

VRP: PATEL LAW GROUP P.C.

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Ten Answers to Questions about Employment Law

Question One: What is employment discrimination?

Answer: Prohibited discrimination is when an employer or one of its agents takes an adverse action against an employee based on his or her race, gender, religion, sex, national origin, age, disability or other prohibited category under Title VII or Section 1981. An adverse employment action is when an employer takes away or fails to provide a tangible job benefit from an employee (such as wages, promotion, bonuses, benefits, demotions, negative evaluations, salary, vacation time, severance, job conditions or environment, etc...).

Question Two: Can an employer withhold payment of wages from an employee?

Answer: Generally, an employer cannot withhold payment of wages from an employee. The Illinois Wage Payment Collection Act, the Fair Labor Standards Act, and the Equal Pay action generally require the payment of wages, even overtime wages to employees. If an employee prevails on a claim seeking unpaid wages he may be entitled to recover penalties, attorneys' fees and/or costs related to the lawsuit.

Question Three: Is there a contract for employment in Illinois?

Answer: Generally, there is no contract for employment in Illinois. Most employment in Illinois is at-will; this means that an employee can quit at anytime for any reason and an employer can fire an employer for any reason. However, the at will employment doctrine does not apply when there is a specific contract for employment, an employment manual or policies that create an employment for term or the decision to hire or fire is motivated by discrimination or in retaliation for engaging in a protected activity.

Question Four: What is retaliatory discharge?

Answer: Retaliatory discharge is when an employer terminates an employee for exercising

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a legal right, opposing unlawful discrimination or reporting any illegal activities.

Question Five: Is an employer required to provide me with health insurance, 401 (k), or other job benefits?

Answer: Typically, the employer is not required to provide these types of benefits; however, if an employer provides these benefits then the employer is subject to certain fiduciary obligations and cannot provide them in a discriminatory manner. Moreover, a significant change in employment (like a termination or quitting) may require an employer to provide COBRA coverage to an employee.

Question Six: Who can seek unemployment compensation?

Answer: Typically, any employee that has been employed for four consecutive weeks by an Illinois employer can seek unemployment compensation under the Illinois Unemployment Insurance Act. Unless an employer fires someone for misconduct or the employee voluntarily quits without a good cause, the employee can recover unemployment wages under the Act.

Question Seven: What happens if I am injured at work?

Answer: Typically, employers are required to have worker's compensation insurance and an employee is allowed to seek compensation for a work related injury. In addition, an employee cannot be fired or retaliated against for exercising his or her rights under the Worker's Compensation Act.

Question Eight: What happens if I am ill, pregnant or need to take time off from work?

Answer: Generally, the Family and Medical Leave Act requires an employer to provide time off for a limited duration for serious medical conditions or pregnancy to both men and women.

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Question Nine: Am I entitled to review or obtain copies of my personnel records?

Answer: Typically, the Illinois Personnel Records Review act requires an employer to provide personnel records upon appropriate request. If an employer does not provide it based on a proper request, then the employer may encounter penalties or fines.

Question Ten: What is sexual harassment or a hostile work environment?

Answer: Sexual harassment is when an employer or one of its agents requires an employee to engage in unwelcome sexual acts or favors as a condition of employment or a tangible job benefit. Hostile work environment is when an employer creates an unreasonably intimidating work environment for employees to work in by lewd comments, sexual remarks, pictures or comments. The law protects both males and females from sexual harassment or a hostile work environment.

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