



THE 5 MOST COMMON ILLEGAL REASONS TO BE FIRED IN CALIFORNIA

Most California employees are at-will, but a firing based on discrimination, retaliation, protected leave, an employment contract, or public policy is an illegal firing.

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Illegal firings happen when an employer ends the employment relationship in violation of the employee's legal rights.¹ These situations are often called wrongful terminations, and they can arise when an employer violates a state or federal statute,² general principles of public policy,³ the worker's employment contract,⁴ or some other aspect of the law.⁵

California law provides comprehensive workplace protections for employees, some of which govern how, when, and under what circumstances an employee may legally be fired, laid off, or otherwise let go. This article takes a closer look at each of these five situations under California *state* law.

Employers May Not Breach an Employment Contract



Most employees in California are considered to be “at-will” employees. *At-will employment* means that the employee is free to leave their job at any time and employers are likewise free to fire the employee at any time for any lawful reason, or even no reason at all.⁶

Employment in California is presumed to be at-will, unless there is a specific contractual relationship between the employer and employee that limits the employer’s ability to fire the employee.⁷ Under normal circumstances, both the employee and the employer have a right to end the employment relationship, unless doing so would be unlawful.⁸

At-will employees can leave employment at any time. Likewise, employers can fire at-will employees for seemingly arbitrary reasons, so long as those reasons are not unlawful.⁹ This can lead to some confusing results.

Many employees believe that their job is protected unless they break the rules, do a bad job, or commit some other type of wrongdoing. But that usually isn’t the case.

At-will employment means that an employer can simply decide to fire the employee on a whim, without any good reason, even when the employee is doing a good job.¹⁰

For example, an employer might be in a bad mood one day and decide to fire a random at-will employee. There is nothing inherently unlawful about doing that, even if it was an unwise business decision. As such, the fired employee probably cannot claim that they were illegally fired.

1.1 Employment Contracts Can Limit an Employer's Ability to Fire Workers

Of course, not all employees are considered “at-will.” Some employees have contracts that limit their employer’s ability to fire them.¹¹ In these situations, employees might be able to claim that they were illegally fired merely because their employer lacked a good reason to fire them.

For example, when an employer agrees to hire an employee for a specific period of time but doesn’t specify the circumstances under which the employment can be ended, the employee can only be terminated under three circumstances:

-  The employee *willfully* breaches one of his or her employment duties,
-  The employee is *habitually neglectful* of his or her employment duties, or
-  The employee is *unable to perform* his or her employment duties for some reason.¹²

These kinds of employment contracts can be entered into verbally or in writing. But the agreement must unambiguously specify that it is for a set period of time.¹³

A contract can also limit the employer’s ability to fire the employee if it requires the employer to have a good reason for the termination. For example, the employment contracts of company executives commonly have provisions that limit the circumstances under which they can be fired.

Likewise, employees who are part of a union are usually *not* “at-will” employees. Unions normally negotiate an employment contract that permits only “for cause” firings.¹⁴ This means that employees may only be let go if the employer has a good reason.

For these reasons, it is important for employees to examine their employment contract (if they have one) when they are fired.

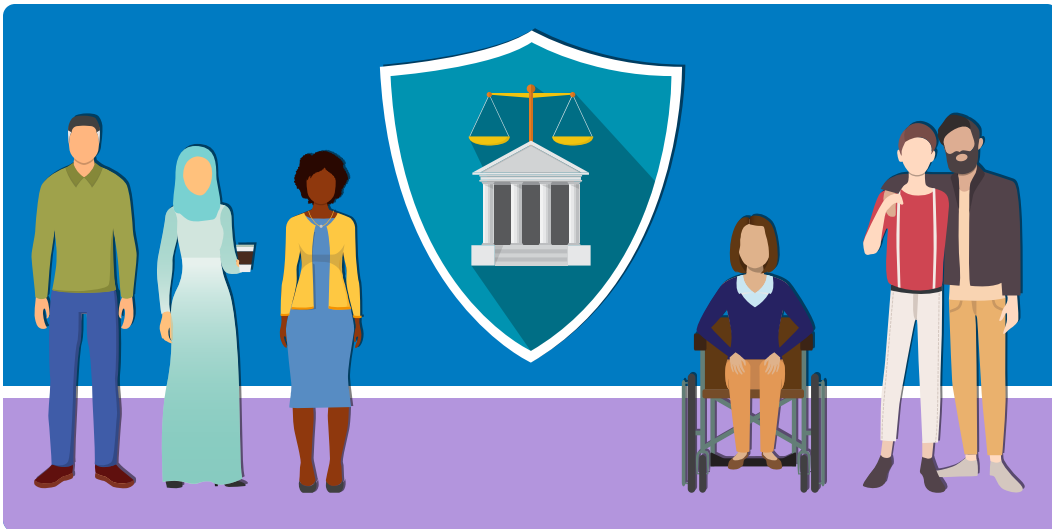
1.2 Even At-Will Employees Can't Be Fired for Unlawful Reasons

Even though employers don't need a good reason to fire an at-will employee, they are prohibited from firing employees for unlawful reasons. Examples of unlawful reasons include:

-  Firing an employee because of their race, gender, disability, sexual orientation, religion, or other protected characteristic;¹⁵
-  Firing an employee for their political beliefs or affiliations;¹⁶
-  Firing an employee because the employee requested time off that they are legally entitled to take;
-  Firing an employee because the employee reported a violation of the law;¹⁷ or
-  Firing an employee for reasons that violate public policy.¹⁸

Put simply: employers can fire at-will employees for any lawful reason (or no reason at all), but they can't fire employees if they are motivated by *unlawful* reasons.

