

## e-Alert

02.02.22

# 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

This content is provided with the understanding that HR Knowledge is not rendering legal advice. While every effort is made to provide current information, the law changes regularly and laws may vary depending on the state or municipality. The material is made available for informational purposes only and is not a substitute for legal advice or your professional judgment. You should review applicable laws in your jurisdiction and consult experienced counsel for legal advice. If you have any questions regarding this content, please contact [HR Knowledge](#).

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](#).

## The People Simplifying HR

For almost twenty years, HR Knowledge has made it our mission to demystify the complex and daunting process of HR management. We do more than just provide the level of service and technology you'd expect from an industry leader. We combine unparalleled passion for service with our decades of HR, payroll, and benefits experience to provide our clients with personalized and actionable advice that is second—to—none. From managed payroll to employee benefits to HR support, we can help your organization thrive, grow, and reduce operating costs—no matter what industry you serve. Whether you're interested in our Full-Service solution or just need your employee handbook written, HR Knowledge can help you minimize risk while staying on top of compliance regulations. The bottom line? We're not just another cloud-based technology company that also does HR, #WeAreHR. [Get the scoop](#) on how we can help you simplify HR.



@WEAREHRK