

“Do I Have a Case?”

4 Red Flags of Wrongful Termination in Philadelphia and South Jersey

What happened, what right may be involved, and
what evidence connects the firing to that right.

Swartz **Swidler** LLC

At-will employment means a firing can be unfair without being illegal.

Unfair, but generally lawful

Fired without warning or progressive discipline

Manager played favorites

Fired for a minor mistake

Personality conflicts

Potentially Unlawful—Requires legal review

Fired due to a **protected characteristic**

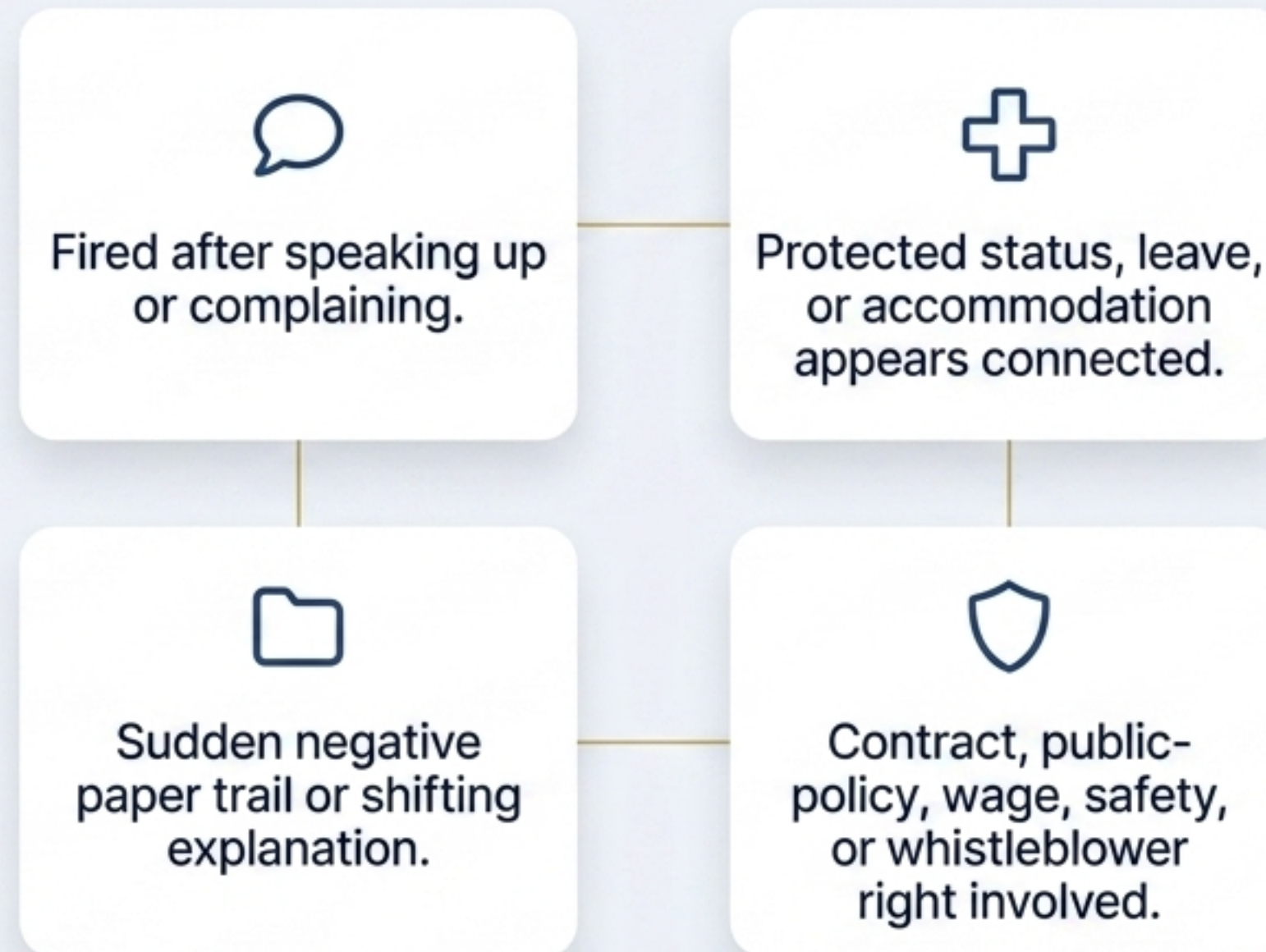
Fired after requesting **medical leave**

Fired for **reporting illegal conduct** or **unpaid wages**

Fired in **violation** of a **written contract**

In NJ and PA, at-will employees may be terminated for any reason not contrary to law or clear public policy. (Pierce v. Ortho Pharmaceutical Corp., 84 N.J. 58; Geary v. United States Steel Corp., 456 Pa. 171)

The 4 Red Flags of Wrongful Termination



Red Flag 1: Fired after speaking up



The Protected Act:

Complaining in good faith about discrimination, harassment, or wage violations.