Employers May Not Engage in Unlawful Discrimination



As mentioned above, employers are usually allowed to fire employees for any lawful reason.¹⁹ But they are prohibited from firing employees if they are motivated by an *unlawful* reason.²⁰

One of the most common grounds for an illegal firing claim arises when the employer has a discriminatory intent in firing the employee. In California, there are a variety of laws that prohibit discrimination in the workplace.

2.1 Discrimination Generally

The most important anti-discrimination law for California employees is the *Fair Employment and Housing Act* (known as “FEHA”).²¹ It prohibits employers that have five or more employees²² from discriminating against employees on the basis of their:

- ✓ Age, if the employee is over the age of 40;
- ✓ Race, color, national origin, or ancestry;

- ✓ Religion;
- ✓ Physical or mental disability;
- ✓ Pregnancy;
- ✓ Medical condition;
- ✓ Genetic information;
- ✓ Marital status;
- ✓ Sex, gender, gender identity, or gender expression;
- ✓ Sexual orientation;
- ✓ Military or veteran status; or
- ✓ Reproductive health decisionmaking.²³

FEHA also protects against discrimination based on any *combination* of these characteristics, not just a single one.²⁴

An employer cannot target an employee for termination for any of these characteristics.²⁵ And an employer may not create a work environment in which being a member of a protected class automatically puts a worker at a disadvantage or excludes them from something.²⁶

Likewise, an employer may not harass a member of a protected class for being part of that class.²⁷ And the employer may not create or maintain a hostile work environment that leaves the class member with no option other than to quit the job.²⁸

Of course, there are many caveats to these rules. To learn more about California's anti-discrimination laws, please review our article: [Discrimination Laws in the California Workplace, Explained](#).

Although FEHA is California's broadest anti-discrimination law, various other laws in California also prohibit discrimination. A few of those are explored below.

2.2 Immigration-Based Discrimination

All persons, regardless of their immigration status, are protected by California's employment laws.²⁹ This means that non-citizens are protected against discrimination to the same extent as United States citizens.³⁰

Employers are prohibited by law from hiring or continuing to employ undocumented immigrants.³¹ So, to some extent, employers are required to consider an employee's immigration status.

The employer's ability to investigate their employees' legal status is limited, however. They may not request more or different documents than are required by the federal government.³² Nor may they refuse to honor immigration-related documents that reasonably appear to be genuine.³³

And if the employee is present in the United States legally, and the employer nevertheless discriminates against them on the basis of their status as an immigrant, the employer may have engaged in national origin discrimination.

It is unlawful for employers to discriminate against an employee based on their national origin.³⁴ National origin discrimination can include discrimination against those holding the type of driver's license that California grants to non-citizens.³⁵

Additionally, employers are prohibited from reporting or threatening to report their employees' citizenship or immigration status in retaliation for the employee's exercise of an employment-related right.³⁶

2.3 Language Discrimination

In some cases, an employer commits an illegal firing if they terminate their employee for speaking a different language in the workplace.

In general, it is unlawful for employers to limit or prohibit the use of any language in any workplace.³⁷ These issues commonly arise when an employer adopts an English-only requirement in their workplace.

The purpose of the rule prohibiting language discrimination is to prevent employers from adopting policies that effectively discriminate against employees based on national origin.³⁸

As with many laws, there is an important exception to the rule prohibiting language discrimination. An employer may limit or prohibit the use of a language in the workplace if:

-  The language restriction is justified by a business necessity,
-  The employer has notified its employees of when the language restriction is required to be observed,

- ixA The employer has notified its employees of the consequences of violating the language restriction, and
- ixA There is no alternative practice to the language restriction that would accomplish the business purpose equally well with a lesser discriminatory impact.³⁹

A language restriction is considered a *business necessity* when it is needed to ensure the safe and efficient operation of the business. The language restriction must also effectively fulfill the business purpose it is supposed to serve.⁴⁰

2.4 Political Discrimination

An employer can commit an illegal firing if they terminate an employee for their political views or activities. California law prohibits employers from controlling their employees' political activities.⁴¹ This means that an employer may not punish an employee for being a member of a specific political party. Nor may employers forbid employees from going to political rallies or becoming candidates for public office.

Employers are also prohibited from trying to coerce or influence their employees to take any sort of political action.⁴² And employers are prohibited from retaliating against employees who oppose such practices.⁴³

Political discrimination can be serious. In some cases, it is criminally punishable as a misdemeanor.⁴⁴ There are also fines, fees, and civil damages that can be imposed against the employer (and sometimes recovered by the employee).⁴⁵

2.5 Discrimination Against Victims of Crimes

Employees who are victims of crime have a right to be free from discrimination and retaliation by their employer. These protections now appear in the Fair Employment and Housing Act, where they are enforced as unlawful employment practices through the Civil Rights Department; they were previously found in the Labor Code.⁴⁶

An employer may not discharge, discriminate, or retaliate against an employee because of the employee's status, or a family member's status, as a victim of a *qualifying act of violence*.⁴⁷

Victims also have a right to take time off work to appear in court as a witness under a subpoena or other court order,⁴⁸ and to obtain a restraining order or other relief to

help ensure the health, safety, or welfare of the victim or the victim's child.⁴⁹ An employer may not fire an employee for exercising these rights.

