

Text Organization

Part 1 gives the foundations for employment law, covering introductory topics and cases to set the stage for later coverage. This initial section now includes more material to give students a more thorough grounding.

Chapter 1 now includes more coverage of topics essential to understanding the employer–employee relationship, such as testing, assessments, and discussion of basic terms and situations. The material in this chapter has been reorganized so that it now has a more intuitive flow.

Chapter 2 now covers Title VII of the Civil Rights Act in order to illustrate the foundational nature this groundbreaking legislation has for employment law.

Chapter 3 now encompasses the legal structure that defines the employment relationship and the evolution of that relationship, including how the law governs recruitment, selection, hiring, testing, appraisals, and other connected issues. This chapter has been expanded to reflect recent changes.

Part 2 covers various types of discrimination in employment, with each chapter revised to reflect recent changes.

Chapter 4 includes the recent case upholding affirmative action, *Grutter v. Bollinger*; recent revisions to affirmative action regulations, and misuse of affirmative action.

Chapter 5 has been expanded with a historical overview of racism in the United States, giving students a deeper understanding of how prevalent racial discrimination still is.

Chapter 6 features updates to gender discrimination issues and case outcomes, including coverage of pregnancy discrimination, gender stereotypes, employer grooming codes, and how the FMLA affects the employment relationship.

Chapter 7 clearly explains the difference between quid pro quo and hostile environment sexual harassment as well as how to avoid employer liability in this important area.

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Employment Law for Business, 5e has been significantly revised and updated to reflect the latest developments in a wide spectrum of case law and regulatory legislation, giving students and instructors the most thorough yet accessible coverage available. Part 1 of this edition has also been reorganized so that the presentation of topics follows a more intuitive ordering. In addition, essential pedagogical tools have been strengthened to better facilitate learning, including changes to the chapter-opening scenarios, expansions in the end-of-chapter questions, and updates to the key terms with definitions. Take a look at the new organization and key features that will help anchor your understanding of employment law.

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Chapter 8 discusses developments in affinity orientation discrimination issues and offers management tips on how to handle this fast-evolving topic.

Chapter 9 gives students up-to-date considerations on the many aspects of religious discrimination, including explanations of the legal definition of religion, points on the employer's duty to reasonably accommodate employees, and information on the correct usage of religion as a BFOQ.

A new section in Chapter 10 covers harassment based on national origin, including case coverage and updates on post-September 11, 2001, developments.

Chapter 11 incorporates brand-new coverage of age discrimination, including the landmark 2005 case, *Smith v. City of Jackson*.

Chapter 12 explores the complex world of disability discrimination, featuring discussion on intellectual disabilities and five new cases.

Part 3 lays out additional regulatory processes and dilemmas in employment.

Chapter 13 covers right to privacy issues, with updates on post-September 11, 2001 regulations.

Chapter 14 includes material on the Fair Labor Standards Act (FLSA) guidelines and the major overhaul of overtime regulations.

Chapter 15 includes material on new OSHA standards, penalties for violations, and new statistics in occupational health and safety.

Chapter 16 discusses new ERISA regulations and their implications, including coverage of HIPAA and related materials.

Chapter 17 discusses labor law history and considerations.

Key Features for the Fifth Edition

Chapter Outlines

Each chapter begins with an outline of topics covered, giving students a bird's-eye view of the material and making it easy to jump directly to particular subjects within a chapter. Use the outline to refresh your memory of key chapter subjects, as a quick reference point, and as an overview demonstrating how chapter topics are linked together.

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Opening Scenarios

Based on real cases and situations, chapter-opening scenarios introduce topics and material that illustrate the need for chapter concepts. Scenarios are then revisited throughout the chapter text as material pertinent to the opening scenario is discussed. When you encounter the scenario icon in the chapter body, return to the corresponding opening scenario to see if you can now articulate the correct way to solve the problem.

