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# Fired, Laid Off or Forced Out: A Complete Guide to Severance, Benefits and Your Rights When You're Starting Over

*Richard C Busse*

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**“[Busse’s] come up with survival skills to help employees avoid the ax.”**

*— Carol Kleiman, Chicago Tribune*

# **FIRED, LAID-OFF OR FORCED OUT!**

**A Complete Guide to  
Severance, Benefits  
and Your Rights When  
You’re Starting Over**

**RICHARD C. BUSSE, Attorney at Law**

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**Richard C Busse : Fired, Laid Off or Forced Out: A Complete Guide to Severance, Benefits and Your Rights When You're Starting Over** before purchasing it in order to gage whether or not it would be worth my time, and all praised Fired, Laid Off or Forced Out: A Complete Guide to Severance, Benefits and Your Rights When You're Starting Over:

6 of 6 people found the following review helpful. Stand up for yourself. By Leo M. T. I was being subtly pushed out of a company for no good reasons except that I was not a Big 10 slack jawed hick like the rest of the group. This book made me aware of my rights and how to subtly and diplomatically let the company know I was keeping track of their questionable actions and documenting all their clearly less favorable treatment of me as compared to the rest of similarly situated employees. It really worked, they backed and started treating me a lot better. I think these techniques will work better for larger companies with large HR departments and corporate reputations at stake. My advice is not to make threats but to raise your employer's awareness that you are aware of your rights and tactfully document in subtle emails and performance reviews any wrong doings. Once you have compiled enough of these it is time to show them all to HR when they start pushing you out a little too hard ( More projects, less support than colleagues, double standards, passed over for opportunities, it adds up). So forget about what your pappy told ya bout workin hard, sometimes no matter how hard ya work, someones not gonna do ya right....so stand up for yourself. From what I've seen with others, they will at least give you a larger severance payout. 2 of 2 people found the following review helpful. Review By terry jones This book is a reality check for everyone. I just left my job because of my title was taken from me while I was on FLMA. This book gave me an insight on how to proceed. 0 of 0 people found the following review helpful. Three Stars By Customer helpful read about a depressing subject

You're Fired! Those are the two words every employee dreads. But what does it really mean to be let go, and more important, what can you do to turn this situation into an opportunity for future success? Fired, Laid-Off or Forced Out takes the fear out of the possibility of losing your job and replaces it with specific guidelines any worker can use to protect his or her rights. From the factory worker to the professional, the salesperson to upper management, anyone can benefit from the insight and the proven steps described to obtain a positive outcome. Successful strategies clearly explain how you can: Survive a Disciplinary Action Diffuse Volatile Situations Change an Abusive Environment Prevent Termination Handle the Termination Itself Negotiate a Severance Agreement Evaluate Your Case Craft a Better Settlement Build Your Workplace Power