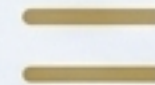
The Knowledge:

The specific decision-maker must have known about your complaint.



The Timing:

Being fired days or weeks later is highly suspicious, but timing alone does not automatically prove retaliation.



The Evidence:

Preserve exact dates, HR emails, and investigation notes.

Retaliation is the most common claim filed nationwide, comprising ~48% of EEOC charges.
Close temporal proximity can be strong evidence of causation in Third Circuit claims.

Red Flag 2: Connected to protected status or leave

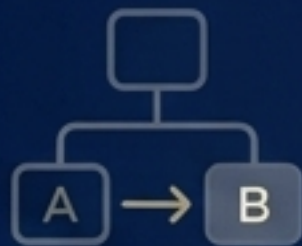
Protected Characteristics

Fired based on race, sex, age (40+), disability, religion, or other protected classes (e.g., pregnancy, sexual orientation).

Protected Leave & Accommodations

Terminated during or immediately after FMLA, disability leave, or NJFLA.

Fired after requesting a reasonable workplace adjustment.



The Comparator Test:

Were you replaced by someone outside your protected group? Did coworkers commit the same infraction without being fired?

Red Flag 3: Sudden negative documentation (Pretext)



“Pretext” occurs when an employer manufactures a paper trail to cover an illegal motive.

Contradictions weaken their case (e.g., HR says “layoff,” but tells unemployment you were fired for “misconduct”).

Contemporaneous documents created before the dispute are your best defense.

Red Flag 4: Violations of public policy or contracts

Wages & Safety:

Reporting unpaid overtime or OSHA hazards.

Public Duty:

Filing for workers' compensation or reporting for jury service.

Whistleblowing:

Refusing to commit illegal or fraudulent conduct.

Contracts:

Violating a written employment agreement or collective bargaining agreement.

Crucial Distinction: New Jersey's CEPA provides broad whistleblower protection. Pennsylvania relies on a narrower public-policy exception.

NJ CEPA (N.J.S.A. 34:19-1) covers private and public employers. PA common-law public policy exceptions are narrower and context-dependent.

Jurisdictional Differences: Which laws apply to you?

	South Jersey	Philadelphia
Main State Law:	NJLAD	PHRA
Local Protection:	NJ relies on state law	Philly Fair Practices Ordinance (PFPO)
Employer Threshold:	NJLAD (1+ employees)	PHRA (4+) & PFPO (1+)
Whistleblower:	Broad CEPA	Narrower PA Whistleblower / Public Policy
Leave/Sick Time:	NJ Earned Sick Leave (Statewide)	Philly Paid Sick Leave Ordinance
Agency Route:	NJ DCR	PA PHRC / Philly PCHR

Living in NJ does not automatically apply NJ law to a Philly job. Work location and employer operations generally dictate jurisdiction.

The Evidence Matrix: What proves your case?



Protected Activity: HR complaints, leave paperwork, safety reports, and internal emails.



Employer Knowledge & Timing: Timestamps on emails, meeting calendar invites.



Performance History: Official reviews, commendations, sales records, and previous promotions.



Comparator Evidence: Names of coworkers who committed the same infractions without being fired.



Shifting Explanations: The official termination letter vs. the employer's response to the unemployment agency.

Contemporaneous documentation is critical; cases often turn on records created before the dispute began.

Your First 72 Hours: Evidence Preservation Checklist

- ✓ Save termination and severance documents
- ✓ Write down a factual timeline of events
- ✓ Preserve lawful records (pay stubs, past reviews)
- ✓ Record exact reasons given for the firing

- ✓ Identify witnesses and comparators
- ✓ Apply for unemployment when appropriate
- ✓ Check deadlines (some are as short as 180 days)
- ✓ Do not sign a release or severance impulsively



Do not take unauthorized confidential material.

Forwarding proprietary, HIPAA-protected, or trade-secret files to your personal email triggers an "after-acquired evidence" defense that can destroy your case.



You do not need to identify the exact claim
before asking for help.

An employment attorney will review your timeline, the employer's
stated reasons, and your documentation to determine if a red flag
crosses the line into a legal claim.

Deadline Warning: Strict administrative filing deadlines apply—often
180 days (NJ DCR / PA PHRC) or 300 days (Philly PCHR / EEOC). O Do
not delay your evaluation.

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