

Fair Labor Standards Act (FLSA)

- Establishes a minimum wage, overtime pay, record-keeping requirements, and child labor standards
- Requires overtime pay at a rate of one and one-half times the regular pay rate
- Workers in executive administrative positions are exempted

Table 21.1 - Summary of Major Federal Employment Laws

Law	Purpose
Civil Rights Acts, Pregnancy Discrimination Act, Americans with Disabilities Act, Age Discrimination in Employment Act, and Genetic Nondiscrimination Act	<ul style="list-style-type: none"> • Provide national policy governing employment discrimination.
Fair Labor Standards Act (FLSA)	<ul style="list-style-type: none"> • Provides hourly minimum wage and maximum number of hours before overtime is owed. • Provides restrictions on child labor.
Worker Adjustment and Retraining Notification Act (WARN Act)	<ul style="list-style-type: none"> • Provides restrictions on plant closings and mass layoffs.
Family Medical Leave Act (FMLA)	<ul style="list-style-type: none"> • Provides unpaid leave to care for a newborn child, an adopted child, to care for a family member, or for serious health conditions.
Uniformed Services Employment and Reemployment Rights Act (USERRA)	<ul style="list-style-type: none"> • Provides reemployment rights after performing uniformed service. • Provides those serving in the military the right to be free from discrimination and retaliation based on uniformed service.
Occupational Safety and Health Act (OSHA)	<ul style="list-style-type: none"> • Provides standards for a safe and healthy working environment.
Social Security Act	<ul style="list-style-type: none"> • Provides unemployment compensation. • Provides disability benefits.
Employment Retirement Income Security Act (ERISA)	<ul style="list-style-type: none"> • Provides requirements for private pension plans.
Electronic Communications Privacy Act	<ul style="list-style-type: none"> • Provides standards to protect privacy.
Railway Labor Act, Norris-LaGuardia Act, Wagner Act, Taft-Hartley Act, and Landrum-Griffin Act	<ul style="list-style-type: none"> • Provide national policy for governing the union-management relationship.

Case 21.1 - Fair Labor Standards Act

➤ Case

- Sandifer v. United States Steel Corp.
- 571 U.S. ____ (2104)
- Supreme Court

➤ Issue

- Plaintiffs filed collective action against the defendant seeking back pay for time spent donning and doffing protective gear

Case 21.2 - Fair Labor Standards Act

➤ Case

- Kasten v. Saint-Gobain Performance Plastics Corp.
- 53 U.S. ____ (2011)
- Supreme Court

➤ Issue

- Plaintiff filed an antiretaliation suit against the defendant alleging that he was discharged for making an oral complaint to company officials

Worker Adjustment and Retraining Notification (WARN) Act

- Requires employers to provide notice of plant closings and mass layoffs
- Notice must be in writing and delivered at least 60 days prior to closing or layoff
- Notice is required from employers with 100 or more employees
- Failure to comply can result in back pay to employees

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If a plant is facing closing and layoffs, the employer must provide notice to employees under the _____.

- a. Fair Labor Standards Act**
- b. WARN Act**
- c. Family and Medical Leave Act**
- d. HIPPA**

Family and Medical Leave Act (FMLA)

- Provides eligible employees with 12 weeks of unpaid leave if following events occur
 - Birth and care of a newborn child
 - Adoption or foster care placement of son or daughter
 - Care of an immediate family member with a serious health condition
 - Employee is unable to work due to a serious health condition

Family and Medical Leave Act (FMLA)

- Employers with 50 or more employees are covered
- Employee should have worked at least a total of 12 months for the employer
- Employer must keep the job available for when the employee returns to work

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FMLA does not permit time off to travel overseas for adoption of a child:

- a. True**
- b. False**

National Defense Authorization Act (FY 2010 NDAA)

- Broadens coverage under the FMLA to expand the availability of caregiver or exigency leave
- Extends military caregiver leave to eligible employees whose family members are veterans with serious injuries
- Expands qualifying exigency leave to eligible employees with family members serving in the military

