

YOUR RIGHTS AS AN EMPLOYEE

NOTE: The advice contained in this booklet should not be interpreted as legal guidance. While this booklet highlights some important legal rights of employees, it cannot substitute for legal advice by a qualified attorney familiar with the facts of an individual case.

WHAT TO DO IF YOU'RE FIRED

Hold your anger. It's an uncomfortable situation for everyone involved. Remember that the one who actually does the termination is often not the one who made the decision. Avoid the temptation to say or do anything that might damage your severance negotiations or future references.

Get the termination in writing, with the specific reason(s) listed, if possible.

Seek to agree upon an exit statement that you may offer to future prospective employers. This should be a brief description — one that's truthful and shows you in the best possible light — of the reason(s) for leaving the job.

If you were not under contract, negotiate for the most favorable severance package possible. Do this quickly, while the employer may still feel some obligation or remorse.

If you are a member of a protected class, promptly consult an attorney to discuss whether you might have a cause for legal action on the basis of discrimination.

If you are a union member covered by a collective bargaining agreement, consult the union steward.

If you consult an attorney for any reason regarding your termination, take the written termination notice (if available), your written response, a copy of your former employer's personnel manual, your employment contract if you had one, and copies of all correspondence with your employer. Remember, you are entitled by law to periodically review your employment file and obtain copies of all documents in that file. Such documentation may be very important if you are considering a wrongful discharge suit.

Make arrangements to continue your insurance coverages. Under COBRA, you are entitled to continue your group accident and health coverage for a certain time, at your own expense. (You might try to get this premium included in your severance.) You may want to shop around for life and other kinds of insurance if you lose group coverage through your employer.

Check on your club-sponsored retirement plan. Consult your tax adviser before deciding to accept a lump sum, an annuity or other form of distribution.

Sign up for unemployment immediately. One thing is certain: your unemployment compensation will be less than what you earned while you were working. Once you learn what your unemployment compensation will be, you'll need to develop a budget that keeps spending within your reduced income.

Manage debt wisely. If you cannot meet all your bills within your reduced income, contact your creditors and let them know your situation before you miss any payments. Most will be willing to work with you. If you are unsure how to handle your debt, contact your local Consumer Credit Counseling Service. This free agency offers help in budget planning and debt management. Remember, it is illegal for creditors to harass you.

Update your resume. Executive Career Services and ClubCareers have many helpful resources for writing and formatting resumes (See the Career Development Book section for recommended titles and ordering information). If you want or need professional help after utilizing the CMAA resources, check your Yellow Pages for listings of resume services.

YOUR RIGHTS AS AN EMPLOYEE

Spread the word that you are looking for a new job. By all means respond to published job openings, but also show some initiative. Send your resume and a cover letter, unsolicited, to prospective clubs, provided that there is no current CMAA member in the position you are seeking. Engage your circle of colleagues, chapter members, business associates, former classmates, family, friends, etc., as a network to pass the news that you are job hunting, and to convey any information about possible openings.

A LEGAL RIGHTS CHECKLIST AND GLOSSARY

At-will employment — Simply means “at the will of the employer.” In most states, in the absence of discrimination or an employment contract, a worker employed “at will” may be terminated for a good reason, a bad reason or no reason.

Disability — A physical or mental impairment that substantially limits a major life activity, such as hearing, seeing, speaking, walking, performing manual tasks, working, learning, breathing or caring for oneself.

Discrimination — An employment decision based upon race, color, religion, sex, national origin, disability or age.

Employment Decision — Refers to recruitment, hiring, training, assignments, promotion, transfer, pay, benefits, leave, discipline, layoff, firing and all other employment-related activities.

Contract — A legally enforceable agreement (usually written) between two or more parties. The employment contract typically defines the terms and conditions of employment, duties, compensation, benefits and so on. A termination clause usually defines the payout period and severance package.

Personnel Manual — Handbook summarizing policies and procedures regarding an employer’s management of its personnel. Most personnel manuals reserve the management’s right to change policies at any time and disclaim any legal obligations as would attach to a contract.

Protected Class — All individuals belonging to a group protected from discrimination under various civil rights legislation. Protected classes include women; members of racial, ethnic and religious minorities; people with disabilities; and people between the ages of 40 and 70.

Sexual Harassment — Unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment; (2) submission or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or (3) such conduct has the purpose or effect of substantially interfering with an individual’s work performance or creating an intimidating, hostile or offensive working environment.

Whistle-blower Laws — Many federal and state laws include whistle-blower provisions that protect employees from retaliation for reporting employer violation of certain statutory safety and environmental standards.

Workers’ Compensation — Employees who are injured on the job are covered by the employer’s workers’ compensation insurance. This insurance provides medical, surgical and hospital treatment in addition to payment for loss of earnings that result from work-related injuries.

Wrongful Discharge — Termination that, in cause or effect, violates one or more statutory protections.

MAJOR FEDERAL STATUTES COVERING TERMS OF EMPLOYMENT, BENEFITS AND DISCRIMINATION

ADA (Americans with Disabilities Act) — Prohibits discrimination in the work place and in most places of business because of an applicant’s, worker’s or patron’s disability.

YOUR RIGHTS AS AN EMPLOYEE

ADEA (Age Discrimination in Employment Act) — Prohibits discrimination against applicants and workers ages 40 to 70.

Civil Rights Act of 1964 — Prohibits discrimination in the work place on the basis of race, color, religion, sex or national origin; prohibits all forms of sexual harassment.

COBRA (Consolidated Omnibus Budget Reconciliation Act) — Mandates that employees with group health coverage shall have a period of time after termination in which they may continue accident and health coverage at group rates.

Consumer Credit Protection Act — Prohibits employer from discharging any employee because the employee's earnings have been subjected to garnishment for one indebtedness. (Most states have more restrictive consumer credit protection laws.)

Equal Pay Act of 1963 — Provides that men and women working for the same enterprise under similar conditions must receive equal pay for work that requires equal or similar effort, skill and responsibility.

ERISA (Employee Retirement Income Security Act) — Governs the administrative and investment policies of a company-wide pension plan; prohibits interfering with the attainment of any right to which a plan participant is or may become entitled under the plan.

FLSA (Fair Labor Standards Act) — Governs the hours and rates of pay during the period of employment.

FMLA (Family/Medical Leave Act) — Protects employment by establishing voluntary leave for the birth or adoption of a child, the caretaking of a spouse, parent or child with a serious illness, or the care of the employee's own serious illness.

Jury System Improvement Act — Prohibits employer from discharging, threatening to discharge, intimidating or coercing an employee because of jury service.

Pregnancy Discrimination Act of 1978 — Prohibits discrimination on the basis of pregnancy and pregnancy-related conditions in all areas of employment; essentially requires employer to treat a pregnant employee the same as a nonpregnant worker who is disabled.

Retiree Benefits Bankruptcy Protection Act — Guarantees retired employees continued health and life insurance benefits in the event their former employer goes bankrupt.

U.S. Bankruptcy Code — Prohibits private employers from terminating or discriminating against any individual solely because that person is or has been a debtor or bankrupt.

Veterans Reemployment Rights Law — Requires all employers to provide military leave for all employees (with guaranteed reinstatement rights in most instances), regardless of whether the service is voluntary or involuntary. Applies to all branches of the armed services, the reserves and the National Guard. Does not require individuals to give employers notice of plans to enter military service. However, reservists and National Guards must request a leave of absence before military training duty.