FOOTHOLD AMERICA

US EMPLOYMENT LAW · STATE BY STATE

The US Termination Rulebook

In America an employer can normally end the employment relationship at any time, for any lawful reason, with no notice and no severance. That single sentence is where most international employers go wrong, because everything interesting sits in the exceptions. Here is the whole picture on one page.

49 states and DC follow at-will	**1** state requires good cause	**0** states set notice for an individual dismissal	**1** state mandates severance pay

01 AT-WILL EMPLOYMENT

Forty-nine states, one holdout

At-will means either side can end the relationship at any time, for any reason that is not unlawful, without notice. Montana is the only state that has abandoned it. Four more apply it in its purest form, with none of the common law exceptions that soften it elsewhere.

At-will, exceptions vary (45 states + DC)
At-will applies, but state courts recognise exceptions that narrow it. Which ones, and how far, varies state by state.

Strictest at-will (4 states)
Florida, Georgia, Louisiana and Rhode Island recognise none of the three common law exceptions in their pure form. Federal protections still apply in all four.

Good cause required (Montana)
Under the Wrongful Discharge from Employment Act, a Montana employer needs good cause to dismiss once an employee is past the probationary period. The default period is 12 months, and an employer can extend it to 18.

02 THE EXCEPTIONS

Three doctrines that narrow at-will

These are judge-made, not statutory, which is why they differ by state and why a handbook written for one state can create a liability in another.

Public policy
No dismissal for doing something the law protects. Filing a workers' compensation claim, serving on a jury, refusing to break the law, reporting a violation. The most widely recognised of the three.

Implied contract
A handbook, an offer letter, or a consistent pattern of conduct can create a promise the employer is then held to, with nothing ever signed. Progressive discipline policies are the classic trap.

Good faith and fair dealing
The narrowest, recognised in a minority of states. Used mainly where a dismissal is timed to strip an employee of something already earned, such as a commission about to vest.

03 THE FEDERAL FLOOR

What at-will never lets you do

At-will is a default rule about notice and cause. It is not permission. Federal statutes apply in every state, including the four strictest, and they do not care what your contract says.

ALWAYS UNLAWFUL

Protected characteristics and retaliation

Title VII bars dismissal on race, colour, religion, sex or national origin. The ADEA covers age from 40. The ADA covers disability. Retaliation for asserting any of these rights is separately unlawful, and in practice it is the claim employers lose most often.

A dismissal that would have been fine on Monday becomes a retaliation claim if it lands the week after a complaint. Timing is evidence.

MASS LAYOFFS

The WARN Act changes the rules

- **Who it covers.** Employers with 100 or more employees.
- **Notice.** 60 days, in writing, in advance.
- **Plant closing.** A shutdown at one site causing employment loss for 50 or more.
- **Mass layoff.** 500 employees, or 50 where that is at least a third of the site.
- **If you get it wrong.** Back pay and benefits for the notice period you did not give.

04 SEVERANCE AND FINAL PAY

New Jersey is the exception that proves the rule

There is no severance requirement in the Fair Labor Standards Act. Severance in America is a matter of agreement between employer and employee, not entitlement. One state has legislated its way out of that.

THE ONLY MANDATE

New Jersey mass layoffs

- **Who it covers.** Employers with 100 or more employees.
- **Trigger.** A mass layoff affecting 50 or more employees statewide. The 2023 amendments removed the single-location test.
- **Amount.** One week of pay for each full year of service, uncapped, even where full notice is given.
- **Penalty.** Four additional weeks of pay if the employer fails to give 90 days' notice.
- **No waiver.** An employee cannot sign the severance away without approval from the state Commissioner of Labor or a court.

WAGES ALREADY EARNED

The final paycheck is not optional

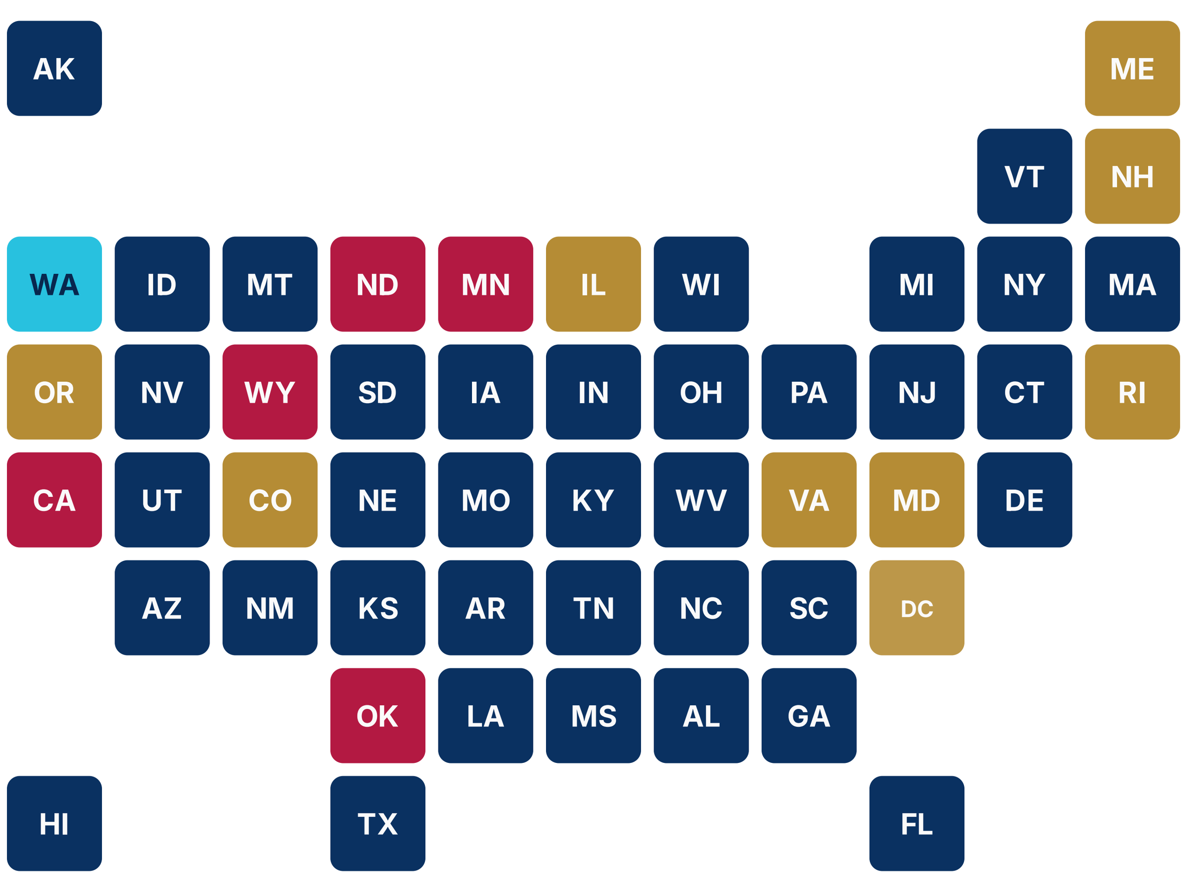
Severance is discretionary. Accrued wages are not, and the deadline is set by state law rather than by your payroll calendar.