Uniformed Services Employment and Reemployment Rights Act (USERRA)

- Protects the rights of individuals who leave employment positions to undertake military service
- Protects uniformed personnel from discrimination in:
 - Initial employment
 - Reemployment
 - Retention in employment
 - Promotion
 - Any benefit of employment

Case 21.3 - USERRA

➤ Case

- Staub v. Proctor Hospital
- 562 U.S. ____ (2011)
- Supreme Court

➤ Issue

- Staub sued Proctor under the USERRA alleging that he was discharged due to his military obligations

Occupational Safety and Health Administration (OSHA)

- Provides standards to furnish a workplace free from recognized hazards
- Employees can request an inspection if there are unsafe workplace conditions
- Employees can file a complaint if they are subject to retaliation or discrimination by employers
- Severe Violator Enforcement Program (SVEP)

Pension Plans

- Employee Retirement Income Security Act (ERISA)
 - Protects employees whose employers have voluntary pension plans
- Consolidated Omnibus Budget Reconciliation Act (COBRA)
 - Enables employees to continue purchasing health insurance even after their termination
- Health Insurance Portability and Accountability Act (HIPAA)

Patient Protection Affordable Care Act

- Increases the quality and affordability of health insurance
- Mandates Americans to purchase health insurance
- Offers subsidized coverage for qualifying individuals
- Provides the Patient's Bill of Rights
- Prohibits insurance companies from rescinding coverage
- Expands free preventive care

Limitations on Employment at Will

- **Employment-at-will doctrine:** Employers can discharge employees without cause at any time
- **Labor-Management Relations Act**
 - Prohibits employers from discharging employees for union activities
- **Federal laws limit employers' right to terminate employees**

Table 21.2 - Federal Statutes Limiting Employment-at-Will Doctrine

Statute	Limitation on Employee Discharge
Labor-Management Relations Act	Prohibits discharge for union activity or for filing charges under the act.
Fair Labor Standards Act	Forbids discharge for exercising rights guaranteed by minimum-wage and overtime provisions of the act.
Occupational Safety and Health Act	Prohibits discharge for exercising rights under the act.
Civil Rights Act	Makes illegal discharge based on race, sex, color, religion, or national origin.
Age Discrimination in Employment Act	Forbids age-based discharge of employees over age 40.
Employee Retirement Income Security Act	Prohibits discharge to prevent employees from getting vested pension rights.
Clean Air Act	Prevents discharge of employees who cooperate in proceedings against an employer for violation of the act.
Clean Water Act	Prevents discharge of employees who cooperate in proceedings against an employer for violation of the act.
Consumer Credit Protection Act	Prohibits discharge of employees due to garnishment of wages for any one indebtedness.
Judiciary and Judicial Procedure Act	Forbids discharge of employees for service on federal grand or petit juries.

Workers' Privacy

- Electronic Communications Privacy Act
- Employee Polygraph Protection Act
 - Forbids private employers from using lie detector tests to screen job applicants
 - Permits private security companies to test job applicants
- States have limitations on drug testing
- Public employees are protected from drug testing by the Fourth Amendment

Worker's Compensation Acts

- Protect employees and their families from the risks of accidental injury or death resulting from employment
- Injury must have occurred in the course of the employment to be compensable
- Create strict liability for employers of accidentally injured workers
- Provide cash payments for loss of income and medical benefits

Worker's Compensation Acts

- Tests for determining compensation
 - Was the injury accidental?
 - Did the injury arise out of and in the course of employment?
- **Exclusive remedy rule:** Employee's sole remedy for workplace injury shall be workers' compensation
- Problems arising from non-uniform acts of states can be resolved by federal reform

