

WRONGFUL TERMINATION TRAINING



Agenda

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- Understanding employment laws
- Law Protections
- Recognizing unlawful termination
- Anti Discrimination
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- Discipline
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What is wrongful termination?

Wrongful termination is a situation in which an employee has been terminated from his or her job, and the termination breaches terms of his employment contract or otherwise not in accordance with state or federal employment laws.

Understanding Employment laws

What laws protect employees from wrongful termination?

- Title VII of the Civil Rights Act.
- Age Discrimination In Employment Act
- Americans with Disabilities Act



Law Protections – Title VII of the Civil rights Act of 1964

Title VII of the Civil Rights Act of 1964 is a federal employment law that prohibits employment discrimination based on race, color, religion, sex (including pregnancy) and national origin. The Law gives employees a private right to action but such claims cannot be brought against a specific individual, such as a supervisor.

Law Protections - age Discrimination in Employment Act

The Age Discrimination in Employment Act (ADEA) prohibits employment discrimination against persons 40 years of age or older. The ADEA prohibits discrimination in any aspect of employment, including hiring, firing, promotion, layoff, compensation, benefits, job assignments, and training.

It also forbids harassment based on age and certain employment policies or practices that have a negative impact on older workers.

Law protections – Americans with disability act

The Americans with Disabilities Act (ADA) is a federal civil rights law that prohibits discrimination against people with disabilities in every activities.

The ADA prohibits discrimination on the basis of disability just as other civil rights laws prohibit discrimination on the basis of race, color, sex, national origin, age, and religion.

Recognizing unlawful termination

Common forms of wrongful termination

- Terminating someone because they are “old”
- Terminating someone because their gender.
- Terminating someone because they filed a compliant.
- Terminating someone because they shared their payrate with other employees.
- Terminating someone because they have a perceived disability.

Anti discrimination

It is an employer's responsibility to ensure their employees have a safe and inclusive workplace that is free from discrimination and harassment.

Regardless of whether it is significant misbehavior or a minor transgression, workplace discrimination is illegal and should be avoided at all costs.



Five most common forms of discrimination

1. **Retaliation:** when an employer or company leader takes negative action against an employee who files a formal complaint.
2. **Racial Discrimination:** discriminating an employee because of their race, skin color and hair.
3. **Disability discrimination:** discriminating an employee based on their disability or a perceived disability.
4. **Sex Discrimination:** Sex discrimination involves treating someone (an applicant or employee) unfavorably because of that person's sex, including the person's sexual orientation, gender identity, or pregnancy.
5. **Age discrimination:** Age discrimination involves treating an applicant or employee less favorably because of his or her age (40 years and older).

Discipline

How you discipline has a huge impact on your exposure to wrongful termination claims. As the Walgreens case illustrates, a zero-tolerance policy doesn't always pay. Disciplinary policies and enforcement need to be applied consistently and fairly, but they should have room built in for compassion and common sense.

You also need to avoid the appearance of favoritism. That's never an easy line to walk, but it's key to protecting your company.

Keeping accurate and thorough disciplinary records is equally critical. It's common for employees who are terminated to point to positive performance reviews as evidence that the official reason for their termination is a pretext for a hidden, illegal motive.

A recent example is King v. U.S. Bank, in which a senior vice president argued that his firing over discrimination complaints was really a pretext to avoid paying his annual bonus. The wrongful termination award alone topped \$2.4 million.

Offering shifting reasons for a termination can also be a red flag in court. Identify the reasons for your decision, present them at termination, and stick to them.

Your front-line managers and supervisors are key to protecting your company with consistent discipline and thorough, accurate documentation. This may require taking time to build a case before terminating someone.

