



LOUISIANA

QUICK AND EASY GUIDE TO LABOR & EMPLOYMENT LAW

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Disclaimer: These materials do not constitute legal advice and should not be substituted for the advice of legal counsel.

At-Will Employment

Generally, the employer/employee relationship in Louisiana is governed by the at-will employment doctrine. La. Civil Code art. 2747. This means that either the employer or the employee may terminate the relationship at any time, with or without cause, and with or without notice. However, without a disclaimer to the contrary, the terms and conditions of an employer's employment manual or handbook may narrow and restrict the at-will employment doctrine and create "enforceable contractual obligations." *Patino v. Dillard Univ.*, 2015-1364 (La.App. 4 Cir. May 25, 2016). However, handbook disclaimers are generally effective at preserving the at-will relationship.

Immigration Verification

All private contractors who want to do business with a state or local public entity must use E-Verify and, prior to bidding or contracting with a public entity, verify in a sworn affidavit that it: (1) participates in E-Verify; (2) will continue to participate in E-Verify for all new employees throughout the period of the contract; and (3) will require all subcontractors to submit sworn affidavits evidencing (1) and (2). La. Rev. Stat. § 38:2212.10.

All Louisiana employers must either use E-Verify or retain picture identification of employees using: (a) a United States birth certificate or certified birth card; (b) a naturalization certificate; (c) a certificate of citizenship; (d) an alien registration receipt card; or (e) a United States immigration form I-94 to avoid penalties. La. Rev. Stat. § 23:995. An employer that employs, hires, recruits, or refers for employment any person without employment eligibility in the United States may be subject to penalties listed in La. Rev. Stat. § 23:995.

E-Verify is strongly recommended because only the use of E-Verify creates a rebuttal presumption of good faith compliance with the law. If an employer fails to comply with La. Rev. Stat. § 23:995, they may face cancellation of public contracts, ineligibility for future public contracts for up to three years, increasing monetary fines, and an eventual loss of licensure.

Drug Testing

The State of Louisiana provides guidelines regarding the drug testing of employees in the workplace. La. Rev. Stat. §§ 49:1001- 1021. The statutory scheme adopts, by reference, the federal guidelines for the drug testing of federal employees. In general, the confidentiality of drug-testing information must be maintained, except for administrative, disciplinary, or civil litigation proceedings where such information is relevant. La. Rev. Stat. § 49:1012.

Employees are entitled to access all drug-testing records, if the result is positive, within seven business days of a written request. La. Rev. Stat. § 49:1011. Employers cannot require an employee to pay the cost of a drug test, pass the cost of a drug test to the applicant, or withhold it from an employee's pay (or fingerprinting, a medical examination, or the cost of furnishing any records available to the employer). La. Rev. Stat. § 23:897. Finally, and perhaps most importantly, an employer will not be held liable for defamation, libel, slander, or damage to the reputation or privacy of an employee when the employer's testing policies/procedures are in accordance with the law. La. Rev. Stat. § 49:1012. Denial of Workers' Compensation Benefits and Unemployment Benefits can result if the employee fails or otherwise refuses to submit to a drug test. See La. Rev. Stat. §§ 23:1081, 23:1601 (10).

It should also be noted that there are additional specific requirements pertaining to the obtaining of a sample, chain of custody, and lab certifications. Employers should approach drug testing cautiously because it can present substantial hurdles.

Jury Duty Leave

The State of Louisiana requires an employer to provide their employees with a paid leave of absence, without loss of sick, emergency, personal leave, or any other benefit, of "up to one day" for jury duty; otherwise, leave for jury duty may be without pay. La. Rev. Stat. § 23:965. Also, an employer shall not discharge or otherwise subject any adverse employment action, without cause, against an employee on account of their being called to serve or presently serving on any jury. *Id.* The employer also shall not make, adopt, or enforce any rule, regulation, or policy providing for the discharge of any employee who has been called to serve or is presently

serving on, any grand jury or on any jury at any criminal or civil trial, provided the employee notifies their employer of such summons within a reasonable period of time after receipt of a summons and before their appearance for jury duty.

