Is an employer limited in its ability to fire an employee?

Although employment is presumed to be at will (meaning that the employer may fire the employee for any reason, or no reason at all), this at-will presumption is limited by a number of competing rules. An employer may not fire an employee for discriminatory reasons, such as because of his or her race or sex. The employer also may not fire the employee because the employee has engaged in a protected activity. Protected activities include complaining of harassment, discrimination or another violation of the law, filing a lawsuit against the employer claiming discrimination, filing a workers' compensation claim, or participating in an investigation of the employer by an administrative agency such as the Equal Employment Opportunity Commission or the Environmental Protection Agency. An employee who can show that he or she was fired shortly after engaging in such a protected activity may be able to sue the employer for illegal retaliation.

An employer may also be limited in its ability to fire an employee by the terms of a union contract or collective bargaining agreement, or by the terms of a contract with the individual employee. Finally, if the employer is a public entity, such as a federal, state or local government, a school district, or a government agency, the employer may be required to provide the employee with notice and an opportunity to be heard before firing the employee, and may also be required to show just cause, such as poor performance or the violation of a work-related rule by the employee, in order to fire the employee.