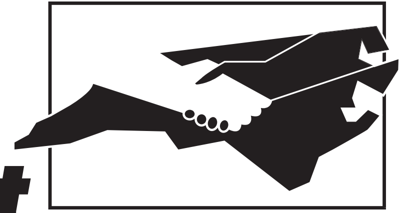
4 Employment Terms You Need to Get Right



NC STATE **AFL★CIO**

Although almost all of us are employees at some point in, if not most of, our lives, even the basics of employment law are not taught in our schools. As one result, most people have little understanding of employment law. Discussed briefly below are four terms or areas that are often misunderstood or confused by people in North Carolina: 1.) the "at-will" doctrine; 2.)"wrongful" discharge; 3.) the "right-to- work" law; and 4.) public sector collective bargaining.

1. The "At-Will" Doctrine

Employment relationships in North Carolina are presumed to be "at-will." This means that an employer can terminate an employee at any time for almost any reason or for no reason at all. The employee basically works at the will of the employer. The supposed trade-off is that employees can end the relationship at any time if they so desire.

There are exceptions to this at-will doctrine. Congress and the state legislature have passed laws that prohibit discharges based on race, sex, or age or other types of discrimination. Our courts have also recognized a narrow group of cases in which a discharge might violate our state's public policies such as discharge of an employee for refusing to commit perjury or commit an illegal act. If the reason for a discharge does not fit within one of these exceptions to the at-will doctrine, however, the at-will doctrine generally applies.

Congress and our state legislature have also provided a few minimum requirements about the terms of employment like minimum wage and overtime rules. If an employer's action does not violate one of these minimum standards, the at-will doctrine generally applies.

The best exception to the at-will doctrine is a contract, whether an individual employment contract or a collectively negotiated union contract. Where such a contract exists, and which might include provisions that dismissals can only be for "just cause" or promise certain conditions of work, the parties' relationship is defined by the contract's terms rather than the at-will doctrine.

2. Wrongful Discharge

Many people think a discharge is "wrongful" because it was made by the employer without notice, made without a good reason, made based on inaccurate facts, or made for no reason at all. However, a discharge is legally "wrongful" only if the discharge is in violation of a federal or state statute, violates our state's public policies, or violates an employment contract. Otherwise the at-will doctrine generally applies.

3. The "Right-to-Work" Law

Under the National Labor Relations Act (NLRA), most employees who work in the private sector have the freedom to join together in unions. Once a union is certified as the exclusive representative of a unit of employees, the employer must negotiate in good faith with that union for a contract covering wages, hours, and terms and conditions of employment. The union and the employer can decide that as part of this contract all employees covered by it must pay their fair share of the costs of negotiating and administering the contract that benefits everyone in the unit. Under such provisions, no employee must join the union, but all must pay their fair share of the costs.

In 1947, the NLRA was amended to allow states to prohibit such contract provisions that require employees to pay their fair shares or any fees at all for services by the union. North Carolina was one of the first states to pass such a law. The union in such states must nevertheless represent those employees who refuse to pay their fair share the same as those who do (and who, indeed, pay more than their fair share because they also must cover the costs of those who do not.) This is why employees who do not pay their fair share are sometimes called "Free Riders."

4. Public Sector Collective Bargaining

As noted, under the NLRA most employees in the private sector have the freedom to join together in union and collectively negotiate a contract with their employer. The NLRA, however, does not cover employees working in the public sector. Thus, each state legislature decides what rights its public employees should have to collectively negotiate. Most states give at least some of their employees some of these rights. North Carolina's law, G.S. 95-98, passed in the 1950s, is among the most restrictive in this area.

Under our law, any collectively negotiated contract (a.k.a., a collective bargaining agreement) between the state, a county, or a municipality and a union of its employees is unlawful. Thus, although state, county, and city employees in our state have the freedom under the First Amendment of the U.S. Constitution to join together in union, none can enjoy the protections of a collectively negotiated contract. The legislature is free to amend this law, of course, but has not.

Who We Are

North Carolina State American Federation of Labor and Congress of Industrial Organizations (NC State AFL-CIO) is our state's association of unions of working people, representing over a hundred thousand members who work together for good, safe jobs, worker and consumer protections, and quality public services on behalf of ALL working people.

Contact Us

Email	info@aflcionc.org
Website	AFLCIONC.org
Social Media	@NCStateAFLCIO and youtube.com/aflcionc
Phone	919-833-6678 voice / 919-828-2102 fax
Mail	P.O. Box 10805, Raleigh, NC 27605
Location	1408 Hillsborough Street, Raleigh, NC 27605