

FLORIDA AT WILL EMPLOYMENT AND YOUR RIGHTS WHEN YOU LOSE YOUR JOB¹

Isn't my employer required to have a good reason for firing me?

Generally, no. In Florida, employment is "at will", meaning that either the employer or the employee can end the employment relationship at any time without reason and without notice unless you have an employment contract or union agreement governing the terms of your employment or work for a government employer.

But I thought Florida is a "right to work" state.

"Right to work" only means that a person cannot be denied employment based on union membership. The "right to work" doctrine does not create job entitlement.

When is a discharge wrongful?

Discharges are unlawful when they violate legal protections such as, among other things, discrimination or harassment (race, color, national origin, disability, age, gender, religion or marital status), retaliation for asserting your legal rights, absence to serve on a state court jury, whistleblower protection, or are in violation of employment contracts or union agreements.

Aren't I entitled to an opportunity to challenge the decision to fire me?

No, unless you have an employment contract or union agreement giving you such right or in some cases, if you work for a government employer. Some employers *voluntarily* provide an appeal process. Check your company handbook or ask the Human Resource Department for more information.

Aren't I entitled to a warning before being fired?

No, unless you have an employment contract or union agreement giving you such right or in some cases, if you work for a government employer. If the employer has a policy of progressive discipline or giving warnings before termination, such policies are usually *voluntary* and not required by law. However, if such discipline policies exist, the employer must apply them in a nondiscriminatory way.

Given that I can be fired for no reason, what can I do to protect my job?

Make yourself valuable to your employer by doing your best and following workplace rules and procedures. Always read and keep copies of any documents about your employment so you understand your rights and responsibilities. Avoid workplace conflict. When problems arise, follow your employer's policy for reporting them. Maintain your composure when trying to resolve workplace problems. Do not make threats. Recognize that not all unfair treatment is unlawful. Therefore, seek legal advice before risking your income because of thinking that you have legal recourse against your employer. While none of this guarantees that you will not be fired, it should make you a more valuable employee and help if you later have a wrongful discharge claim.

Are there red flags that can alert me that I may be discharged?

Yes. If you have usually received positive evaluations and seldom if ever been disciplined, but suddenly receive several write ups or a poor evaluation for things that previously were not a problem, you may be at risk of being discharged. This sometimes occurs when new managers arrive and have different expectations than prior managers.

¹ The information provided here is general in nature and not intended as legal advice. The laws discussed are subject to change without notice. Seek legal advice for more information.

Can I be fired for refusing to sign a write up that I dispute?

Yes. Remember, in most cases an employer does not need a reason to fire you. Refusing to follow a work order can be insubordination. You can sign the write up but add a short sentence above your signature stating that you disagree with it. Ask for a copy for your records. Your employer is not required to provide it, but may do so voluntarily. If asked to sign any documents during employment, be sure to read and understand them before signing or you may waive your legal rights. Have the documents reviewed by an attorney before signing if you have questions.

If fired, when must my employer give me my final paycheck?

At the next regularly scheduled payday.

Doesn't my employer have to pay me for unused vacation and leave time?

No. Unless you have an employment contract or union agreement requiring these payments, there is no legal obligation to pay. Even if the company has a policy of making such payments, those policies are *voluntary* and the employer may not be legally required to pay unless you can show that the policy was applied differently to you based on unlawful discrimination.

Can I maintain my group health insurance if I lose my job?

If you were covered by your employer's group health plan, federal and Florida laws require that you receive notice of your right to continue coverage at your own cost. You may not qualify if you were discharged for gross misconduct.

Can I get unemployment compensation?

Unemployment compensation pays a portion of your wages while you look for another job. See the separate fact sheet on this web site about Unemployment Compensation for more information, including how to file a claim.

What can my former employer say about me when giving a job reference?

Generally, employers can say whatever they want so long as it is true. (However, medical information is confidential.) Many employers only provide "neutral references" where they verify dates of employment and job title, but give no more information. However, this is a *voluntary* practice and not required by law. If you are concerned about the job reference you may receive, try to obtain a letter of recommendation or an agreement for a neutral reference before leaving employment. If your former employer provides false information about you that causes you harm, you may have a defamation claim. However, these claims are difficult to prove.

Where can I get help?

Workers' Rights Clinic

2nd Wednesday of Each Month

6:00 – 8:00 PM at

Jacksonville Area Legal Aid, Inc.

126 West Adams Street

Jacksonville, FL

Or

Call 356-8371

For information on applying for help.

JACKSONVILLE AREA LEGAL AID, INC.
Employment Law Project