



Hiring and Firing

Hiring and firing employees is no longer a simple matter. In the past, an employer could hire or fire employees at will. Employers could discriminate against certain individuals freely without fear of legal action. However, today, under Federal and Michigan law, an employer should be keenly aware of the laws that restrict his hiring and firing powers.

A person hired for an indefinite contract is presumed to be an at-will employee. This means that the employer can terminate the employee's employment for any reason not prohibited by law. However, if an employee can prove that by the employer's (oral or written) statements that an at-will relationship was not intended, then an employer can only fire an employee for just cause. Also, an employer cannot terminate an employee if an objective employee, looking at his employer's actions, would reasonably believe that he had a legitimate expectation of only being terminated for just cause. "Just cause" means a cause based on reasonable grounds for a fair and honest reason. Just cause is measured by a test of good faith. Examples of just cause terminations might be frequent absenteeism, poor job performance, or committing a crime against the employer.


Even if an employee is employed at will, Federal and Michigan laws restrict the employer's right to hire and fire. All employers in Michigan are prohibited from discriminating on the basis of race, color religion, national origin, age, sex, height, weight, or marital status. Pregnancy discrimination is included within the meaning of sex discrimination. Furthermore, employers cannot retaliate against employees who file a complaint or assist in the investigation or further proceedings against the employer out of an alleged violation of the above. Federal law goes

further by prohibiting an employer from paying lower wages for equal work to members of the opposite sex that require the same level of skill, effort, and responsibility. But, the much publicized Federal Family and Medical Act only applies to employers with 50 or more employees. It permits employees to take up to 12 weeks of unpaid leave under the following circumstances: to care for a newborn, adopted child, or foster child; to care for a seriously ill parent, child, or spouse; or to care for the employee's own illness.

Furthermore, under both Federal and Michigan law, employers cannot discriminate against individuals who have handicaps that are unrelated to the individual's ability to perform the particular job or position. Both the Federal and Michigan handicap laws prohibit an employer from not hiring or firing an individual who has a handicap if adaptive devices or aids can be used to enable the individual to perform the specific requirements of a job.

Due to the many traps and pitfalls in employment law, veterinarians considering hiring or firing an employee should seek the assistance of a knowledgeable attorney before making their ultimate decision. Furthermore, employers may wish to consider having an attorney draft an employment manual to protect their interest in preserving an at-will employment relationship and to avoid costly litigation in the future.

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