office space. Frustrated, his supervisor fills out the reasonable accommodation form but accidentally leaves it on the conference room table. Coworkers see the form. One suggests to him that he simply use Ozempic, another employee shares how she lost weight, and yet another states “I was surprised about your request - you look good and I actually thought you have lost a lot of weight recently”.

It Really Comes Down To This Document...

Which of the following should always be included within an involuntary separation memorandum?

- a. Written to an 8th grade audience.
- b. Inclusion of the names of any and all witnesses to the performance problem or policy violation.
- c. Written with a deep level of advocacy but centered in facts.
- d. Identification of past employees’ names who were separated for similar reasons.
- e. All of the above.

Employee Advocacy...

Abigail's supervisor, Joe, has been immensely supportive of her as she has worked through a recent divorce. Joe asks Abigail to pick him up at his home on the way to a workplace event. When she arrives, he invites her to come into his home and then offers her a glass of wine. Joe offers her comfort and advice regarding her new role as a single mother. He explains that he believes that he can advocate for her to receive a promotion and then invites her to see a new movie with him the next weekend. Where did Joe go wrong?

Kindness Will Kill You...

George, an employee in his 60s, is simply no longer performing at the level that the department needs. He has worked at the County for more than twenty years and is liked by most everyone. His failed performance is now impacting others and his leader, Laila, decides that he needs to be separated. However, to spare his feelings, she decides that she will simply eliminate his position and deem it "no longer necessary." She may rehire the role later with someone younger and more focused but will change the job title to lessen the risk of a lawsuit. Might this create legal concerns? If so, what is the alternative?

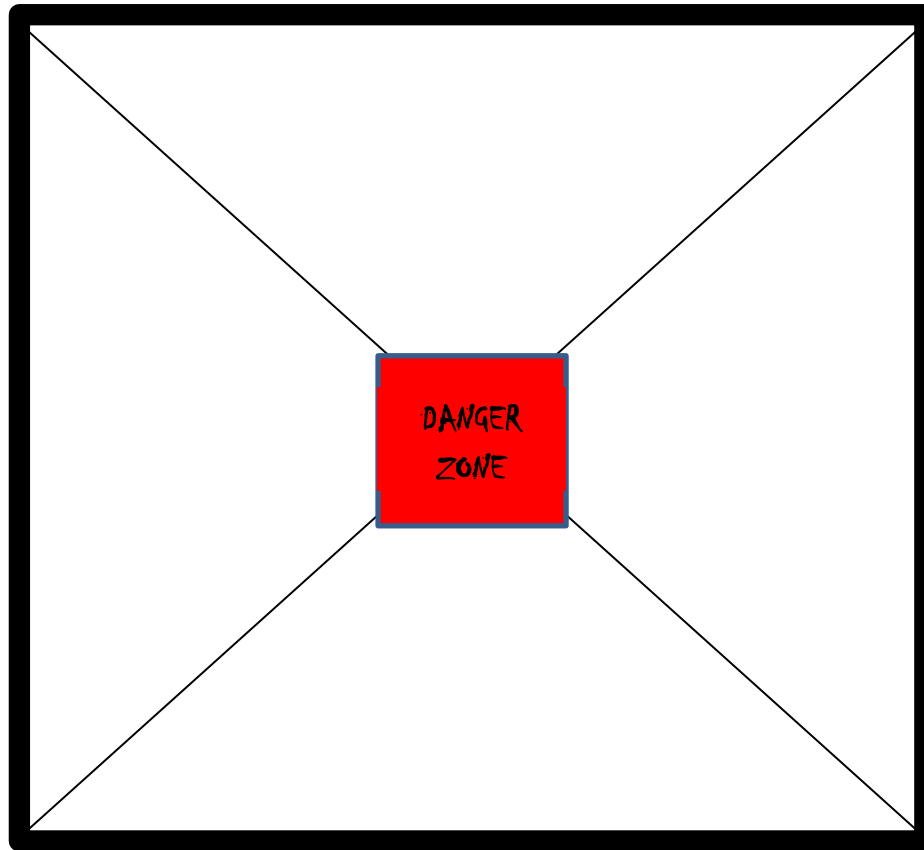
THE BERMUDA SQUARE

FAMILY & MEDICAL LEAVE ACT

Has the employee worked twelve total months, worked 1,250 hours in the past twelve months, and now experienced a qualifying event related to the arrival of a new child in the family, the employee or an immediate family member's serious health condition, the care of a family member injured while on active duty, or to tend to a qualifying exigency related to an immediate family service member?

WORKERS COMPENSATION

Has another employee in the same or similar position ever been provided with a greater amount of leave than that which is currently being requested?



DISPARITY LAWS

What is the greatest amount of leave time that I have provided to another employee in the same or similar position that was not on a worker's compensation related absence?

AMERICANS WITH DISABILITIES ACT

Can the person with the disability perform the essential functions of the position with or without reasonable accommodation?

HELP! These Leave Laws Are Driving Me Crazy...

Forgetting To Get “Proper Credit” (ADA)

The Call: Sara is asking for an office space change for the fourth time in two months because of a lung condition. Jo will be displaced and just loves having a window. Do we have to accommodate?

The Answer: _____

My “Take Home:” 1. _____
2. _____

Deciding When To Designate Leave (FMLA)

The Call: We are so confused here in human resources. When are we allowed to designate an employee’s absence as FMLA. We can never tell if the absence is for the flu or for their cancer.

The Answer: _____

My “Take Home:” 1. _____
2. _____

The Forgotten Side Of The Square: Being Consistent (Title VII, ADEA, ETC)

The Call: Derron has used his paid leave, does not qualify for FMLA, and is now demanding that he be permitted to take 5 days off unpaid to attend a family reunion. Do we have to allow it?

The Answer: _____

My “Take Home:” 1. _____
2. _____

It Never Stops: Intermittent Leave (FMLA)

The Call: Kristen has a condition that causes severe headaches and requires her to need time off periodically. Oddly, this time always seems to be on Fridays. We have designated her time under FMLA. We have heard reports that her Facebook page shows her playing in a beach volleyball league on many of the Fridays in question. Can we terminate?

The Answer: _____

My “Take Home:” 1. _____
2. _____

HELP! These Leave Laws Are Driving Me Crazy...

The Rock & The Hard Place (Workers Compensation Danger, ADA)

The Call: Sally has been out on workers compensation for six weeks because of an injury to her back. She is now ready to come back but we are afraid that she will aggravate her back if she returns to the same job. As such, we want to offer her something different.

The Answer: _____

My "Take Home:" 1. _____
2. _____

Designating Leave (FMLA)

The Call: Tyrann, a supervisor, has called and explained that one of his employees has been out for long periods of time over the last five months. He explains that he was considering termination but now the employee is asking for some type of medical leave. What options exist?

The Answer: _____

My "Take Home:" 1. _____
2. _____

Leave After FMLA Exhaustion (FMLA, ADA)

The Call: Frank, who has cancer, will exhaust his FMLA in 2 weeks and is not ready to return. The supervisor wants to terminate so the position can be filled and he can stop doing the work.

The Answer: _____

My "Take Home:" 1. _____
2. _____

Window Of Protection: Retaliation (FMLA)

The Call: We just caught Jenny sleeping on the job and we are moving to terminate her. While she just returned from FMLA three weeks ago, this behavior is certainly enough, right?

The Answer: _____

My "Take Home:" 1. _____
2. _____