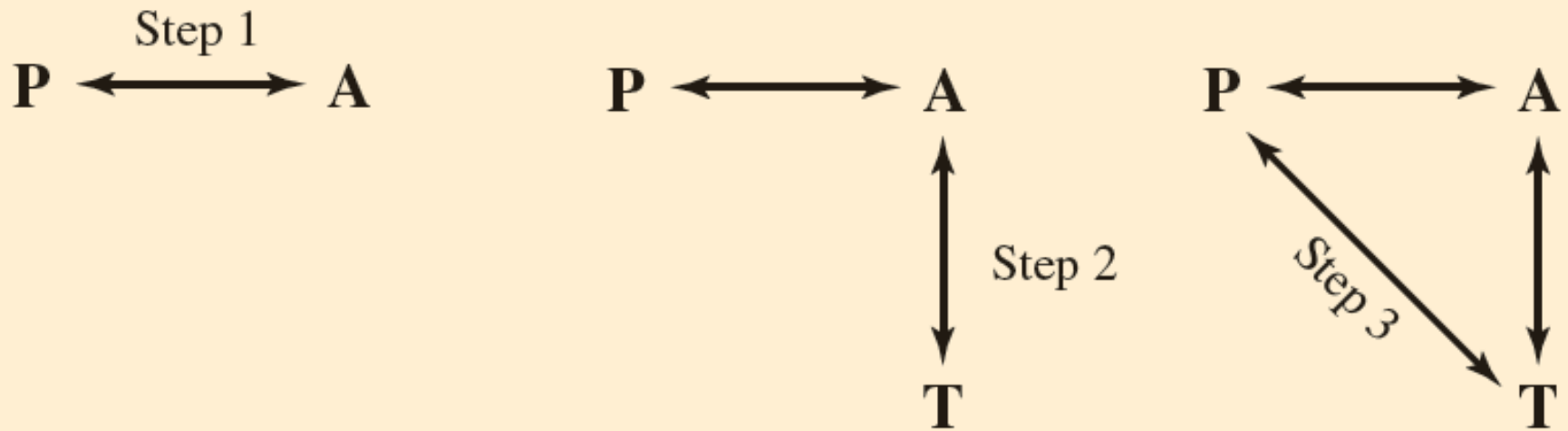
Employment Eligibility Verification

- Employers must complete and retain Form I-9 for individuals hired in the United States
- Employment eligibility and genuineness of documents presented must be examined
- Acceptable documents
 - U.S. Passport or U.S. Passport Card
 - Permanent Resident Card
 - Foreign passport with a temporary I-551 stamp
 - Employment Authorization document with a photograph

Agency Law in Contracts and Other Contexts

- Application of agency law involves interaction between three parties
- Principals hire agents to perform tasks and represent them in transactions
 - **Principal:** First party
 - **Agent:** Second party
- Agent creates a binding relationship between the principal and third party
- Agents owe certain duties to principal

Figure 21.1 - Illustration of the Agency Relationship



Contractual Liability From an Agent's Acts

- **Actual authority:** Created by specific instructions, spoken or written, given by an employer to an employee
- **Implied authority:** Inferred from the acts of an agent who holds a position of authority
- **Apparent authority:** Suspended when a third party is notified about an agent's termination
- **Ratification:** Occurs when a principal voluntarily decides to honor an agreement

Tort Liability From an Agent's Acts

- Agent who causes harm to a third party creates legal liability for the principal
- ***Respondeat superior***: Employer is liable for tortious acts of an employee in the scope of employment
- Cases involve employee negligence and intentional tort
- **Frolic and detour**: Defense that employee was outside the scope of employment

Criminal Liability

- Agents can impose criminal liability on business organizations
- Businesspeople and organizations can be criminally responsible in several ways

Employee Lawsuits

- Adequate documentation offers protection against unjustified employee lawsuits
 - **Paper fortress:** Consists of job descriptions, personnel manuals, and employee files
- Record of unsatisfactory work performance
 - Provides defense against lawsuits related to denial of promotion or discharge
- Written warnings and letters of explanation must be preserved in the personnel file