- **California.** Immediately, on the day of an involuntary termination.
- **Most other states.** The next regularly scheduled payday.
- **Accrued vacation.** Treated as earned wages in some states and forfeitable in others. Check before you write the policy, not after.

05 NON-COMPETES

The map that changed the most

The FTC's nationwide ban was struck down in federal court and removed from the Code of Federal Regulations on 12 February 2026. The agency now pursues individual employers case by case under Section 5 of the FTC Act. That leaves the states in charge, and they are moving in different directions.



Banned or void (5 states)
California, Minnesota, North Dakota and Oklahoma ban them outright. Wyoming voids most, with an exception for executive and management personnel.

Ban taking effect (Washington)
All non-competes are void from 30 June 2027, including agreements already signed. No executive exemption. Sale-of-business covenants and narrow non-solicits of up to 18 months survive.

Salary threshold (9 jurisdictions)
Enforceable only above an earnings floor. Below it the agreement is unenforceable however it is drafted. Most of these index annually, so a template written last year can quietly fall out of range. Washington also has one until its ban lands.

Enforceable if reasonable (everywhere else)
Courts weigh duration, geography and scope against a legitimate business interest. Overreach is the usual reason one fails.

JURISDICTION	2026 EARNINGS THRESHOLD	WHAT ELSE APPLIES
District of Columbia	$162,164	From 1 January 2026. The highest in the country.
Colorado	$130,014	From 1 January 2026, tied to the state highly compensated worker threshold and indexed annually. Non-solicitation agreements sit at 60% of it, $78,008.40.
Washington	$126,858.83	$317,147.09 for independent contractors. All of it is replaced by the outright ban on 30 June 2027.
Oregon	$119,541	Under ORS 653.295. The employee must also be salaried and in an exempt role.
Virginia	$78,364.52	Set by the state average weekly wage of $1,507.01. From 1 July 2026 also unenforceable after a no-cause termination unless severance is paid.
Illinois	$75,000	Rising to $80,000 on 1 January 2027. Non-solicitation has a separate $45,000 floor.
Maine	$63,840	Set at 400% of the federal poverty level.
Maryland	$49,920	Set at 150% of the state minimum wage, so it moves when the wage does on 1 July 2026. Montgomery County sets its own at $55,068.
Rhode Island	$39,900	Set at 250% of the federal poverty level.
New Hampshire	$30,160	Under RSA 275:70-a. The lowest threshold in the country.

06 WHAT IT MEANS FOR YOU

Four things to do differently

01 Stop writing UK notice into US offers
A notice period in a US offer letter is a promise you have made voluntarily and can be held to. If you want the flexibility at-will gives you, do not contract it away out of habit.

02 Write the handbook per state, not per company
The implied contract exception turns a well-meaning progressive discipline policy into an enforceable commitment. One handbook across fifteen states is fifteen different legal positions.

03 Check the non-compete against the employee's state, and their salary
The employee's location governs, not your entity's. A template that works for a New York hire is void for the same role in Minnesota, and void in Illinois below $75,000.

04 Document the reason even though you do not have to
At-will means you need no cause. It does not stop a former employee arguing the real reason was an unlawful one, and a contemporaneous record is what answers that.

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Empowering Your Growth

Sources. NCSL, At-Will Employment Overview. Montana Wrongful Discharge from Employment Act, Mont. Code Ann. 39-2-901, probationary period as amended by SB 65 (2021). US Bureau of Labor Statistics, Monthly Labor Review, January 2001. WARN Act, 20 CFR 639.3. Title VII, ADEA (protection from age 40, per the statute) and ADA. New Jersey Millville Dallas Airmotive Plant Job Loss Notification Act. FTC removal of the Non-Compete Rule, Federal Register, 12 February 2026. Non-compete salary thresholds confirmed against two independent trackers, Epstein Becker Green and Maynard Nexsen, both current to 2026. Washington ESHB 1155 per Faegre Drinker and Jackson Lewis. New Jersey mini-WARN per Ogletree Deakins and Paychex.

The map is a schematic, one square per state, not a geographic projection. General information for planning purposes, not legal advice.