



EMPLOYER CHECKLIST | JURISDICTION: TEXAS | VERSION 2026.1

Texas At-Will Termination Exception Checklist

At-will is the rule in Texas — this checklist screens for the exceptions that turn a lawful firing into a lawsuit.

WHAT THIS HELPS YOU DO

Use this checklist before relying on at-will status to terminate, to screen for the statutory, contractual, and public-policy exceptions that at-will employment does not protect against.

WHEN TO USE THIS DOCUMENT

- Any time 'we're at-will, we can just let them go' is said out loud
- Before terminating without documented cause
- When reviewing a supervisor's termination recommendation
- Before terminating anyone who recently engaged in protected activity
- When offer letters, handbooks, or managers may have made promises

WHAT THIS DOCUMENT HELPS PREVENT

- Discrimination and retaliation claims that at-will status never blocks
- Sabine Pilot claims — firing an employee for refusing to commit an illegal act
- Contract claims created by careless offer letters and handbook language
- Workers' comp retaliation exposure under Texas Labor Code Chapter 451
- False confidence that ends in a demand letter

Faulkner HR Solutions focuses on the system behind the people problem. This tool is designed to help employers slow down the decision, identify the risk, and create proof before the issue becomes a claim, complaint, turnover event, or credibility problem.

BEFORE YOU START: READINESS CHECKLIST

Gather the following before working through this document. Incomplete inputs are one of the most common reasons employer decisions fail under later scrutiny.

Have it	Input	Notes / location
☐	Employee name and role	
☐	Date of incident, request, or separation	
☐	Supervisor involved	



Have it	Input	Notes / location
☐	Policy or handbook section that applies	
☐	Prior documentation on file	
☐	Pay records, if applicable	
☐	Relevant emails, texts, notes, or complaints	
☐	Decision-maker name	
☐	Deadline, if applicable	



EXCEPTION SCREEN

Work through all six screens. At-will status only helps when none of these exceptions applies — and the file proves it.

Screen 1 — Statutory Discrimination Exceptions

At-will never permits termination because of a protected characteristic. Mark any that could plausibly be alleged.

Risk?	Could the employee allege termination based on...	Facts
☐	Race, color, or national origin	
☐	Sex, pregnancy, sexual orientation, or gender identity	
☐	Religion	
☐	Age (40+)	
☐	Disability, or a request for accommodation	
☐	Genetic information or military service	

Screen 2 — Retaliation and Protected Activity

Yes?	In the last 12-18 months, has the employee...	Date / details
☐	Filed or threatened a workers' comp claim (Texas Labor Code Ch. 451)	
☐	Complained about discrimination, harassment, or retaliation	
☐	Raised wage, overtime, or payday complaints	
☐	Reported safety violations (OSHA) or refused unsafe work	
☐	Taken or requested FMLA or other protected leave	
☐	Served on a jury, voted, or attended military duty	
☐	Reported illegal activity, or refused to perform an illegal act (Sabine Pilot)	

Screen 3 — Contract and Promise Exceptions

Exists?	Contract / promise check	Document / language
☐	Written employment agreement with a term or 'cause' requirement	
☐	Offer letter language promising job security, guaranteed periods, or 'permanent' employment	



Exists?	Contract / promise check	Document / language
☐	Handbook language promising progressive discipline before termination, without a clear at-will disclaimer	
☐	Verbal promises by managers ('you'll always have a job here')	
☐	Collective bargaining agreement or civil service protection	
☐	Public-sector due process / property interest in continued employment	

Screen 4 — Timing Review

Date of most recent protected activity (from Screen 2)	
Days between that activity and the proposed termination	
Do documented performance/conduct issues predate the protected activity? (cite)	
What explains the timing, in one honest sentence?	

Screen 5 — Consistency and Evidence

True	Check	Proof
☐	The stated reason is documented, specific, and provable	
☐	Similar employees have been treated the same way for the same conduct	
☐	The reason has not shifted between conversations	
☐	The person deciding has reviewed the actual file, not just the supervisor's summary	

Screen 6 — Decision Record

Final stated reason for termination	
Exceptions screened and ruled out (list screen numbers)	
Reviewed by (HR / counsel), if any flag was marked	
Decision authority and date	



Role	Name / signature	Date
Completed by		
Decision authority		

STOP AND REVIEW BEFORE ACTING

If any statement below is true, pause. Get the decision reviewed by HR, counsel, or Faulkner HR Solutions before you act.

- ☐ The employee recently complained about pay, harassment, discrimination, safety, leave, or retaliation.
- ☐ The supervisor has no prior documentation.
- ☐ The decision is inconsistent with how similar cases were handled.
- ☐ The employee is on, or recently requested, protected leave.
- ☐ The issue involves pay, deductions, final wages, medical information, disability, pregnancy, injury, or protected activity.
- ☐ The decision will be visible to a board, council, funder, auditor, plaintiff attorney, or agency.

MINIMUM DOCUMENTATION STANDARD

Before this file is closed, the employer should be able to answer every question below and point to where the proof lives.

Question	Your answer / where the proof is stored
What happened?	
When did it happen?	
Who observed or reported it?	
What policy, standard, deadline, or expectation applies?	
What decision was made?	
Who had authority to make the decision?	
What alternatives were considered?	
What risk was reviewed?	
What follow-up is required?	
Where is the proof stored?	



COMMON MISTAKES

1. Treating 'at-will' as a legal defense rather than a default rule full of exceptions.
2. Forgetting Texas's workers' comp retaliation statute — the most commonly triggered state exception.
3. Assuming the handbook's at-will disclaimer cures a manager's verbal promises.
4. Firing someone for refusing to do something questionable without asking whether it was illegal (Sabine Pilot).
5. Skipping the timing review because the stated reason 'has nothing to do with' the recent complaint.
6. Documenting nothing because 'we don't need a reason' — juries always want the reason.

WHAT TO DO NEXT

If no exception applies, document the legitimate reason anyway and proceed through the Termination Risk Review Worksheet. If any screen is flagged, stop — get the decision reviewed before it is communicated, while the options are still open.

Before you terminate, deduct, discipline, classify, or respond, get the decision reviewed.

Call 210.446.8730 or email thomas@faulknerhrsolutions.info.



Before you process payroll, terminate, classify, deduct, or respond to a claim, get the decision reviewed.

Need help applying this to a real workplace decision?

Faulkner HR Solutions helps Texas employers, nonprofits, municipalities, and growing businesses fix the people systems behind recurring workplace problems.

If this document raised a risk flag, do not guess your way through the next step.

Call: 210.446.8730

Email: thomas@faulknerhrsolutions.info

Website: faulknerhrsolutions.info

DISCLAIMER

This resource is provided for general employer education and planning purposes. It is not legal advice and does not create an attorney-client relationship. Employment laws, agency guidance, and local requirements may change. Employers should review the facts of each situation before acting and consult appropriate HR or legal counsel when needed.