

Severance Agreement Essentials

What you should know about your Severance Package before signing it.

Severance (Separation) agreements usually accompany layoffs, terminations or other types of employment discontinuances. Your employer might call yours a Termination Agreement, Severance Agreement, or Separation Agreement and General Release. Whatever your employer calls it, at first glance, it may look like an innocent letter on company stationery, buried among the mounds of paperwork that officiate terminations. But it's typically a "gotcha" that specifies the terms of your termination, to your employer's advantage. It will likely ask you in so many words to just sit back and take it.

To encourage you to sign it, your employer will offer you severance pay, extra severance pay or a better overall severance package. That's typical for layoffs. Some terminated employees just take the money and run, without fully understanding exactly what it is they've signed and why their employers paid them to do so. But the fact of the matter is, **an employment severance agreement is a contract** in which you relinquish your legal rights. It is in effect a bribe to influence you to sign it that is conveniently offered at a time when you likely need money the most.

You should be careful before signing the severance agreement until you've played out all your options. The fact that your employer is trying to bribe you in the first place, gives you bargaining power. But don't push your luck too much. If you choose to bargain, you are effectively *rejecting* your employer's first offer with a counteroffer. If your employer doesn't wish to bargain, they will likely honor their first offer. But do be aware that they don't have to offer it again. For that matter, employers are not required to offer **any severance**. But the courts typically frown on employers demanding that employees sign away their rights, without offering something reasonable in return. That might be your ace in the hole.

You might also think twice about signing, if you seriously think that your employer has **wrongfully terminated** you under the cover of a layoff (or otherwise), such as for age, race or gender **discrimination**. You might be able to break your separation agreement in this case, but you might also face more legal hassles than if you didn't sign it.

If your employment separation agreement includes a **non-compete clause**, you might think twice about signing that too, as it limits the work you may seek at a time when you need work most. That's a big gotcha. It's enforceable in many states, unless it's too restrictive in whole or part. Still, your employer might try to get you to sign the unenforceable anyway, as an intimidation tactic.

The same goes if your employment separation agreement includes a **confidentiality or non-disclosure clause**, asking you to agree that you will not disclose or profit from company trade secrets, customer lists, and so on. It's pretty much a no-brainer that you shouldn't disclose or profit from company trade secrets, stolen customer lists, etc. But a non-disclosure clause might limit you in many other ways, too. To be enforceable, a non-disclosure clause must legitimately protect the company's business interests. But again, your employer might try to get you to sign

the unenforceable anyway. It's not unheard of for a company to try to protect that which it has no right to protect, such as common industry knowledge.

Before you even to your employer about it, we strongly urge you to speak with our experienced attorneys to fully explain the terms of your employment separation agreement, any of the terms or conditions, or of any related documents. Attorney [Bill Boznos](#) of the law firm of Bellas & Wachowski has the experience to advise you on your rights before signing the severance package.

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