Voting Leave

The State of Louisiana does not require an employer to offer its employees time off to vote.

Parental Leave

The State of Louisiana requires that covered employers provide female employees with at least six weeks of disability leave on account of a normal pregnancy, childbirth, or related medical condition, or a reasonable amount of time up to four months for a disability caused by pregnancy, childbirth, or related conditions. La. Rev. Stat. §§ 23:341, 23:342. A covered employer is defined as an employer who employs more than 25 employees within the state of Louisiana for each working day in each of 20 or more calendar weeks in the current or preceding calendar year. Employees returning from maternity leave are to be placed in the same or comparable position, consistent with staffing and business requirements.

Additionally, under La. Rev. Stat. § 23:342, it is an unlawful employment practice for an employer to refuse to allow a female employee affected by “pregnancy, childbirth[,] or related medical conditions” to: (1) receive the same benefits or privileges provided to people not so affected who are similar in their inability to work, including to take disability, sick leave, or other accrued leave that is made available to temporarily disabled employees; and (2) to take leave on account of pregnancy for a reasonable period of time, provided such period shall not exceed four months. For this second circumstance, the female employee “shall be entitled to utilize any accrued vacation leave during this period of time.”

Military Leave

An employee is eligible for military leave when called to active service in the military. La. Rev. Stat. § 29:406(A). An employee is entitled to take leave for the period of military service and, if the service is intermittent, the leave may be intermittent. La. Rev. Stat. §§ 29:404, 29:406(A). To be entitled to reemployment, an employee must give an employer advance written or verbal notice of the call to military service. La. Rev. Stat. § 29:410(A). However, no notice is required if giving notice is precluded by military necessity or, under all of the relevant circumstances, the giving of notice is otherwise impossible or unreasonable. La. Rev. Stat. § 29:410(B). To return after the end of military service, the employee must also provide verbal or written notice of intent to return. La. Rev. Stat. § 29:410(E).

Genetic Testing and Cancer Screening Leave

Employees may take one day of unpaid leave for genetic testing or preventive cancer screening when medically necessary. La. Stat. Ann. § 23:370. Testing or screening is medically necessary if: (1) it follows generally accepted evidence-based medical standards or the standard of care; (2) it is reasonably necessary to diagnose, correct, cure, alleviate, or prevent the worsening of a condition; or (3) no equally effective and affordable treatment is available or suitable for the employee. La. Rev. Stat. § 23:302(7). The employee must provide at least 15 days of advance notice and make a reasonable effort to prevent unduly disrupting the employer’s operations. Upon the employer’s request, the employee is required to provide documentation confirming the performance of the testing or screening, but the employee is not required to disclose the results. La. Rev. Stat. § 23:370.

Other Leave

The State of Louisiana does not require employers to offer employees paid vacation, sick, bereavement, or holiday leave. The Louisiana School and Day Care Conference and Activities Leave Act provides that an employer may grant an employee up to 16 hours of leave during any 12-month period to “attend, observe[,] or participate in conferences or classroom activities related to the employee’s dependent children at the child’s school or daycare center, if the conferences or classroom activities cannot reasonably be scheduled during the nonwork hours of the employee.” La. Rev. Stat. § 23:1015.2. The employee seeking such leave must give reasonable notice of the leave. The employer is not required to pay the employee for such leave, but an

employee “shall be permitted” to substitute accrued vacation time or other appropriate paid leave for any leave taken pursuant to this Section. La. Rev. Stat. § 23:1015.2(B).

There is also law governing leave time for first responders that provides an employee who leaves employment to perform the duties of a first responder under this part shall be treated as being on temporary leave of absence, subject to the terms and conditions of the employer’s stated policy regarding leaves of absence and provided that they apply for reinstatement in accordance with La. Rev. Stat. § 23:1017.3, 23:1017.1, *et seq.* Further, there is a law governing certified volunteer firefighters employed by the State of Louisiana providing they shall not be denied “leave, work-related benefits[,] or employment for absents [themselves] from said employment for the purpose of emergency response pursuant to such certification.” La. Rev. Stat. § 23:893.