Opening Scenarios	
SCENARIO 1 Scenario 1 Emma Bina is working as a research scientist at a laboratory when she is approached with an employment offer from a competing laboratory. The competing lab director offers Emma nearly double her present salary and superior research equipment and opportunities. The lab director tells Emma that she can remain employed with the new company as long as she does satisfactory work. Emma accepts the offer, sells her house, takes her dog and cats and moves to the new state, buys a new house, and settles in. Emma's first two evaluations are superior. Then, ex-employee must show that the employer's actions were motivated by <i>bad faith, malice, or retaliation</i> . At least 44 states allow this exception. Violations of public policy usually arise from the employee being terminated for acts such as refusing to violate a criminal statute on behalf of the employer or at the employer's request, exercising a statutory right, fulfilling a statutory duty, or disclosing violations of statutes by an employer. For instance, a state may have a law that says that qualified citizens must serve jury duty unless they come within one of the statutory exceptions. The employer does not want the employee to miss work by serving jury duty. The employee serves jury duty and is terminated by the employer. The employee sues the employer for unjust dismissal. The employer counters with the at-will doctrine, which states that the employer can terminate the employee for any reason the employer wishes to use. The Jury System Improvements Act prohibits employers from discriminating based on jury service in federal courts. States vary in terms of their protection for state and local jury service. Even in states where the protection is less clear, many courts have then held that the employer's termination of the employee under these circumstances constitutes a violation of public policy. That is, by	
SCENARIO 2 Scenario 2 Mark Richter is about to retire as a candy salesperson when he closes on a deal the candy company has been trying to land for a long time. Just before Mark is to collect his substantial commission, he is terminated. Does Mark have a basis on which to sue for unlawful termination?	
SCENARIO 3 Scenario 3 Jenna Zitron informs her employer that she has been summoned to serve jury duty for a week. Though rescheduling her duties is not a problem, Jenna is told by her employer that, if	

Management Tips

These boxes, included near the conclusion of each chapter, encapsulate how key concepts relate to managerial concerns. The authors offer concise tips on how to put chapter material into practice in the real world.

Management Tips

- Always evaluate the status of your workers; don't assume employee or independent-contractor status for any worker.
 - Employment status is relevant to employer payroll and other financial issues; therefore, misclassification may be costly to the employer.
 - While an employer is not liable to independent contractors for discrimination based on Title VII, the independent contractor may have other causes of action. Therefore, hiring an independent contractor is not a safe harbor
- other factors, the worker has complete control over the manner in which the work will be done, uses her or his own supplies, is paid by the project rather than by the hour, and sets her or his own hours to complete the project.
- Monitor staffing firms with which you contract for temporary or other contingent workers to ensure that the workers are being properly paid and that the firm provides workers' compensation coverage.¹

Key Terms

Key terms are indicated in boldface and defined in the margin the first time the term is used. The terms are also listed in the glossary at the end of the book for quick reference.

Figures and Exhibits

Numerous exhibits and figures are included throughout the text to reinforce concepts visually and to provide students with essential background information.

Chapter Summaries

Each chapter closes with a summary section, giving students and instructors a tool for checking comprehension. Use this bulleted list as an aide in retaining key chapter points.

Summary

- Why is the definition of "employee" important? The distinction between employees and independent contractors is crucial from a financial perspective. Because many regulations require different responsibilities from employers of employees and independent contractors, it is imperative that an employer be confident of the classification of its employees.
- How does an employer make the distinction between employees and independent contractors? The classification of employees may vary depending on the statute that is to be applied or on the court in which a given case is scheduled to be heard. However, the common thread is generally the right of the employer to control the actions of the worker. Where this is present, the worker is likely to be considered an employee. Other factors to be considered include those that are part of the economic realities test, which evaluates the economics of the employment situation. Finally, some workers may be classified statutorily as employees, making the distinction all the easier.
- Who is an "employer"? The definition of employer is generally agreed on. An employer is usually thought to be one who employs or uses others (either employees or independent contractors, or both) to do its work, or to work on its behalf.
- When an employer decides to terminate an employee, there is always a reason for the termination. The reason need not be unjustified, only "justified" is that it would not

Guide to Reading Cases

This guide gives succinct direction on how get the most out of text cases. Terminology definitions, case citation explanations, and a walkthrough of the trial process are all included to help facilitate student comprehension.

Guide to Reading Cases

Thank you very much to the several students who have contacted us and asked that we improve your understanding by including a guide to reading and understanding the cases. We consider the cases an important and integral part of the chapters. By viewing the court decisions included in the text, you get to see for yourself what the court makes important when deciding a given issue. This in turn gives you as a decision maker insight into what you need to keep in mind when making decisions on similar issues in the workplace. The more you know about how a court thinks about issues that may end up in litigation, the better you can avoid it.

We provide the following in order to help you better understand the cases so that you can use them to their fullest. In order to tell you about how to view the cases, we have

Cases with Discussion Questions

Multiple cases are embedded within each chapter to illustrate main points. Cases include background information and excerpts from court proceedings so students get a snapshot of how issues play out in real-life litigations. Cases also include questions prompting students to synthesize case details with chapter coverage by using critical thinking.

Palmateer v. International Harvester Company 85 Ill.2d 124, 421 N.E.2d 876 (1981)

Ray Palmateer had worked for International Harvester (IH) for 16 years at the time of his discharge. Palmateer sued IH for retaliatory discharge, claiming that he was terminated because he supplied information to local law enforcement authorities regarding a co-worker's criminal activities and for offering to assist in the investigation and trial of the co-worker if necessary.