About the Author Richard C. Busse obtained his law degree in 1974 from the University of California, Hastings College of Law. He began practicing employment law in 1975. From 1975 to 1981, he defended employment cases, both with a defense firm and in his capacity as Chief Deputy County Counsel for Multnomah County, Oregon-the state's most populous county. In 1981, he set out on his own to develop a plaintiff's employment litigation practice, and has practiced in that field ever since. He is now senior partner in the Portland law firm of Busse Hunt, which is devoted exclusively to the practice of plaintiff's employment law. Mr. Busse represents victims of wrongful discharge, discrimination, defamation, and other workplace torts. His cases have established important legal precedents in the field. He is a frequent speaker and has published articles on employment law since 1981. Mr. Busse is also the author of the bestselling *Employee's Rights: Your Practical Handbook to Workplace Law*, Sphinx Publishing (2004). Mr. Busse has been listed in the national peer review publication *The Best Lawyers in America* every year since 1989 for labor and employment law in Oregon. His firm was named the leading plaintiff's employment law firm in Oregon by Chambers US, *America's Leading Business Lawyers*, 2003-04; and he was awarded its highest individual rating. The nationally known legal directory, *Martindale-Hubbell*, also gives Mr. Busse and his firm its highest rating for legal ability and ethics. Excerpt. copy; Reprinted by permission. All rights reserved. Top Ten Wrong Ideas Employees Have about Their Employment Rights Excerpted from *Fired, Laid Off, or Forced Out!* by Richard C. Busse copy; 2005 Most employees are at-will employees who may be terminated for any or no reason, unless the real reason falls within one of the exceptions to that rule. Because those exceptions are not well understood and may not apply in some situations, employees are frequently misinformed about the extent of their legal protection at the very time it matters most-when they must respond to an adverse personnel action. What follows are the top ten incorrect notions held by employees about their employment rights. 1. There is due process in the workplace. Most workers can be terminated at the whim of the employer at any time, for any lawful reason, with or without due process. Even employers who purport to follow a progressive discipline system, in which progressively severe levels of discipline will precede termination, typically retain the right to skip steps and proceed to termination immediately. There are only four exceptions to the general no due process rule that are only available to limited groups of workers. Those exceptions are: ? union workers with a strong collective bargaining agreement; ? non-management government workers in the public sector; ? Nevada workers in cases when an employee's integrity is questioned on information by a spotter; and, ? workers with an employment contract specifically granting due process. 2. You have a right to know why you have been terminated. Except in Indiana, Maine, Minnesota, and Missouri-where an employer must provide a written statement of reasons for termination to a terminated employee - your employer does not have to tell you why you were fired. In the great majority of states, your employer can simply tell you, "You're fired." While that may create anger and only drive you to seek out a lawyer, in forty-six states, that is the only information your employer is required to give you. 3. If you are hired for a particular job, your employer cannot change it. Except for restrictions contained in collective bargaining agreements, self-imposed government regulations, or individual employment contracts, although

you may have been recruited or hired for one position, your employer can change your job altogether after you are hired. You are free to refuse to accept the change, but if you do, your employer is likewise free to fire you for your refusal.<sup>4</sup> After you are hired, your employer cannot reduce your pay. Subject to contract requirements and government regulations, an employer is free to reduce your pay prospectively. Although an employer cannot hire you today for \$10.00 an hour and pay you \$8.00 at the end of the day, it can tell you today that if you show up for work tomorrow, your pay will be \$8.00 from that point forward. 5. You have free speech rights to express your opinion at work. The guarantee of free speech that is contained in the Bill of Rights to the United States Constitution is a limitation on governmental power, not the power of private individuals or entities (such as corporations). Therefore, an employer is free to terminate you for expressing your opinion. (The exception is in Connecticut, which by statute prohibits both public and private employers from, in some circumstances, terminating employees for speaking out on matters of public concern.)<sup>6</sup> On-the-job harassment is illegal. There is no law against harassment, generally. While some employers may prohibit harassment in the form of an enforceable policy statement, harassment itself becomes illegal only if it was committed because of your protected class status. So unless you are being harassed because of your race, color, sex, age, religion, or disability, or because you have engaged in protected activity (such as resisting sexual harassment), nothing bars an employer from engaging in some form of harassing behavior toward you.<sup>7</sup> On-the-job discrimination is illegal. Discrimination, like harassment, is not unlawful, generally. An employer is free to discriminate by giving better treatment to some employees over others (as long as it is not because of an employee's membership in a protected class or because they had engaged in some form of protected activity).<sup>8</sup> Your boss cannot retaliate against you. Retaliation, in general, is not unlawful. Retaliation becomes unlawful when it is committed because an employee has engaged in activity that is protected as a matter of public policy, such as reporting illegal activity, reporting to jury duty, filing a workers' compensation claim, or resisting sexual harassment. In addition, retaliation can be unlawful if your employer has entered into a binding agreement not to retaliate against you if, for example, you utilize its open door policy. Most employers, however, try not to make unqualified legally enforceable promises like that to their employees.<sup>9</sup> Your boss must be fair with you. There is no law that expressly says an employer must be fair with you. Therefore, with few exceptions, there is no law requiring your employer to be fair with you in making employment decisions that affect you.<sup>10</sup> Your employer must always choose the best qualified person. There is no law that expressly requires an employer to hire the best qualified candidate for a position. Outside of some civil service constraints in the public sector, such as qualification lists for police and fire positions, there is no law barring employers from hiring unqualified candidates. (This may not be the wisest business decision, but it occurs frequently—think family members.)