In general, an employee must give the employer reasonable advance notice of the need to take this time off.⁵⁰ When advance notice is not feasible, such as when an emergency restraining order is required, the employer may not take action against the employee for an unscheduled absence if the employee provides certification within a reasonable time, such as a police report, a court order, documentation from a medical professional or counselor, or a signed written statement.⁵¹

Depending on the size of the employer, victims may have several additional rights. An employee of an employer with 25 or more employees may take time off for purposes such as:

-  Seeking medical attention for injuries caused by the crime or abuse;
-  Obtaining services from a domestic violence shelter, program, rape crisis center, or victim services organization;
-  Obtaining psychological counseling or mental health services related to the crime or abuse; or
-  Participating in safety planning or taking other action to increase safety, including relocation.⁵²

These additional rights extend both to victims and to employees whose family members are victims.⁵³ Separately, victims of certain serious crimes, and their family members, have a right to take time off to attend judicial proceedings related to the crime.⁵⁴ In many cases, an employer must also make reasonable safety accommodations for an employee who is a victim, and must keep the employee's related information confidential.⁵⁵

2.6 Criminal Conviction Discrimination

Under California's Fair Chance Act, employers with five or more employees generally may not ask job applicants about their conviction history before making a conditional offer of employment.⁵⁶ After a conditional offer is made, the employer may conduct a background check.⁵⁷ But even then, employers are prohibited from considering any of the following:

-  An arrest not followed by conviction, except under limited circumstances (like when the employee or applicant is currently out on bail);
-  Referral to or participation in a pretrial or posttrial diversion program; or



Convictions that have been sealed, dismissed, expunged, or statutorily eradicated pursuant to law.⁵⁸

If, after a conditional offer is made, the employer conducts a background check and discovers a prior conviction, the employer must conduct an individualized assessment of whether the applicant's conviction history has a direct and adverse relationship with the specific duties of the job that justify denying the applicant the position.⁵⁹

Employers May Not Engage in Unlawful Retaliation



All California employers have legal obligations they must follow. When they violate the law in some way, employees may wish to complain about or report the employer's wrongdoing. In many cases employees are protected from being punished or fired if they do so.

California law strengthens these protections with a timing rule: if an employer takes an adverse action against an employee within 90 days of the employee's protected activity, the action is presumed to be retaliatory, and the employer must come forward with a legitimate, nonretaliatory reason.⁶⁰

This section explores the different kinds of retaliation that may result in a valid claim of illegal firing.

3.1 Reporting Unlawful Activities

In California, if an employee reasonably believes that the employer has violated a law or regulation, the employee has a right to report that violation to the government. The

employee also has a right to report that violation to an employee that supervises them.⁶¹

Employers are prohibited from punishing or firing employees for disclosing information about a legal violation to the government, a law enforcement agency, or their supervisor.⁶²

Along these same lines, an employer cannot prohibit employees from working with or testifying before any government agency that may be investigating or prosecuting the employer for legal violations.⁶³

Finally, employers cannot fire or punish employees for refusing to participate in unlawful activities.⁶⁴

An employer who discharges an employee for reporting unlawful activities commits an illegal firing.

3.2 Discrimination and Harassment Complaints

Employers are prohibited from firing or punishing employees who complain about, report, or otherwise oppose unlawful discrimination or harassment.⁶⁵

An employer who fires an employee for opposing unlawful discrimination or harassment has committed an illegal firing.

3.3 Complaining About Unpaid Wages

Employees have a right to file a complaint with California's Labor Commissioner when they believe they have been underpaid.⁶⁶ This right would be meaningless if employers were allowed to fire employees who file such complaints.

California law prohibits employers from terminating, discharging, or in any manner retaliating against employees who file a wage and hour complaint with the Labor Commissioner.⁶⁷

Additionally, employees have a right to complain to their employer that they are owed unpaid wages. Even if no claim is filed with the Labor Commissioner, employers are prohibited from terminating, discharging, or in any manner retaliating against employees for complaining about unpaid wages.⁶⁸

To learn more about wage claims with the Labor Commission, please review our article: [How to File a Wage & Hour Claim in California](#).

3.4 Discussing Income

Employees have a right to discuss the amount of their wages with other employees. Employers are prohibited from firing their employees for disclosing the amount of their wages to anyone.⁶⁹

3.5 Complaining About Unlawful Work Conditions

Employers are prohibited from firing or punishing employees who complain about workplace safety issues.⁷⁰ Employers are also prohibited from firing or punishing employees who report an issue of employee safety or health to a government agency.⁷¹ This means that employees cannot be fired for filing an OSHA complaint [↗](#).

Additionally, employers usually cannot fire or punish an employee who refuses to perform work that would violate any occupational safety or health standard.⁷² And employees are protected if they have to testify in a court proceeding about dangerous work conditions.⁷³

3.6 Discussing Work Conditions

Employees have a right to discuss their work conditions, as long as those discussions don't involve matters that may be trade secrets or legally protected.⁷⁴

In keeping with this right, employers are prohibited from terminating employees for disclosing information about their working conditions to other people.⁷⁵ Again, this rule is limited to information that is not proprietary, secret, or otherwise legally protected.

This rule is mainly intended to protect employees who complain or discuss potentially unsafe or unlawful working conditions.

3.7 Requesting a Reasonable Accommodation

Several types of employees have a right to receive a reasonable accommodation from their employer. A *reasonable accommodation* is an adjustment to the employee's work

environment or job duties that can enable the employee to perform the essential functions of a job in suitable conditions.

