

Top 10 Myths about Workplace Rights in Florida

Prepared by Jacksonville Area Legal Aid, Inc.¹

1. Employers must have a good reason to fire employees.

False. Florida follows the "at will employment doctrine" meaning that unless an employee has an employment contract or union agreement protecting against firing or works for a government employer, employers are free to fire without reason and without warning, so long as they do not fire for unlawful reasons (such as unlawful discrimination, harassment or retaliation or absence because of state court jury duty). Generally, non-government employees are not entitled to any hearing or appeal on disciplinary or termination decisions.

2. Jobs are protected because Florida is a right-to-work state.

False. The right-to-work protection merely means that membership in a union cannot be a factor in hiring decisions.

3. If fired, employees are entitled to immediate final pay, pay for accrued but unused vacation and leave, and severance pay.

False. An employee's final pay is due at the next regularly scheduled pay day. Unless an employee has an employment contract or union agreement with terms governing pay for leave and severance, there is no legal requirement for such payments. Even if the employer has a policy of *voluntarily* making such payments, the policy may not be legally enforceable unless the company applied the policy in an unlawfully discriminatory way.

4. An employee can take legal action when treated unfairly by an employer.

False. There is no legal requirement that employers treat employees fairly. Unfair treatment is not always unlawful treatment. To prove unlawful discrimination under local, state or federal anti-discrimination laws, an employee must show that race, color, national origin, gender, disability, religion, age or marital status (collectively known as "protected characteristics") played a part in the employer's refusal to provide you with the same terms and conditions of employment as other employees or taking an adverse employment action or that a company policy had a discriminatory effect on a group of employees who share a protected characteristic.

5. Employees are entitled to review their personnel file.

False. An employer may *voluntarily* allow an employee access to his or her personnel file, but is under no legal obligation to do so.

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.

6. **When giving job references, former employers can only disclose an employee's dates of employment and job title.**
False. Florida employers can say anything they like about former employees so long as it is true.
7. **All salaried employees are ineligible for overtime pay.**
False. Merely being paid a salary does not make an employee ineligible for overtime. Two other factors must also apply: (1) the employee's job duties must meet one of defined exemptions and (2) no unauthorized deductions can be taken from the salary.
8. **Employers can require employees to take "comp time" instead of paying overtime.**
False. Generally, only government employers can offer comp time instead of overtime pay. Non-government employers must pay overtime for any hours worked exceeding 40 hours per week.
9. **It does not matter if a worker is classified as an independent contractor or employee.**
False. It matters a great deal. Independent contractors are not protected by laws governing wages, discrimination, workers' compensation, unemployment compensation, and a host of other workplace rights because those laws only cover "employees." Employers may misclassify workers as independent contractors to lessen their costs and risks of liability. If a worker is not asked to complete a W4 form upon hiring, s/he is likely being classified as an independent contractor. The employer's designation is not binding. Although many factors are considered in determining a worker's status, independent contractors are generally workers who provide a service through their own business and are not subject to the employer's control over how the work is performed.
10. **You can't get unemployment compensation if you quit or were fired.**
False. If an employee quit for good cause or was fired for a reason other than intentional misconduct, the employee likely will be eligible for unemployment compensation.

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