Employers must also grant paid leave to an employee who seeks to undergo a medical procedure to donate bone marrow. The combined length of the leaves is determined by the employee, but may not exceed 40 work hours, unless agreed to by the employer. La. Rev. Stat. § 40:1263.4.

A public employee who qualifies as a member of the United States team for athletic competition on the world, Pan American, or Olympic level in a sport contested in either Pan American or Olympic competition shall be granted a leave of absence without loss or reduction of pay, time, annual leave, or efficiency rating for the purpose of preparing for and engaging in competition on such levels. In no event shall the paid leave under this Part exceed the period of the official training camp and competition combined or 90 calendar days a year, whichever is less. La. Rev. Stat. § 42:432.

A public employee who is a disaster service volunteer may be granted leave from his regular work assignment, with pay, for a period not to exceed 15 work days in any 12-month period to participate in specialized disaster relief services for the American Red Cross when requesting such leave and upon approval of the employing agency. Any public employee who is granted disaster service leave shall not forfeit any seniority, pay, vacation time, sick leave, or earned overtime accumulation as a result of their participation in the Disaster Service Leave Program. La. Rev. Stat. § 42:450.2.

Smoking Laws

Employers are not permitted to discriminate against an individual with respect to discharge, compensation, promotion, any personnel action or condition, or privilege of employment because the employee is a smoker (a person who smokes tobacco) or a nonsmoker. La. Rev. Stat. § 23:966. However, an employer is free to formulate and adopt a policy regulating the use of tobacco in the workplace. *Id.*

However, the Smokefree Air Act prohibits smoking in any public building, school, public place in an enclosed area, in any outdoor area proximate to a state office building where smoking is prohibited, or in an enclosed area in any place of employment. La. Rev. Stat. § 40:1291.11.

Break Time to Express Milk

The State of Louisiana requires that covered employers provide reasonable break time and a private place, other than a bathroom stall, for employees to express breast milk for up to one year after the child’s birth. La. Rev. Stat. § 23:341.1(B)(2). A covered employer employs more than 25 employees. Employers must also comply with Section 7 of the Fair Labor Standards Act. 29 U.S.C. § 218d(h).

Generally, the Louisiana legislature has found that breast milk provides better nutrition and more immunity to disease, is easier for babies to digest, and may raise a baby’s intelligence quotient, so it declared that the promotion of family values and infant health demands an end to the “vicious cycle of embarrassment and ignorance that constricts women and men alike on the subject of breastfeeding.” La. Rev. Stat. § 51:2247.1(1)(2)-(3). Consequently, a mother may breastfeed her child in any place of public accommodation. La. Rev. Stat. § 51:2247.1.

Meal Breaks

The State of Louisiana has no law regulating meal breaks or rest periods other than for minors: no minor under 16 years of age shall work for any five-hour period without at least a 30-minute break for meals. La. Rev. Stat. § 23:213. This break shall not be included as part of the working hours of the day.

Minimum Wage

The State of Louisiana has no minimum wage law. Employers are therefore subject to the federal minimum wage law. Notably, local governmental units are specifically forbidden in Louisiana from enacting laws requiring private employers to pay a higher minimum wage than federal law requires. La. Rev. Stat. § 23:642.

Wage Garnishments

In Louisiana, “tips reported to the employer, or other income” of an employee are subject to wage garnishment in addition to regular wages and salaries La. Rev. Stat. § 13:3921(A), meaning that employers must garnish tips, if applicable, when complying with a valid garnishment order.

Final Payments

After separation, an employee must be paid all wages due and owing on the next scheduled payday or no later than 15 days following the discharge, whichever occurs first. La. Rev. Stat. § 23:631. No person shall require an employee to sign a contract forfeiting their wages if discharged before the contract is completed or if the employee resigns before the contract is completed but in all such cases the employees shall be entitled to the wages actually earned up to the time of their discharge or resignation. La. Rev. Stat. § 23:634. The employee is entitled to wages actually earned. *Id.* The employee may sign a contract providing that the costs of the individual medical examination or drug test may be withheld from wages if an employee resigns within 90 working days, as long as the employee is paid not less than one dollar above the existing federal minimum wage and the resignation was not attributable to a substantial change to employment made by the employer. *Id.* at 634(B).

