

## Frequently Asked Questions

Q. I was fired unfairly for no good reason or "wrongfully" terminated. Do I have a legal claim?

A. It depends. Unless you have an individual employment agreement, are a union member or a civil service employee, you are probably an "employee at-will." If an employee at-will is merely fired for an unfair reason, he or she does not necessarily have any form of wrongful termination or wrongful discharge claim. However, it is illegal if you were fired for a form of unlawful discrimination, unlawful retaliation, or in violation of one of dozens of other state, federal or local laws protecting employee's rights, such as the Family and Medical Leave Act, New Jersey's Conscientious Employee Protection Act, or wage and hour laws. These are just a few of the countless laws that protect employee's rights.

Q. My employer is discriminating against me. Is that illegal?

A. Discrimination is only illegal if it is because you belong to a legally protected category. Some of the more common legally protected categories include age, disability, gender, pregnancy, race, national origin, veteran/military status, religion, and sexual orientation. Other types of "discrimination," like nepotism and favoritism, are not necessarily illegal.

Q. My supervisor is harassing me. Does this harassment violate the law?

A. Harassment is legally actionable when it is a form of unlawful discrimination. In other words, for example, it is legally prohibited to harass an employee because of his or her age, disability, gender, pregnancy, race, national origin, religion, or sexual orientation. It may also be illegal to harass someone because he or she engaged in a legally protected activity, such as complaining about illegal discrimination or harassment, or taking time off under the Family and Medical Leave Act.

In addition, harassment is only illegal if it is sufficiently severe and pervasive, or frequent. Generally the more severe the harassment, the less frequent it needs to be for it to be illegal. Similarly, the more frequent the harassment is, the less severe each of the incident needs to be for it to be illegal.

Q. I need to take time off for a medical leave. What are my rights?

A. Employees who are eligible to take a leave under the Family and Medical Leave Act ("FMLA") are entitled to take up to total of 12 weeks off per year for their own pregnancy, adoption, or serious health condition, and for family leaves to care for a child, parent or spouse with a serious health condition.

In addition, some employees working in New Jersey are eligible to take up to 12 weeks of leave over a 24 month period under the New Jersey Family Leave Act for their own pregnancy, for adoption, or to care for a child, parent or spouse with a serious health condition. At the expiration of a leave under the FMLA or the New Jersey Family Leave Act, an employee is generally entitled to return to either his or her former position or an equivalent one. Unless a company has a policy that provides otherwise, family and medical leaves are unpaid.

To take a leave under the FMLA or the New Jersey Family Leave Act, an employee must give reasonable advance notice of his or her need for the leave. How much notice is required varies depending on the reason why he or she is taking the leave.

There are many exceptions and restrictions on the right to take family and medical leaves. Just for example, relatively small companies (ones with fewer than 50 employees) are exempt. In addition, an employee must have worked for their company for one year, and must meet minimum hour requirements during the previous 12 months. These exceptions and exemptions can be both complicated and confusing. If you want to learn about your rights, or if you believe you have been fired, harassed, or denied your right to a family or medical leave, then you should contact an employment lawyer..

In addition, even if you do not qualify for a leave under the FMLA or the New Jersey Family Leave Act, your employer may be required to permit you to take time off employees to take time off as a reasonable accommodation for a disability.

Q. I have a disability, and I need an accommodation. Is my employer required to offer one to me?

A. State and federal law require employers to provide reasonable accommodations for a disabled employee to enable the employee to continue to perform their job. However, employers do not have to provide unreasonable accommodations, and they do not have to change the fundamental nature of the job.

In addition, employers do not necessarily have to provide the exact accommodation that you requested if there is more than one way to accommodate you. However, if you ask for an accommodation, your employer is legally required to discuss your limitations and engage in an interactive process to determine if and how they can reasonably accommodate your disability.

Q. My employer recently terminated my employment and offered me a severance package. Should I have an attorney review the package before I sign it? Is there any way to get my employer to enhance the package?

Severance packages almost always require you to sign away valuable rights in order to receive the severance being offered. For example, they almost always require you to sign away your right to bring a lawsuit against your former employer. They may also require you to agree not to compete, not to solicit your former coworkers, or not to disclose information that you learned at the job. As a result, it is almost always a good idea to have a lawyer review a severance package that you were offered before you sign it.

In addition, depending on the circumstances it might be possible for a lawyer to help enhance the severance package that you have been offered. That is another reason why it is a good idea to talk to an experienced employment lawyer before you sign a severance agreement.

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