



TERMINATION

New York State is an “Employment at Will” State. In New York State an employer may generally terminate an employment relationship at any time and for any reason, unless the law or an agreement provides otherwise. A terminated employee usually will have no legal recourse even when the termination is unfair or unreasonable. However, there are certain limitations that may grant an employee the right to sue his or her employer for damages and/or reinstatement.

WHAT ARE THE LIMITATIONS ON AN EMPLOYER’S ABILITY TO TERMINATE AN EMPLOYEE?

- *Union Contracts/Collective Bargaining Agreements (CBAs):* If you are employed under a union contract or CBA, you probably are protected from being discharged without just cause, have seniority protection in the event of lay-offs and are entitled to a grievance procedure. There may be a very short deadline for filing grievances, so consult with your union representative as soon as possible.
- *Individual Contracts:* Some employees have individual written contracts which limit the employer’s right to fire them. If you have a contract, check the terms of your contract.
- *Employee Handbook:* Occasionally, an employment handbook may create rights that modify employment at will status, although most employee handbooks are drafted to avoid that result.
- *Disability Discrimination:* Under federal, state, and some local laws, an employer is prohibited from terminating you because of your disability. Discrimination on the basis of other protected characteristics is prohibited as well.
- *Retaliation:* You may not be terminated in retaliation for opposing a practice that is forbidden under federal or New York’s discrimination laws. You also may not be terminated in retaliation for filing a complaint, testifying in a proceeding, or assisting in a proceeding concerning a violation of discrimination laws.

- *Wage-Hour Violations:* It is unlawful to terminate, threaten, penalize, or in any other way discriminate or retaliate against an employee for making a complaint about the employer's wage-hour practices or in any way for exercising his or her rights under wage and hour laws. (NY Labor Law §215).
- *Workers' Compensation:* Employers are prohibited from terminating or disciplining an employee for filing a workers' compensation claim or for testifying in a workers' compensation hearing. (NY Work. Comp. Law §120).
- *Safety & Health Violations:* Employers are forbidden from terminating employees for "whistleblowing," but only in very narrow circumstances. A "whistleblower" is someone who reports or refuses to participate in a violation of law that causes a substantial and specific danger to public health and safety. You must give the employer a reasonable opportunity to correct its practice by bringing it to a supervisor's attention before going to a public agency. (NY Labor Law §740).

It is important that you carefully review any termination-related documents prior to signing.

WHAT ARE MY RIGHTS UPON TERMINATION?

- **Written Notice:** Employers must provide you with a written notice to terminate stating the date of termination and the date that your employee benefits, such as health and accident insurance, will be cancelled. This notice must be given to you no later than five working days after the termination. (NY Labor Law §195).
- **Final Paycheck:** If you are terminated, you are entitled to have any outstanding wages paid to you no later than the next regular pay day. (NY Labor Law §191(3)).
- Terminated employees are entitled to unpaid benefits or wage supplements, such as vacation or holiday pay, paid sick leave, reimbursement of expenses, and other similar items, unless their employers have informed them in writing that they will forfeit those benefits upon termination.

WHAT SHOULD I DO IF I BELIEVE MY RIGHTS HAVE BEEN VIOLATED?

You should act quickly. The law contains many statutes of limitation that require you to act quickly or permanently waive your rights. If you believe you have been terminated in violation of a contract or the law, consult with an attorney as soon as possible.

Depending on the facts of your situation, Disability Rights New York may be able to assist you with your termination issue. Please call Toll free: 1-800-993-8982, Voice: 518-432-7861, or TTY: 518-512-3448 if you think you need our assistance.

DISABILITY RIGHTS NEW YORK CONTACT INFORMATION

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