Common examples of situations in which a reasonable accommodation may be required include the following:

-  Employees with disabilities often have a right to work under different conditions than other employees.⁷⁶
-  They may also have a right to time off of work, as an accommodation for their disability.⁷⁷
-  Religious employees may have a right to an accommodation of their religious practices and observances.⁷⁸
-  Employees who have difficulty reading may have a right to a reasonable accommodation.⁷⁹
-  Employees with substance abuse problems may have a right to a reasonable accommodation for them to participate in an alcohol or drug rehabilitation program.⁸⁰

Employers generally cannot retaliate against employees in these situations for requesting an accommodation. This means that an employer will usually commit an illegal firing if they discharge an employee for requesting or requiring a reasonable accommodation.

3.8 Filing a Workers' Compensation Claim

Under California law, it is the state's policy "that there should not be discrimination against workers who are injured in the course and scope of their employment."⁸¹ California courts have interpreted this policy to protect employees from retaliation for filing a workers' compensation claim.⁸²

The broad nature of that policy favors employees who are fired or treated unfairly as the result of a job-related injury.⁸³ In general, an employer commits an illegal firing if they fire an employee in retaliation for filing a workers' compensation claim.

Employers May Not Fire Workers for Taking Protected Time Off



There are many situations in which employees have a legal right to take time off from work. When an employer fires an employee for taking that time off, they usually will commit an illegal firing. This chapter explores the most common types of leave that employees have a right to take.

4.1 Family and Medical Leave

Many employees in California have a right to take **up to 12 workweeks** of unpaid family or medical leave per year under the California Family Rights Act.⁸⁴ When an employee has a right to take this leave, the employer is prohibited from firing them for exercising it.⁸⁵

An employee is eligible for family or medical leave if all of the following are true:

- ☒ The employee works for an employer that employs *five or more employees*;⁸⁶

-  The employee worked *more than 12 months* for the employer before the leave is taken; and⁸⁷
-  In the past 12-month period, the employee worked *at least 1,250 hours* for the employer.⁸⁸

Family or medical leave can be taken for any of the following reasons:

-  To bond with a child who was born to, adopted by, or placed for foster care with the employee;
-  To care for a family member who has a serious health condition. Covered family members include the employee's child, parent, grandparent, grandchild, sibling, spouse, domestic partner, or a *designated person*;
-  Because the employee has a serious health condition that makes them unable to perform the functions of their job; or
-  Because of a qualifying exigency arising from the covered active duty of the employee's spouse, domestic partner, child, or parent in the Armed Forces.⁸⁹

A *serious health condition*, for these purposes, is an illness, injury, impairment, or physical or mental condition that involves either of the following:

-  Inpatient care in a hospital, hospice, or residential health care facility; or
-  Continuing treatment or continuing supervision by a health care provider.⁹⁰

Inpatient care means a stay in a hospital, hospice, or residential health care facility, along with any subsequent treatment connected to that inpatient care or any period of incapacity. A person is considered an "inpatient" when a health care facility formally admits the person with the expectation that the person will remain at least overnight and occupy a bed, even if it later turns out that the person can be discharged or transferred and does not actually remain overnight.⁹¹

4.2 Maternity Leave

New mothers and fathers have a right to take the family and medical leave discussed above. That leave is usually taken to bond with the new child. But pregnant mothers also have a right to take a different kind of leave: pregnancy disability leave.⁹²

Employees who are disabled by their pregnancy, by childbirth, or by a related medical condition have a right to take up to four months of leave from work.⁹³ This leave can

be taken *in addition to* the 12 weeks of bonding time described above,⁹⁴ but it only continues for as long as the employee is disabled.⁹⁵

To be eligible for pregnancy disability leave, the employee must work for an employer that regularly employs five or more employees.⁹⁶

A woman is *disabled* by her pregnancy if, in the opinion of her doctor, she is unable to perform any one or more of the essential functions of her job because of her pregnancy.⁹⁷ A woman might also be disabled by her pregnancy if she suffers from one or more of the following conditions:

-  Severe morning sickness,
-  Prenatal or postnatal care,
-  The need for bed rest,
-  Gestational diabetes,
-  Pregnancy-induced hypertension,
-  Preeclampsia,
-  Post-partum depression,
-  Loss or end of pregnancy, and
-  Recovery from loss or end of pregnancy.⁹⁸

The common factor with each of these examples is that the pregnancy-related disability has limited a major life activity.⁹⁹

If an employee has a legal right to take pregnancy disability leave and they are fired for taking it, the employee probably has a claim for illegal firing.¹⁰⁰

4.3 Sick Leave

Some employers provide sick leave even when they aren't required by law to do so. California law prohibits employers from firing employees for using sick leave they have accrued.¹⁰¹

More precisely, if an employer provides sick leave and the employee has accrued a sick leave entitlement, the employer is required to permit their employee to use that sick leave to diagnose, care for, or treat an existing health condition of the employee or the employee's family member.¹⁰²

For family care, however, an employer that provides sick leave is only required to let the employee use, in each calendar year, the amount of sick leave that would accrue over a six-month period.¹⁰³

4.4 Lactation Breaks

Employers can commit an illegal firing by terminating an employee who has requested or expressed a desire to take a lactation break.

A *lactation break* is a period of time during the work day for nursing mothers to express breast milk (i.e., a break to pump). Both state and federal laws require California employers to provide lactation breaks.¹⁰⁴

The right to a lactation break does not apply if it would seriously disrupt the operations of the employer.¹⁰⁵ This exception is hard to meet, however, and employers should be cautious before invoking it.