Unemployment Insurance

Unemployment insurance benefits provide income to individuals who have lost work through no fault of their own. The benefits are intended to partially offset the loss of wages while an unemployed worker searches for suitable work or until an employer can recall the employee to work. Nothing is deducted from the employee’s wages to pay for this coverage, and an employer shall not discharge an employee for filing a claim for unemployment compensation benefits. La. Rev. Stat. § 23:1691.

Unemployment benefits are administered by the Louisiana Workforce Commission and additional information regarding the benefits may be accessed [here](#).

Workers’ Compensation

The Louisiana Workers’ Compensation Law, La. Rev. Stat. § 23:1020.1, *et seq.*, applies to every employer in Louisiana, subject to certain exemptions. Employees who suffer injuries and/or occupational diseases arising out of and in the course of their employment may be eligible to receive several types of benefits under the Law. The Law is administered by the Louisiana Workforce Commission and additional information regarding the Law may be accessed [here](#).

Under the Law, a workplace injury must be reported to the employer within 30 days; failing to report an injury in a timely manner may result in a denial of benefits. However, if an employer fails to post a required workers’ compensation notice in a conspicuous place, the timeframe for an employee to report an injury extends to one year from the date of the injury. La. Rev. Stat. § 23:1302. Finally, Louisiana prohibits the discharge of an employee for filing a workers’ compensation claim. La. Rev. Stat. § 23:1691.

Gun Laws

No public or private employer shall be liable for damages resulting from or arising out of an occurrence involving a firearm transported or stored at the workplace La. Rev. Stat. §§ 32:292.1, other than for a violation of Subsection C of this section. Under Subsection C, no public or private employer shall prohibit any person

from transporting or storing a firearm. However, nothing prohibits an employer from adopting a policy requiring firearms stored in locked personal vehicles to be hidden from plain view or placed in a locked case or container in the vehicle. La. Rev. Stat. § 32:292.1(C). This section does not apply to any property where possessing a firearm is prohibited under state or federal law; any vehicle owned by the employer and used by the employee in the course of their employment; and any vehicle or property controlled by the employer if access is restricted by a fence, gate, security station, signage, or other means of restriction; and if one of the following conditions applies: The employer or business entity provides facilities for the temporary storage of unloaded firearms, or the employer or business entity provides an alternative parking area reasonably close to the main parking area in which employees and other people may transport or store firearms in locked, privately owned motor vehicles. La. Rev. Stat. § 32:292.1.

Additional Laws and Regulations

Employment Discrimination Law

The Louisiana Employment Discrimination Law prohibits employers from failing or refusing to hire, or to discharge, or otherwise discriminate against applicants or employees in the terms or conditions of employment based on age (40 and older) La. Rev. Stat. § 23:312; veterans for taking time away from work to attend medical appointments necessary to meet the requirements to receive veterans' benefits La. Rev. Stat. § 23:331; disability La. Rev. Stat. § 23:323; race, color, religion, sex, national origin, or natural, protective, or cultural hairstyle La. Rev. Stat. § 23:332; sickle cell trait La. Rev. Stat. § 23:352; protected genetic information La. Rev. Stat. § 23:368; and pregnancy, childbirth, or related medical condition La. Rev. Stat. § 23:342. Its provisions apply to all employers, with the exception of certain religious educational institutions, that employ 20 or more employees within the State of Louisiana for each working day in each of 20 or more calendar weeks in the current or preceding calendar year. La. Rev. Stat. § 23:302.

