

Employer-employee relations essay sample

[Business](#), [Employment](#)



The employer employee relationship is one of the most common relationships in the legal system. The employer employee relationship includes several important parts which includes how the relationship begins, laws protecting employees and employers, discrimination, and how a relationship can be terminated. Many different factors that play a role in the way employees and employers work together with each other. Employer and employee relations have many different ways in which organizations understand laws and guidelines set forth by governing bodies in the respective area and within the entire nation (Bennett-Alexander, & Hartman, 2007). This paper analyzes the differences in regular employees vs. temporary employees and independent contractors. It will also discuss the differences between exempt and non-exempt employees. Finally, this paper will look at Texas laws and Wal-Mart's response to those laws.

Regular Employees vs. Temporaries and Independent ContractorsRegular vs. Temporaries. Wal-Mart operates as an organization, distributor, and retailer of consumer goods. Due in part to its size, to the connectivity involved in its operations, and to the zest with which it has traditionally negotiated supplier contracts, Wal-Mart has established itself in a key position in the value chain of its suppliers (Anonymous, 2006). Wal-Mart's regular employees are paid; they work set hours and get a flat monthly income. Temporary employees work hours vary and they are paid hourly, resulting in an unpredictable monthly income. In the case of being paid for working overtime, employees who are salaried are not paid for working overtime hours regardless of how many hours he or she has worked. Regular employees, who are not paid, like

temporary employees, get overtime pay for every hour over 8 hours per day and for each hour over 40 hours per week.

For employees the most thing to know what makes them qualified for overtime and minimum wage, and what does not. For some individuals the response is complicated. Wal-Mart follows the same notion of overtime and minimum wage as most companies. These concepts became law in the United States with the passing of the Fair Labor Standards Act, which was designed to protect and maintain fair, just working conditions. The act's provisions, which include minimum wage, overtime, and a few others, do not apply to all employees (Tebbe, 2000).

Independent Contractors Several pros and cons to exist for contract labor. Wal-Mart uses independent contractors for maintenance, installations, parking lot cleaning, and janitorial services. The beauty of this working relationship lies in the terms. An independent contractor does not work only for Wal-Mart, these contractors are hired for a specific task and work on a need only basis.

By using independent contractors, Wal-Mart reduces the amount of medical insurance costs, retirement, taxes, sick time, and administration paperwork necessary for permanent employees. This is a viable cost saving measure for the company. Wal-Mart is responsible for providing a safe working environment for the contractors while on duty. Such provisions are covered under the Tort of negligent provisions. Wal-Mart has experienced a fair share of scrutiny due to independent contractor issues. It has been found that the

janitorial services contracted by Wal-Mart have used illegal immigrants, therefore, through vicarious liability, Wal-Mart can be held accountable for the non-compliance of immigration laws.

The fine line to this is did Wal-Mart have knowledge that the janitors were in fact, illegal immigrants (Find Law, 2008)? Another responsibility that Wal-Mart must uphold is to provide an ethical workplace free from racial slurs, and harassment of any kind. Independent contractors are protected under the 1866 Civil Rights Act that was amended by Congress in 1991, thus providing contractors the right to sue the employer in the event of any discrimination (Weblocator, 2008). As with any contractual agreement, the employer must adhere to policies, procedures, and laws protecting any employee. Wal-Mart treats the independent contractors with the respect and care they deserve.

Exempt vs. Non-exempt EmployeesThe Fair Labor Standards Act (FLSA) requires all employers to categorize their employees into two groups, exempt or nonexempt employees (U. S. DOL). Nonexempt employees are covered under the FLSA regulations, while the exempt employees not covered. Exempt employees are not entitled to minimum wage, overtime pay and other rights offered to nonexempt employees. Exempt employees are usually paid a salary rather than hourly wages like nonexempt employees. Normally executives, management, supervisors, and professional staff are paid by salary and are exempt employees. The nonexempt employees are paid hourly for the work he or she performs.