4.5 Time Off to Vote

All employers in California are required to permit their employees time off to vote in any statewide election.¹⁰⁶ This rule applies if the employee will not have sufficient time outside of working hours to vote.¹⁰⁷

Employers can require that the employee take the time off to vote either at the beginning or end of the regular working shift.¹⁰⁸ And the employee can be required to give at least two working days of notice for the necessary time off.¹⁰⁹

4.6 Time Off for Military Leave

Employees who join the military generally have a right to take up to five years of leave while they serve.¹¹⁰ When they return, they have a right to prompt reemployment with the employer.¹¹¹

An employer may not punish or fire an employee for joining the military or requiring less than five years of time off to serve.¹¹² Additionally, when the employee returns from leave, the employer may not fire the employee without cause for one year (if the employee's period of service was more than 180 days).¹¹³

4.7 Time Off for Jury Duty

California employees are sometimes required to participate in jury duty. In addition to being a civic duty, jurors are often required by law to attend court proceedings. As such, employers are prohibited from firing or in any manner discriminating against employees who take time off to serve on a jury.¹¹⁴

Importantly, however, the employer can require the employee to give *reasonable advance notice* that they will be required to serve, unless giving that notice is not feasible.¹¹⁵

4.8 Parents and School-Related Activities

Parents who work for larger employers have a right to take up to 40 hours each year off for the purpose of certain child-related activities.¹¹⁶ A “larger employer” for these purposes is an employer that employs 25 or more employees at the same location.

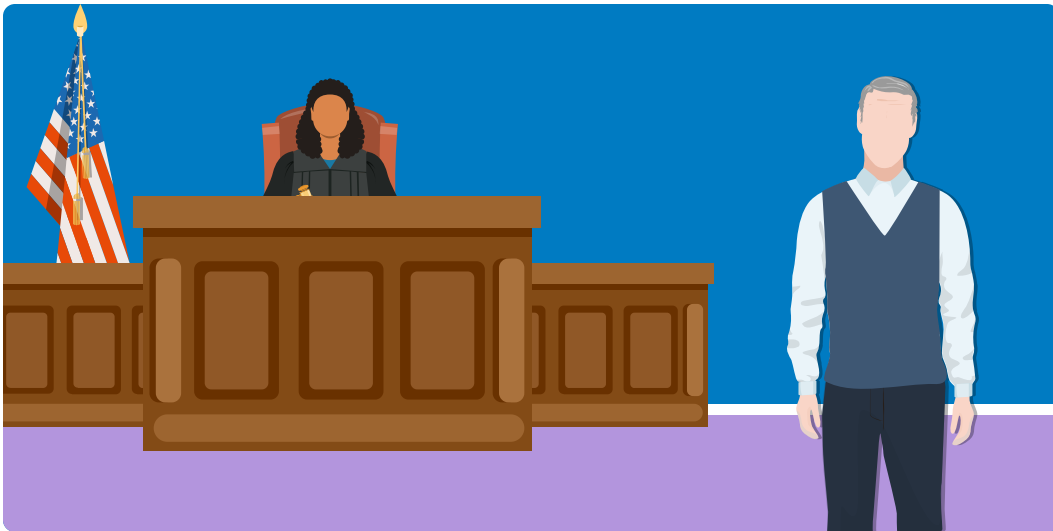
Protected child-related activities include:

-  Finding, enrolling, or reenrolling a child in a school or with a licensed child care provider;
-  Participating in activities of the child’s school or licensed child care provider; and
-  Addressing a child care provider or school emergency.¹¹⁷

Employees must usually give reasonable notice to their employer if they wish to take this time off. And sometimes the employer can limit the amount of time that the employee takes off to eight hours in a calendar month.¹¹⁸

Additionally, under certain circumstances, employers of all sizes are prohibited from firing parents for taking time off to appear at the school of their child if the child has been suspended and the teacher requests a meeting.¹¹⁹ The parent must give reasonable notice to the employer that they are requested to appear in the school.¹²⁰

Employers May Not Fire Workers in Violation of Public Policy



Sometimes an employer will fire someone for reasons that don't technically violate the law, but the employer has nevertheless violated a fundamental public policy. In those cases, the employee might still have a claim for illegal firing.¹²¹

The idea behind these kinds of claims is that employers are required, at a minimum, to know the fundamental public policies of the state and nation as expressed in their constitutions and statutes.¹²²

There are a variety of actions that can constitute a violation of public policy in California. The courts have laid out four basic requirements:

-  The policy must be supported by either constitutional or statutory provisions;
-  The policy must benefit society at large, rather than serving merely the interests of the individual employee;
-  The policy must have been well-established at the time the employee was fired; and



The policy must be fundamental and substantial.¹²³

The most obvious example of a termination that violates public policy would be when an employer fires an employee for refusing to do something harmful or illegal.¹²⁴

Likewise, an employer might violate public policy if they fire an employee for refusing to sign an illegal or unenforceable contract.¹²⁵

There are, of course, many types of terminations that might violate public policy in the State of California. If you are unsure whether you have been terminated in violation of public policy, discuss your case with a qualified employment lawyer.