The provisions relating to pregnancy discrimination make it an unlawful employment practice to refuse to temporarily transfer a pregnant employee to a less strenuous or hazardous position for the duration of the pregnancy if they so request such an accommodation, with the advice of their physician, where such transfer can be reasonably accommodated but there is no requirement that the employer creates additional employment. Available remedies include compensatory damages, back pay, reinstatement or front pay, benefits, reasonable attorneys' fees, and court costs. Punitive damages are not available. An employee who believes they have been discriminated against must give the employer written notice of the claim at least 30 days before initiating court action, must detail the alleged discrimination, and must make a good faith effort to resolve the dispute prior to initiating court action. La. Rev. Stat. § 23:303. An employee has one year to file suit; however, that time period is suspended during the pendency of any administrative review of investigation of the claim conducted by the federal Equal Employment Opportunity Commission or the Louisiana Commission on Human Rights. No suspension of this one-year period may last longer than six months. La. Rev. Stat. § 23:303.

Equal Opportunity and Nondiscrimination

Governor John Bel Edwards issued Executive Order 2016-11 on April 13, 2016, that protects state workers and contractors from being discriminated against or harassed based on their race, color, religion, sex, sexual orientation, gender identity, national origin, political affiliation, disability, or age when the employer makes hiring, promotion, tenure, recruitment, termination, or compensation decisions. The Executive Order applies to state agencies, departments, offices, commissions, boards, entities, or officers of the State of Louisiana and is the first time the State of Louisiana has taken formal action to protect transgender workers.

Workplace Safety

The State of Louisiana requires every employer to furnish a "reasonably safe" work environment, including safety devices, safeguards, and anything reasonably necessary to protect the life, health, safety, and welfare of employees. La. Rev. Stat. § 23:13. Louisiana also provides specific regulations regarding: (1) divers, tunnel, and caisson workers, La. Rev. Stat. §§ 23:481-88; (2) air circulation and fumes, La. Rev. Stat. § 23:511; and (3) people who work with boilers, La. Rev. Stat. §§ 23:531-46.

Retaliation

The State of Louisiana further prohibits: (1) the discharge of an employee on account of their political opinions, political affiliations, running for political office, or voting actions for employers regularly employing 20 or more employees, La. Rev. Stat §§ 23:961-962; (2) the discharge of an employee who testifies or furnishes information during a labor investigation, La. Rev. Stat. § 23:964; (3) an employer from terminating an employee for disclosing or threatening to disclose an employment practice in violation of state law, La. Rev. Stat. § 23:967; (4) the discharge of an employee because of a voluntary assignment of a single garnishment of earnings, La. Rev. Stat. § 23:731(C); (5) the discharge of an employee because that employee is a member of any uniformed service, La. Rev. Stat. § 29:404; and (6) discharge of an employee based upon a request for, or the receipt of, genetic information regarding that employee, La. Rev. Stat. § 23:368.

Minimum Age

A minor is defined as any person under 18 years of age. La. Civil Code art. 29. Minors under the age of 12 are prohibited from working in any occupation. La. Rev. Stat. § 23:162. Minors under the age of 14 may only be employed where they are working under the direct supervision of a parent or legal guardian who is an owner or partner in the business. La. Rev. Stat. § 23:162. Minors 14 and 15 years of age may be employed only in certain occupations and may only work after school and during nonschool days. La. Rev. Stat. § 23:166. Minors under 16 years of age are prohibited from obtaining employment in certain occupations, depending upon the age of the minor and the occupation. La. Rev. Stat. §§ 23:161, 23:163.

Reference Immunity

An employer who provides information that is not knowingly false or deliberately misleading in response to a request from a prospective employer or a current or former employee about the employee's job performance or reasons for separation shall be immune from civil liability. La. Rev. Stat. § 23:291.

CROWN Act

Effective August 1, 2022, the Creating a Respectful and Open World for Natural Hair (CROWN) Act amends the definition of intentional discrimination in employment under Louisiana law (La. Rev. Stat. § 23:332) to include any discriminatory practices with respect to any individual's compensation or terms, conditions, or privileges of employment because of "natural, protective, or cultural hairstyle." Natural, protective, or cultural hairstyle is defined to include "afros, dreadlocks, twists, locs, braids, cornrow braids, Bantu knots, curls, and hair styled to protect hair texture or for cultural significance."