Documentation and Due Process

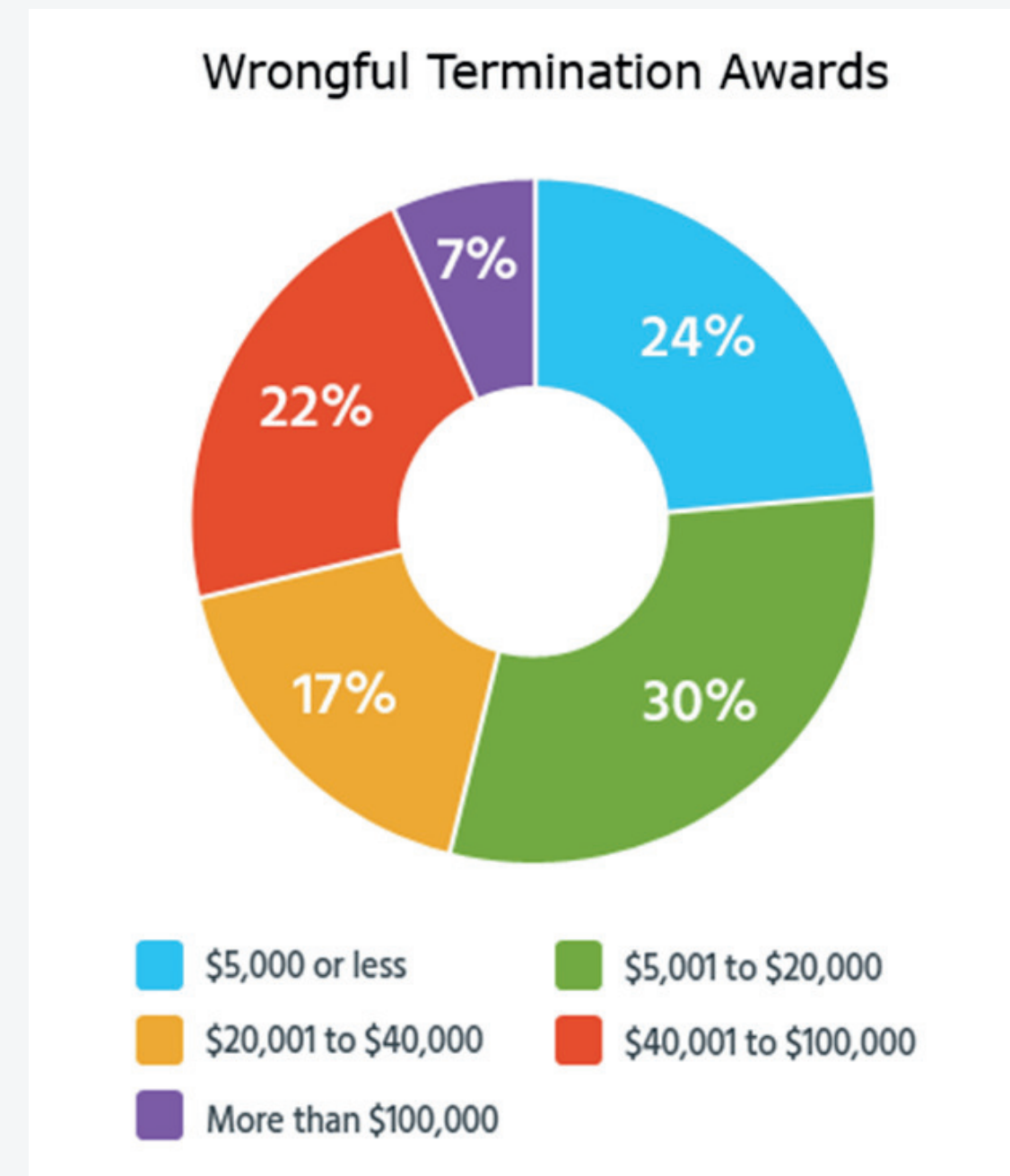
Documentation is the written record of how a company came to the termination decision. It offers a chronology of what the employee did, how the manager responded, and when done correctly, it provides a clear road map of how both employee and employer made their way to the eventual destination – the employee's termination.

Effective documentation is crucial when it comes to terminating an employee. It serves as a record of what happened, who was involved, and why the decision was made. Without proper documentation, you leave your organization open to legal action from employees who feel they were unfairly dismissed.

Summary

Wrongful termination is firing an employee for an illegal reason. A reason may be illegal because it violates:

- Terms of a legal contract such as an employment agreement
- Federal or state laws protecting employee rights



Summary cont.

Employment federal laws that protect employees:

- Title VII of the Civil Rights Act
- Age Discrimination In Employment Act
- Americans with Disabilities Act
- Anti Discrimination (Discrimination and sexual harassment complaints often go hand in hand with wrongful termination charges. By preventing the root causes, you can reduce your exposure to complaints of illegal termination.)
- Discipline and Documentation (If you're terminating an employee for cause, thoroughly document the reasons for the termination. Include any disciplinary measures taken, along with dates and managers' signatures. Refer to specific company policies that were violated and any prescribed discipline.)

Thank you!

Contact us below!



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