References

- 1 *Weinbaum v. Goldfarb* (1996) 46 Cal.App.4th 1310, 1315 [an illegal firing claim arises out of “the employer’s improper discharge of an employee” in an “employer-employee relationship”].
- 2 E.g., Gov. Code, § 12940 [California’s Fair Employment and Housing Act, which prohibits certain types of discriminatory firing]; 42 U.S.C. §§ 2000e–2000e-17 [the Civil Rights Act of 1964, a federal law that prohibits certain types of discriminatory firing].
- 3 *Tameny v. Atlantic Richfield Co.* (1980) 27 Cal.3d 167, 170 [“[W]hen an employer’s discharge of an employee violates fundamental principles of public policy, the discharged employee may maintain a tort action and recover damages traditionally available in such actions.”].
- 4 *Guz v. Bechtel National, Inc.* (2000) 24 Cal.4th 317, 336 [the parties in an employment relationship “are free to define their relationship, including the terms on which it can be ended, as they wish”].
- 5 E.g., *Jersey v. John Muir Medical Ctr.* (2002) 97 Cal.App.4th 814, 821 [“A discharge for the exercise of a constitutionally conferred right, no less than the exercise of a statutory right, may support a wrongful termination action in violation of public policy.”].
- 6 Labor Code, § 2922 [“An employment, having no specified term, may be terminated at the will of either party on notice to the other.”]; *Foley v. Interactive Data Corp.* (1988) 47 Cal.3d 654, 678 [“[A] contract for permanent employment, for life employment, for so long as the employee chooses, or for other terms indicating permanent employment, is interpreted as a contract for an indefinite period terminable at the will of either party . . . ”].
- 7 *Eisenberg v. Alameda Newspapers, Inc.* (1999) 74 Cal.App.4th 1359, 1386 [“This presumption of at-will employment may be rebutted only by

evidence of an express or implied agreement between the parties that the employment would be terminated only for cause.”].

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- 8 *Dore v. Arnold Worldwide, Inc.* (2006) 39 Cal.4th 384, 396 [“An at-will employment may be ended by either party ‘at any time without cause,’ for any or no reason, and subject to no procedure except the statutory requirement of notice.”].
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- 9 *Binder v. Aetna Life Ins. Co.* (1999) 75 Cal.App.4th 832, 857–858 [overruling a summary judgment motion by the defendant employer in a case where there were issues of fact as to whether the employer used an arbitrary reason to fire the plaintiff capriciously when the true motive to fire the plaintiff was his age].
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- 10 *Dore v. Arnold Worldwide, Inc.* (2006) 39 Cal.4th 384, 396.
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- 11 See, e.g., *Cotran v. Rollins Hudig Hall Internat., Inc.* (1998) 17 Cal.4th 93, 96, fn. 1 [“Wrongful termination claims founded on an explicit promise that termination will not occur except for just or good cause may call for a different standard, depending on the precise terms of the contract provision.”].
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- 12 Labor Code, § 2924 [“An employment for a specified term may be terminated at any time by the employer in case of any willful breach of duty by the employee in the course of his employment, or in case of his habitual neglect of his duty or continued incapacity to perform it.”].
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- 13 *Lenk v. Total-Western, Inc.* (2001) 89 Cal.App.4th 959, 969–970.
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- 14 *Pugh v. See’s Candies, Inc.* (1981) 116 Cal.App.3d 311, 320 [“Under most union contracts, employees can only be dismissed for ‘just cause,’ and disputes over what constitutes cause for dismissal are typically decided by arbitrators chosen by the parties.”].
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- 15 Gov. Code, § 12940, subd. (a).
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- 16 Labor Code, § 1101.
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- 17 Labor Code, § 1102.5.
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- 18 Labor Code, §§ 96, subd. (k), 98.6, 6310.
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- 19 *Dore v. Arnold Worldwide, Inc.* (2006) 39 Cal.4th 384, 396.
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- 20 *Binder v. Aetna Life Ins. Co.* (1999) 75 Cal.App.4th 832, 857–858.
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21	Gov. Code, § 12940, subd. (a); <i>Flannery v. California Highway Patrol</i> (1998) 61 Cal.App.4th 629, 638 [“The broad purpose of the FEHA is to safeguard an employee’s right to seek, obtain, and hold employment without experiencing discrimination on account of race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, sex, or age.”].
22	Gov. Code, §§ 12926, subd. (d), 12940, subd. (a); Cal. Code of Regs., tit. 2, § 11008, subd. (e).
23	Gov. Code, § 12940; as to reproductive health decisionmaking, Gov. Code, § 12926, subd. (y).
24	Gov. Code, §§ 12920, 12926, subd. (o)(1).
25	<i>Caldwell v. Paramount Unified School Dist.</i> (1995) 41 Cal.App.4th 189, 195 [“In order to prevail under the disparate treatment theory, an employee must show that the employer harbored a discriminatory intent.”].
26	<i>Knight v. Hayward Unified School Dist.</i> (2005) 132 Cal.App.4th 121, 129 [“To prevail on a theory of disparate impact, the employee must show that regardless of motive, a facially neutral employer practice or policy, bearing no manifest relationship to job requirements, in fact had a disproportionate adverse effect on certain employees because of their membership in a protected group.”].
27	Gov. Code, § 12940, subd. (j).
28	<i>Fisher v. San Pedro Peninsula Hospital</i> (1989) 214 Cal.App.3d 590, 608.
29	Labor Code, § 1171.5, subd. (a).
30	Labor Code, § 1171.5, subd. (a).
31	8 U.S.C. § 1324a(a).
32	Labor Code, § 1019.1, subd. (a)(1).
33	Labor Code, § 1019.1, subd. (a)(2).
34	Gov. Code, § 12940, subd. (a).
35	Gov. Code, § 12926, subd. (v); Veh. Code, § 12801.9.
36	Labor Code, § 244.

