

# [Employee handbook project](https://assignbuster.com/employee-handbook-project/)

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There are many laws in place to protect both employees and employers from unfair labor practices, undue hardships and unsafe working conditions. Some of these include the American’s with Disabilities Act, the Family Medical Leave Act, and the Age Discrimination in Employment Act, the Equal Pay Act and Employment-At-Will. Americans with Disabilities Act.

The purpose of the Americans with Disabilities Act is to protect workers from discrimination based on a disability they may have, be it physical, mental or emotional. An employee is considered disabled is they are limited by or unable to perform a major life activity. This impairment is defined by the courts. The ADA is enforced by the Equal Employment Opportunity Commission.

A policy for the Americans with Disabilities Act should contain a general statement that covers all employer obligations under the ADA. Including all responsibilities in a policy ensures that all employees are aware of the organizations positions and accountability to disabled persons to supply reasonable accommodations to their disability. These accommodations can be limited to what the organization can financially afford, would be disruptive to the place of business, disrupts the operation of the business, or is dangerous or unhealthy to the rest of the company.

Reasonable accommodations include adjustments made to physical locations such as widening doorways, providing handicap parking and installing handicap rest room stalls. It can also include making adjustments to job processes and descriptions or providing handicap specific equipment to workers. Most accommodations can be achieved using ingenuity and creativity and do not have to be expensive or disruptive to daily operations.

Simple wording in the policy ensures no confusion on the part of the employee and protects the employer from unwanted litigation. It is the desire and intent of management to comply with the provisions of the Americans with Disabilities of 1990 which prohibits discriminatory employee practices against individuals with disabilities. We will make a good faith effort to provide reasonable accommodations to otherwise qualified candidates who apply for a position or an employee who is able to perform the essential function of his or her job.

Family Medical Leave Act The Family Medical Leave Act (FMLA) entitles an employee to up to 12 weeks of leave for a specific medical or family reason. These reasons could include the birth or adoption of child, care of a child, spouse, of parent experiencing a serious health crisis, a serious health crisis of the employee or the emergency of an immediate family member on active military duty. FMLA covers companies with 50 or more employees.

Employers are required to spell out a complete company FMLA policy in an employee handbook. Eligibility requirements should be stated first. Employees are eligible for FMLA must have worked for the company for 12 consecutive months, has worked at least 1, 250 hours in the 12 months preceding the leave and work at a location in which at least 50 employees work within 75 miles. The 12 month service eligibility does not have to be consecutive. Leave can be taken intermittently in days or weeks and does not have to be taken in its entirety at once.

Under the law, seniority, retirement service credit, and other benefits need not accrue under unpaid leave but any or all of these may accrue if the company so chooses. However, treatment of employees on FMLA leave cannot be less favorable than the treatment of employees not on leave. Time not worked under FMLA leave may not be counted against an employee’s attendance record for disciplinary purposes nor count against the employee for disciplinary purposes.

Where state law provides for family, medical, pregnancy or other leaves for reasons overlapping those covered under FMLA. FMLA policy must be integrated with, and usually supplemented by a policy reflecting the applicable state law. Worker’s Compensation absences that qualify as FMLA leaves should be charged against the employee’s annual 12 week entitlement. This fact should be included in the company’s worker’s compensation policy.

Age Discrimination in Employment Act

The 1967 Age Discrimination in Employment Act is part of the Fair Labor Standards Act and includes protections against wage discrimination and employment duties based on age. It is enforced by the Equal Employment Opportunity Commission. The law prohibits arbitrary age limits to jobs in order to promote the employment and promotion of older workers. The law also prohibits discrimination based on age in the hiring process as well as promotions, terminations and layoffs.

Employers cannot discharge an employee based on their age not demote, fail to promote or cut wages for those same employees. Age discrimination is considered illegal in those over the age of 40. One exception to the law involves the hiring process and involves 2 or more applicants of the same age. Should one be hired over the other, the candidate who was passed over for the position is not entitled to sue using the statute. Some states provide additional protections against age discrimination.

As the population gets older and more baby boomers look to stay in the workforce, this statute could become more prevalent as organization look to replace older workers with younger candidates at much lower salaries.

Equal Pay Act The Equal Pay Act, as part of the Fair Labor Standards Act, states that employers cannot discriminate based on sex, to paying lower wages to employees. An employee handbook should include a policy statement that includes how an organization compensates its employees. The employee salary or pay plan is of major importance to workers and it the main reason they work. Points to include in this policy should be the overall pay structure of the organization, rates of pay for different levels of jobs, the process of employee reviews and increases and the way employees abilities are evaluated.

A job description is an imperative tool to measure the equality of positions and duties and is the first line of defense in the case of litigation stemming from unfair pay practices. The use of job descriptions assists in making clear what is expected by the employer and should answer any questions as to what is expected and who will be able to perform the job. A Bona Fide Occupational Qualification (BFOQ) is a legitimate consideration for employers when drafting job descriptions. Certain occupations require certain sexes to perform them such as a female swimsuit model or male underwear model. In previous generations, police and fire fighters were also lumped into this category due to the strength and stamina requirements however, these stereotypes are becoming less prevalent.

Even with the Equal Pay Act, there are still some large discrepancies between the salaries of men and women, specifically in the upper echelons of corporations, C Suite offices are still traditionally held by men and those few women do break into the higher offices do not make the same salaries as their male counter parts. Employment-At-Will

In the states where traditional “ employment-at-will” law exists, an employer still has the right to terminate or discharge an employee for just cause or for no proper cause at all. Workers are not being hired on the basis of an employer-employee contract agreement, nor have they been employed or are they working under any provisions of a bona fide collective bargaining agreement negotiated between the employer and a union representative. Most union labor agreements require that employees be disciplined and/or discharged for only “ just cause” or “ proper cause”. Employees protected from employment-at-will include union members represented by labor unions with collective bargaining agreements, civil service employees and other employees covered by express or implied employment contracts.

Historically, the employment-at-will issue has placed an individual’s job rights against the right of the employer to employ whomever he wishes and to terminate whomever he wishes. Employment-at-will as part of a constructive discharge give the employer the ability to either request that the employee resign on their own or face being fired (a smoking gun threat).

As an at will employee, no one is guaranteed a job nor are employers certain that employees will continue their employment with an organization, unless an express written contract is in effect. Even then, contracts can be paid out or broken if specific instances are met. This may seem extreme and could cause both employees and employers to be unsure of the future of workers and positions however, proper conduct and good faith on the parts of both the organization and worker ensures a continued relationship.

With an employee handbook, both employee and employer will be versed in what is expected of all parties and what procedures are in place to ensure compliance with not just company policies bat all laws and regulations both from federal and state governments.