

## Employment At-Will

Employment-at-will is defined as the ability of both the employer and the employee to end the employment relationship at any time, with or without cause, and with or without notice. Throughout the United States the concept of employment-at-will is generally an accepted principal for private sector employers who are not covered by a collective bargaining agreement. In some states employment-at-will has been codified as common law.

It is important to note, however, that in most states, there are some conditions in which the employment-at-will relationship can be eroded. The most commonly recognized exceptions to employment-at-will are the *Public Policy exception*, *Implied-Contract exception*, and the *Covenant of Good Faith and Fair Dealing*.

The following chart outlines those states that recognize these exceptions to employment-at-will.

State	Public Policy Exception <sup>1</sup>	Implied Contract Exception <sup>2</sup>	Covenant of Good Faith & Fair Dealing <sup>3</sup>
Alabama	N	Y	Y
Alaska	Y	Y	Y
Arizona	Y	Y	Y
Arkansas	Y	Y	N
California*	Y	Y	Y
Colorado	Y	Y	N
Connecticut	Y	Y	N
Delaware	Y	Y	Y
District of Columbia	Y	Y	N
Florida	Y	Y	N
Georgia*	N	N	N
Hawaii	Y	Y	N
Idaho	Y	Y	Y
Illinois	Y	Y	N
Indiana	Y	Y	N
Iowa	Y	Y	N
Kansas	Y	Y	N
Kentucky	Y	Y	N
Louisiana*	Y	N	N
Maine	Y	Y	N
Maryland	Y	Y	N
Massachusetts	Y	Y	Y
Michigan	Y	Y	N
Minnesota	Y	Y	N
Mississippi	Y	Y	N

State	Public Policy Exception <sup>1</sup>	Implied Contract Exception <sup>2</sup>	Covenant of Good Faith & Fair Dealing <sup>3</sup>
Missouri	Y	Y	N
Montana*	Y	Y	Y
Nebraska	Y	Y	N
Nevada	Y	Y	Y
New Hampshire	Y	Y	N
New Jersey	Y	Y	N
New Mexico	Y	Y	N
New York	Y	Y	N
North Carolina	Y	Y	N
North Dakota	Y	Y	N
Ohio	Y	Y	N
Oklahoma	Y	Y	N
Oregon	Y	Y	N
Pennsylvania	Y	Y	N
Rhode Island	N	N	N
South Carolina	Y	Y	N
South Dakota*	Y	Y	N
Tennessee	Y	Y	N
Texas	Y	Y	N
Utah	Y	Y	Y
Vermont	Y	Y	N
Virginia	Y	Y	N
Washington	Y	Y	N
West Virginia	Y	Y	N
Wisconsin	Y	Y	N
Wyoming	Y	Y	Y

<sup>1</sup> An employer may be unable to terminate an employee at-will in the event the reason for the termination violates **public policy**. For example, it would most certainly be considered an illegal termination if an employee is fired for opposing an employer’s illegal activities or other such “whistle blowing” protected activities. Be aware that public policy exemptions differ from state to state.

<sup>2</sup> Even when no express contract exists, the courts may infer an **implied contract** that could prevent an employer from firing an employee at-will. Such implied contracts may arise from a company’s disciplinary or termination procedures or policies, statements to employees about job security, or language in other documents such as handbooks and job offer letters.

<sup>3</sup> Some state courts maintain that there is an implied **covenant** to behave in **good faith** and to deal fairly in all employment decisions, even in those relationships that are otherwise considered at-will. As such, an employee termination that is done in bad faith might be considered a wrongful termination.

\* States who have codified the employment-at-will doctrine under common law.

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