37	Gov. Code, § 12951, subd. (a).
38	Turner, <i>Public Entities, Officers, and Employees: Chapter 295: Codification of California's Fair Employment and Housing Commission Regulations Governing Workplace Language Policies</i> (2002) 33 McGeorge L.Rev. 433, 439.
39	Gov. Code, § 12951.
40	Gov. Code, § 12951, subd. (b).
41	Labor Code, §§ 1101, 1102; see also Labor Code, § 96, subd. (k).
42	Labor Code, § 1102.
43	Labor Code, § 1102.5.
44	Labor Code, § 1103 ["An employer or any other person or entity that violates this chapter is guilty of a misdemeanor punishable, in the case of an individual, by imprisonment in the county jail not to exceed one year or a fine not to exceed one thousand dollars (\$1,000) or both that fine and imprisonment, or, in the case of a corporation, by a fine not to exceed five thousand dollars (\$5,000)."].
45	Labor Code, §§ 1102.5–1105.
46	Gov. Code, § 12945.8. These protections were formerly located at Labor Code sections 230 and 230.1.
47	Gov. Code, § 12945.8, subd. (d). A “qualifying act of violence” includes domestic violence, sexual assault, and stalking, as well as any other act or pattern of conduct in which a person causes bodily injury or death to another, brandishes or uses a firearm or other dangerous weapon, or uses or threatens force to cause physical injury or death, regardless of whether anyone is arrested for, prosecuted for, or convicted of a crime. (Gov. Code, § 12945.8, subd. (j)(5).)
48	Gov. Code, § 12945.8, subd. (a)(2).
49	Gov. Code, § 12945.8, subd. (a)(3).
50	Gov. Code, § 12945.8, subd. (c)(1).
51	Gov. Code, § 12945.8, subd. (c)(2).
52	Gov. Code, § 12945.8, subd. (b).

53	Gov. Code, § 12945.8, subd. (b).
54	Gov. Code, § 12945.8, subd. (a)(4) (operative January 1, 2026).
55	Gov. Code, § 12945.8, subds. (c)(3), (e).
56	Gov. Code, § 12952, subd. (a).
57	Gov. Code, § 12952, subd. (a).
58	Gov. Code, § 12952, subd. (a); Labor Code, § 432.7, subds. (a)(1), (f).
59	Gov. Code, § 12952, subd. (c).
60	Labor Code, §§ 98.6, subd. (b)(1), 1102.5, as amended by Stats. 2023, ch. 612 (SB 497), effective January 1, 2024.
61	Labor Code, § 1102.5, subd. (b); Health & Saf. Code, §§ 1596.881, 1596.882.
62	Labor Code, § 1102.5, subd. (b).
63	Labor Code, § 1102.5, subd. (a).
64	Labor Code, § 1102.5, subd. (c) [“An employer, or any person acting on behalf of the employer, shall not retaliate against an employee for refusing to participate in an activity that would result in a violation of state or federal statute, or a violation of or noncompliance with a local, state, or federal rule or regulation.”].
65	Gov. Code, § 12940, subd. (h) [“For any employer, labor organization, employment agency, or person to discharge, expel, or otherwise discriminate against any person because the person has opposed any practices forbidden under this part or because the person has filed a complaint, testified, or assisted in any proceeding under this part.”]; Labor Code, § 1197.5.
66	Labor Code, § 98, subd. (a); <i>Post v. Palo/Haklar & Associates</i> (2000) 23 Cal.4th 942, 946 [“[I]f an employer fails to pay wages in the amount, time, or manner required by contract or statute, the employee may seek administrative relief by filing a wage claim with the commissioner or, in the alternative, may seek judicial relief by filing an ordinary civil action for breach of contract and/or for the wages prescribed by statute.”].
67	Labor Code, § 98.6, subd. (a).
68	Labor Code, § 98.6, subd. (a).

69	Labor Code, § 232, subd. (c) [“No employer may do any of the following: . . . (c) Discharge, formally discipline, or otherwise discriminate against an employee who discloses the amount of his or her wages.”].
70	Labor Code, § 6310, subd. (a).
71	Labor Code, § 6310, subd. (a).
72	Labor Code, § 6311.
73	Labor Code, §§ 1102.5, 6399.7.
74	Labor Code, § 232.5.
75	Labor Code, § 232.5, subd. (c).
76	Gov. Code, § 12940, subds. (a), (m); <i>Gelfo v. Lockheed Martin Corp.</i> (2006) 140 Cal.App.4th 34, 54 [“In addition to a general prohibition against unlawful employment discrimination based on disability, FEHA provides an independent cause of action for an employer’s failure to provide a reasonable accommodation for an applicant’s or employee’s known disability.”].
77	Cal. Code of Regs., tit. 2, §§ 11065, subd. (p)(2)(M), 11068, subd. (c).
78	Gov. Code, § 12940, subd. (l).
79	Labor Code, §§ 1041–1044.
80	Labor Code, §§ 1025–1028.
81	Labor Code, § 132a.
82	<i>Raven v. Oakland Unified Sch. Dist.</i> (1989) 213 Cal.App.3d 1347, 1364.
83	<i>Judson Steel Corp. v. Workers’ Comp. Appeals Bd.</i> (1978) 22 Cal.3d 658, 666–667.
84	Gov. Code, § 12945.2, subd. (a).
85	Gov. Code, § 12945.2, subd. (k).
86	Gov. Code, § 12945.2, subd. (b)(4). Since 2021, the California Family Rights Act has applied to all employers with five or more employees, and there is no requirement that those employees work at the same location. (Cal. Code of Regs., tit. 2, § 11087, subd. (d).)
87	Gov. Code, § 12945.2, subd. (a).

