

# 13 Facts About Your Legal Rights at Work

## Unfair v. Illegal?

Employers don't need a reason to terminate an at-will employee. However, employers are prohibited from firing employees for unlawful reasons. Examples of unlawful reasons include discrimination and retaliation for exercising your rights.



## Waiting Time Penalties for Late Final Wages

If you are fired or laid off, your employer must pay all your wages immediately. If you quit, your wages are due within 72 hours after you notify your employer that you are quitting.



## "Use it or Lose it" Vacation Policies = Illegal

When you are terminated or quit, you are entitled to your unused vacation pay, just like unpaid wages.



## See Your File & Get a Copy!

Most current and former employees have the right to receive a copy of their personnel files. Your employer must allow you to copy your file within a "reasonable" amount of time after you ask in writing.



## Bad v. False References from Former Employers

Your former employer can give their *opinion* about your work performance (such as "they were unreliable") but cannot provide false factual statements (such as "they were stealing").



## Your Employer Cannot Dock Your Pay for Reasonable Mistakes

It is illegal for an employer to deduct money from your paycheck to offset a simple mistake or accident. To legally make a deduction, the employer must show the error was caused by the employee's dishonesty, willful misconduct or gross negligence.



## Overtime Pay Depends on What You Do, Not Your Job Title

Employees who are not eligible for overtime usually have a lot of responsibility within a company and have significant input into how that company is run. Some employees are exempt from overtime laws because they work in an industry where work hours are so irregular that calculating overtime would be impossible. You are not exempt just because your employer says you are exempt or because your employer gives you a certain title (for example, "assistant manager"), or pays you in a certain way. If you have more questions visit <https://www.dir.ca.gov>.

## Medical Leave with the Right to Return to Work

Under family and medical leave laws in California, most employees are entitled to 12 weeks of paid and unpaid job-protected leave to care for a family member or themselves, because of a serious health condition or to bond with a new baby. During this leave, your employer must maintain your health benefits.



## You May be an "Employee" Even if You Are Called an "Independent Contractor"

Answers of "no" to the following questions make it more likely you should be an employee:

- Are you free from control and direction, meaning that you usually do your work without supervision?
- Is your work outside the regular business that is paying you? (For example, a painter at a school is likely to be an independent contractor.)
- Do you work in an occupation that is usually independently established? (A true independent contractor makes this designation themselves by their own actions such as advertising their services or incorporating.)



## You Can "Pre-Choose" Your Dr.

You can pre-designate your primary care physician to treat you if you get injured at work. Talk to your doctor about this and notify your employer in writing of your choice.



## You May Be Eligible for Unemployment Insurance Even if You are Fired or Quit

Being fired from a job does not disqualify you from receiving unemployment insurance unless you are terminated for "misconduct;" showing serious or intentional disregard for your employer's interests.

If you quit a job for a good reason, you can still collect unemployment insurance. The "good cause" standard for quitting a job can be difficult to meet. The following is an example of "good cause" to quit a job:

"Intolerable working conditions (such as safety problems, harassment, or significant demotions or pay cuts)."

## Employers Cannot Ask You Everything in a Job Interview

Some interview questions about age, race, marital status, and criminal history are illegal and you do not need to answer them. Examples: "Have you ever been arrested?" "Do you plan on having a family?"



## You Can Reasonably Refuse Unsafe Work

You may refuse to perform unsafe work as long as it is hazardous enough that any reasonable person would think they would be in danger. Before you refuse to perform unsafe work, make sure you inform your supervisor about the unsafe condition, and give the company a chance to correct it.



The Workers' Rights Clinic provides low-income and unemployed people with FREE confidential information about their legal rights related to work in CALIFORNIA. We routinely provide services in Spanish, Mandarin, and Cantonese, and we can accommodate other languages. Call (415) 404-9093 to schedule an appointment.

