

e-Alert

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Massachusetts Creates At-Will Employment Exception

Background

Massachusetts is an at-will state, in which employers and/or employees can choose to terminate their employment at any time. Massachusetts also has the “right to rebuttal” statute where employers must notify an employee whenever an employer is modifying or adding information to an employee’s personnel file. Employees have a right to inspect their personnel file and submit a written statement explaining their position on the modifications; this written statement must then be included in the personnel file.

Summary

On December 17, 2021, the highest state court in Massachusetts held that an employer may not terminate an employee solely for exercising their right to file a rebuttal to be included in their personnel file; adding that an employee may not be terminated solely for what is written in the rebuttal, assuming it is directed at explaining the employee’s position regarding a disagreement over their employment personnel record.

The slippery slope is when an employee is terminated under the at-will statute, exercising their right to rebuttal. In case [Meehan v Med. Info. Tech.](#), the statutory right of rebuttal required further common law protection as a public policy **exception** to at-will employment. However, this exception does not effectively end at-will employment, but

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rather ensures that employers are terminating for just cause in Massachusetts.

Employer Next Steps

- Employers should ensure they have sufficient reason to terminate the employee without regard to employees exercising their rights to rebuttal.
- If you are a Full-Service or Virtual HR client and would like our assistance with updating your policy, please [email us](#).

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