88	Gov. Code, § 12945.2, subd. (a).
89	Gov. Code, § 12945.2, subd. (b)(5). A “designated person” is any individual related by blood or whose association with the employee is the equivalent of a family relationship; the employee identifies the designated person when leave is requested, and the employer may limit the employee to one designated person per 12-month period. (Gov. Code, § 12945.2, subd. (b)(2).)
90	Gov. Code, § 12945.2, subd. (b)(13).
91	Cal. Code of Regs., tit. 2, § 11087, subd. (v)(1).
92	Gov. Code, § 12945.
93	Gov. Code, § 12945, subd. (a)(1).
94	Gov. Code, § 12945.2, subd. (p); Cal. Code of Regs., tit. 2, § 11046, subd. (a) [“The right to take a pregnancy disability leave under Government Code section 12945 and these regulations is separate and distinct from the right to take leave under the California Family Rights Act (CFRA), Government Code sections 12945.1 and 12945.2.”].
95	Gov. Code, § 12945, subd. (a)(1).
96	Gov. Code, § 12926, subd. (d).
97	Cal. Code of Regs., tit. 2, § 11035, subd. (f) [“A woman is ‘disabled by pregnancy’ if, in the opinion of her health care provider, she is unable because of pregnancy to perform any one or more of the essential functions of her job or to perform any of these functions without undue risk to herself, to her pregnancy’s successful completion, or to other persons.”].
98	Cal. Code of Regs., tit. 2, § 11035, subd. (f).
99	Gov. Code, § 12926, subd. (m)(1).
100	Gov. Code, § 12945, subd. (a).
101	Labor Code, §§ 233, 246.5, subd. (c)(1); see also Labor Code, § 1512 [prohibiting retaliation for organ and bone marrow donation leave].
102	Labor Code, §§ 233, subd. (a), 246.5, subd. (a)(1).
103	Labor Code, § 233, subd. (a).

104	Labor Code, §§ 1030–1033; 29 U.S.C. § 218d.
105	Labor Code, § 1032 [“An employer is not required to provide break time under this chapter if to do so would seriously disrupt the operations of the employer.”]; see also 29 U.S.C. § 218d(c) [“An employer that employs less than 50 employees shall not be subject to the requirements of this section, if such requirements would impose an undue hardship by causing the employer significant difficulty or expense when considered in relation to the size, financial resources, nature, or structure of the employer’s business.”].
106	Elec. Code, §§ 14000–14002.
107	Elec. Code, § 14000, subd. (a).
108	Elec. Code, § 14000, subd. (b).
109	Elec. Code, § 14000, subd. (c).
110	38 U.S.C. § 4312.
111	38 U.S.C. § 4313.
112	38 U.S.C. §§ 4311–4313.
113	38 U.S.C. § 4316(c).
114	Gov. Code, § 12945.8, subd. (a)(1). This protection was moved from Labor Code section 230 into the Fair Employment and Housing Act, effective January 1, 2025. (Stats. 2024, ch. 967 (AB 2499); Stats. 2025, ch. 148 (AB 406).)
115	Gov. Code, § 12945.8, subd. (c)(1).
116	Labor Code, § 230.8, subd. (a).
117	Labor Code, § 230.8, subd. (a)(1).
118	Labor Code, § 230.8, subd. (a)(1)(A).
119	Labor Code, § 230.7; Ed. Code, § 48900.1.
120	Labor Code, § 230.7, subd. (a).
121	<i>Tameny v. Atlantic Richfield Co.</i> (1980) 27 Cal.3d 167, 170 [“[W]hen an employer’s discharge of an employee violates fundamental principles of public policy, the discharged employee may maintain a tort action and recover damages traditionally available in such actions.”]; <i>Stevenson v.</i>

Superior Court (1997) 16 Cal.4th 880, 887 [“An employer may not discharge an at will employee for a reason that violates fundamental public policy.”].

122 *Gantt v. Sentry Insurance* (1992) 1 Cal.4th 1083, 1095 [“The employer is bound, at a minimum, to know the fundamental public policies of the state and nation as expressed in their constitutions and statutes; so limited, the public policy exception presents no impediment to employers that operate within the bounds of law. Employees are protected against employer actions that contravene fundamental state policy. And society’s interests are served through a more stable job market, in which its most important policies are safeguarded.”].

123 *Stevenson v. Superior Court* (1997) 16 Cal.4th 880, 889–890 [“[T]his court established a set of requirements that a policy must satisfy to support a tortious discharge claim. First, the policy must be supported by either constitutional or statutory provisions. Second, the policy must be ‘public’ in the sense that it ‘inures to the benefit of the public’ rather than serving merely the interests of the individual. Third, the policy must have been articulated at the time of the discharge. Fourth, the policy must be ‘fundamental’ and ‘substantial.’”].

124 *Foley v. Interactive Data Corp.* (1988) 47 Cal.3d 654, 665 [“But the employer’s right to discharge an ‘at will’ employee is still subject to limits imposed by public policy, since otherwise the threat of discharge could be used to coerce employees into committing crimes, concealing wrongdoing, or taking other action harmful to the public weal.”].

125 Labor Code, § 432.5; *D’Sa v. Playhut, Inc.* (2000) 85 Cal.App.4th 927.