Nonexempt employees have the full protection under the FLSA regulations. The employees covered under the FLSA must be paid the federal minimum wage for every hour worked, and any hours of work that exceeds the normal 40 hours per week will need to be paid at one-and-a-half times of the hourly rate of that nonexempt employee. Exempt employees do not get the overtime pay as the nonexempt. No matter how long it takes for an exempt employee to perform his or her job, the exempt employee will only get paid according to the agreed annual salary rate, even if the job take more than 40 hours to complete. No tax advantages exist for either exempt or nonexempt employees. Each will fit into a different tax bracket, and each will pay income tax based on his or her income. For everything else, both exempt and nonexempt employees receive similar benefits under federal legislation. Rights such as a safe and healthful work environment, equal opportunity employment, Family and Medical Leave Act, and federal child labor laws are provided to both exempt and nonexempt employees (U. S. DOL).

Wal-Mart's Response to State Laws Relating to " At-Will" In order to understand Wal-Mart's response to the At Will law(s) in Texas one must identify Texas At Will law(s). LexisNexis is a global provider of business information. By way of their online services, they summarize Texas' position on At Will. Employment in Texas is considered to be " At Will," meaning that employees can be terminated at any time for any reason, so long as it is legal (LexisNexis, ¶ 5). The article goes further to state that even contract employment in Texas must " unequivocally indicate that it will not terminate the employee except under specific circumstances" (LexisNexis, ¶ 5).

Wal-Mart responds to this through their hiring centers. Wal-Mart clearly states that employment at Wal-Mart is At-Will according to the laws of that state (Wal-Mart's Online Hiring Center, Disclaimers). All applicants must apply via Wal-Mart's online, or in-store, hiring centers. The initial stages of the application process the applicant must be in agreement with the disclaimers. Among these disclaimers is a disclaimer regarding it's at will policies. The disclaimer states: I understand that this application is not a contract, offer, or promise of employment and that if hired, I will be able to resign at any time for any reason. Likewise, the company can terminate my employment at any time with or without cause, unless otherwise required by law. I further understand that no one other than the President of Wal-Mart Stores, Inc., or Vice President of its People Division has the authority to enter into an employment contract or agreement with me, and that my at-will employment can be changed only by a written agreement signed by the President of Wal-Mart Stores, Inc. (Online Hiring Center).

Manner in which the employer ensures any exceptionsWal-mart is one of the biggest private sector companies in the world, so one would surmise that such a company can merely do as it pleases when it comes to abiding by the laws set forth within the state. However, in doing some research it has been found that Wal-mart takes its policies as well as the states laws very seriously. Take for example Wal-mart's at will employment document and how it addresses the exceptions to such a document. One exception to this document is the Public Policy, meaning, a company cannot fire an employee for not wanting to do something the company wishes even if it against the law. Upon becoming employed with Wal-mart, everyone must sign this

policy, including managers or supervisor, which are not excluded from any rules violations or given any leeway.

One example of a rule violation in which Wal-mart exercised its option to use the exceptions to the ' at will' employment document told by a Wal-Mart investigator who flew to Guatemala in April 2002 with a delicate mission: trail a Wal-Mart manager around the country to prove he was sleeping with a lower-level employee, a violation of company policy. (McGovern, 2007) This particular manager was fired for improperly fraternizing with a lower level employee. Granted, this may sound extreme to some, but the fact is Wal-mart operates under the laws set by the state as well as ensuring its reputation by making sure their employees' conduct themselves with a high standard.

ConclusionRegardless of the type of affiliation that an employee has with Wal-Mart, all are treated in a fair and legal way. Wal-Mart guarantees this by adhering to all laws, guidelines, and regulations that are intended to protect the American worker. That protection extends to all categories of workers, not just ordinary employees. Contractors, non-exempt, and exempt employees are all treated the equal. This paper analyzed the differences in regular employees vs. temporary employees and independent contractors. It also discussed the differences between exempt and non-exempt employees. Lastly, this paper looked at how Wal-Mart responded to Texas law.

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