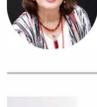


# Why Every Employment Termination Is Negotiable: 33 Dos and Don'ts To Get What You Deserve



**Sheila Callaham** Contributor @

Diversity & Inclusion

*I write about combatting ageism in the workplace.*



If you're unexpectedly terminated from your job, be professional. Don't sign anything and

Call it what you will, being terminated, fired, downsized, resized, job elimination, discharged, laid off, restructured or forced to resign—it's all the same. Whatever word is used, someone is left without a job and income. And though no time is a good time to lose your job, the end of the year has to be the worst. Not only does it put a damper on any end-of-year festivities, but it's also the hardest time to find a new job. Regardless of when you might experience a job loss, here's a list of dos and don'ts to ensure you get what you deserve.

"The first thing to remember is that every firing is negotiable, so long as no misconduct is involved," says private labor and employment attorney Steven Mitchell Sack. "Never accept the first offer."

After practicing employment law in New York for 40 years, Sack's list of do's and don'ts won't get your job back, but it will give you the leverage you need to negotiate a better package. Or, in some cases, the wisdom to know when to consult an employment lawyer.

This is a comprehensive list, but don't worry. If you have the misfortune of being caught by surprise in a termination meeting, remember the first three items on this list, and take it from there.

## What to Do:

1. Remain professional. Keeping calm, cool and collected will only help you in the long run. Losing it will get you nowhere.
2. Never accept the first offer. Negotiate, negotiate, negotiate.
3. Stay on the payroll as long as possible.
4. Never sign a release until you have read every word and are satisfied with the offer.
5. Do not feel pressured if your employer asks for a decision within a specific time frame. You can ask for an extension.
6. Know your rights.
7. Request four weeks of severance pay for every year employed. Point out your stellar performance and contributions, especially as it relates to money saved or increased sales and revenue.
8. Request continued company coverage for medical, dental and hospital insurance during the severance period. If you received less than the recommended four weeks for every year, ask for extended coverage.
9. Avoid an arrangement where severance ceases when you get a new job.
10. If receiving a designated lump sum, ask for it upfront instead of installments. If the termination occurs near the end of the year, consider the potential tax implications. You may choose to ask for a deferral until the new year if doing so is expected to put you in a lower tax bracket.
11. Ensure you receive any end of year bonus, accrued vacation, etc. If the employer argues the firing deprives you of the right to receive the bonus, request the bonus be prorated according to the number of months in the year that you worked.
12. Federal law states you are entitled to an accurate, written description of all of your benefits. Ask to see the written document to ensure you are being offered everything you are entitled to receive.
13. Ensure the details of your severance do not interfere with your eligibility for unemployment. In NY, for example, any severance received within 30 days of your dismissal results in forfeit of unemployment. Check the law and confirm with your employer.
14. Request that life insurance coverage converts to a private policy at a reduced cost.
15. Discuss how the news of your departure will be shared with colleagues. Neutral indicators, such as leaving for personal reasons or due to a business reorganization, are preferable.
16. Request key members of the company are notified of your departure in writing, and approve the contents before distribution. One of them may be able to assist you in obtaining a new job.
17. Ask for the continued use of the company car, if applicable, or the option to buy the car or take over the lease at a reduced rate.
18. Request your employer cover outplacement guidance and career counseling.
19. Request a copy of a favorable letter of recommendation, signed by a qualified supervisor or company officer and given to you before you leave.
20. Consider requesting a loan from your employer to tide you over while looking for a new job.
21. Ask for office space, with wifi, company phone and admin support to support your new job search.
22. Discuss how the company will respond to external inquiries to verify employment. Agree for a grace period where you are still referred to as an active employee since it is easier to get a job when you already have one.
23. Have a game plan with alternative asks if you don't get what you first request.
24. Be persistent.
25. Ask questions and get answers.

## What Not to Do

1. Never quit a job, even if things aren't going your way. Keep performing at your highest level and force the company to fire you.
2. Don't threaten.
3. Don't sign anything without reading it thoroughly and ensuring you understand all of the details, even if that means you need more time than the company suggests.
4. Don't become demoralized or let the employer intimidate or pressure you into signing a release before you understand and are willing to accept it. Never back away from negotiation.

## When to Seek an Attorney

1. If you feel one of your protected rights has been violated, in whole or in part, you should file an EEOC complaint or consult an attorney.
2. If you feel you are being retaliated against for speaking up against a company wrong-doing, either against yourself or in defense of someone else, consult an attorney.
3. If you are fired before the vesting of your pension, the payout of a large commission, end-of-year bonus or any other expected financial benefit, argue the timing of the firing is suspect and that public policy requires the employer to grant what you have earned. If the employer refuses, consult a lawyer immediately.
4. Do not sign a release or waiver of discrimination claim unless you first share it with a lawyer.

Whether your job is hourly or salaried, if you have been a productive, contributing employee then a termination is negotiable. With the exception of formal severance plans which are typically less negotiable, the longer you have been employed, the more negotiating power you have.

"If a person can effectively communicate, these strategies will work," says Sack. "If you don't ask for these things, you can't get them. Just remember to be professional and appeal to the corporate sense of decency and fair play. If you aren't making any headway, consider hiring an attorney to negotiate on your behalf."