Simon, J.

[The court discusses the history of the tort of retaliatory discharge in Illinois and explains that the law will not support the termination of an at-will employment relationship where the termination would contravene public policy.] But the Achilles heel of the principle lies in the definition of public policy. When a discharge contravenes public policy in any way, the employer has

one favoring the effective protection of the lives and property of citizens.

No specific constitutional or statutory provision requires a citizen to take an active part in the ferreting out and the prosecution of crime, but public policy nevertheless favors citizen crime-fighters. Public policy favors Palmateer's conduct in volunteering information to the law enforcement agency. Palmateer was under a statutory duty to further assist officials when requested to do so.

contravenes public policy in any way, the employer has committed a legal wrong. However, the employer retains the right to fire workers at will in cases "where no clear mandate of public policy is involved."

There is no precise definition of the term. In general, it can be said that public policy concerns what is right and just and what affects the citizens of the State collectively. It is to be found in the State's constitution and statutes and, when they are silent, in its judicial decisions. Although there is no precise line of demarcation dividing matters that are the subject of public policies from matters purely personal, a survey of cases in other States involving retaliatory discharge shows that a matter must strike at the heart of a citizen's social rights, duties, and responsibilities before the tort will be allowed.

It is clear that Palmateer has here alleged that he was fired in violation of an established public policy. There is no public policy more basic, nothing more implicit in the concept of ordered liberty than the enforcement of a State's criminal code. There is no public

duty to further assist officials when requested to do so.

The foundation of the tort of retaliatory discharge lies in the protection of public policy, and there is a clear public policy favoring investigation and prosecution of criminal offenses. Palmateer has stated a cause of action for retaliatory discharge.

Case Questions

1. Is there a difference between the court's protection of an employee who reports a rape by a co-worker or the theft of a car, and an employee who is constantly reporting the theft of the company's paper clips and pens?
2. Should the latter employee in the above question be protected? Consider that the court in *Palmateer* remarked that "the magnitude of the crime is not the issue here. It was the General Assembly who decided that the theft of a \$2 screwdriver was a problem that should be resolved by resort to the criminal justice system."

3. What are other areas of public policy that might

End of Chapter Material

Included at the end of each chapter is a complete set of questions incorporating chapter concepts. Use these as tools to assess your understanding of chapter material.

Chapter-End Questions

1. Holtzman began working for World Book as a part-time sales representative in 1983. Her position required selling World Book's educational products. Until 1995, she worked as a part-time sales representative and then a district manager for World Book. In 1995, World Book decided to separate the parent division from the school and library division and reorganize its sales force by outsourcing: contracting with individual "regional directors" who would in turn contract with individual sales representatives. The same people who had worked for World Book under the previous arrangement filled many of the positions under the new structure, in which branch managers became separately incorporated regional directors and district managers while sales representatives took positions with the newly formed companies.

Holtzman signed a contract with Lee, a former World Book branch manager who had formed her own corporation and gathered a sales force consisting largely of former World Book sales representatives. Holtzman eventually became a territory coordinator, a position

Instructor's Resource CD

Complementary for instructors, this CD-Rom includes teaching notes, class discussion starters, PowerPoint presentations, solutions to chapter-end questions, and a comprehensive Test Bank in document and computerized formats. Instructors also benefit from online access to all these IRCD components through the text's Online Learning Center.

You Be the Judge Case Videos

With these unscripted videos of typical employment law case examples, students can watch as plaintiff and defendant present arguments before a real judge, explain their rationales, and hear the judge's verdict. Also available is the full set of You Be the Judge cases—this interactive DVD covers the full range of Business Law topics and is formatted for easy use in personal computers. Students view background material in addition to hearing the courtroom argument, then must weigh in with their own rulings before hearing the judge's verdict. View the You Be the Judge demo at this book's Online Learning Center, and ask your sales representative how to package the DVD set, ISBN 0073275018, with this book for a discount.

Online Learning Center with PowerWeb

The Online Learning Center for this text gives a complete overview of its organization, features, and supplements. Students can study chapter objectives, view the Guide to Reading Cases, access the book's Glossary, and assess their learning with new, expanded chapter quizzes. The PowerWeb function offers students the ability to do research on current events, access live news feeds, and review more course concepts. Register using the passcodes from the book's insert card to take advantage of this comprehensive online supplement! Instructors using the OLC can view all student materials as well as gain access to exclusive instructor resources, including the online version of the Instructor's Resource CD-ROM, with teaching notes and discussion suggestions. Jump start your learning now by visiting www.mhhe.com/emplaw5e.

