



KNOW YOUR RIGHTS:

When You Are Fired

Facts from the NC Justice Center's WORKERS' RIGHTS PROJECT

► YOUR RIGHTS when you are fired.

Can my employer fire me, even if the reason is false or unfair?

Yes, in many situations. In general, private-sector employment in North Carolina is "at will." This means that an employer is free to fire an employee for any reason or no reason at all.

There are exceptions to the at-will rule. The most common exceptions include:

- An employment contract that sets out the terms and conditions of employment and limits an employer's ability to fire the employee at will.
- A termination that violates federal and state employment statutes prohibiting discrimination or retaliation.
- A firing that violates a particular public policy.

Do I have an employment contract?

Many employees think that handbooks or policy manuals are contracts, but they rarely are. There are two major types of employment contracts: individual contracts and collective bargaining agreements or union contracts. Few employees have individual contracts because few have the leverage to require

an employer to give one. Employees might join together in unions to obtain collective bargaining agreements, which are contracts that protect a group of employees. The union representing the group can enforce these contracts, and workers can file an individual grievance.

When does termination violate an employment statute?

The most common exceptions to the at-will doctrine are found in federal and state employment statutes. For example, a termination might be illegal if it is prompted by one of the following reasons:

- Discrimination based on race, national origin, sex, pregnancy, religion, disability, citizenship status, or age. Consult a lawyer or the Equal Employment Opportunity Commission (EEOC) to determine whether your situation rises to the level of discrimination.
- Retaliation for taking a leave of absence for a serious medical condition. The Family and Medical Leave Act allows eligible employees to take up to 12 weeks of unpaid leave per year without risking their jobs. For more information about

The Workers' Rights Project

offers factsheets on a range of topics, including:

- Family and Medical Leave
- Health and Safety at Work
- Misclassification
- Unemployment Insurance
- Workers' Compensation
- Immigrant Workers' Rights

You can find all of our factsheets at tiny.cc/ncworkers



Did you know?

This fact sheet is intended to provide accurate, general information regarding legal rights relating to employment in North Carolina. However, this fact sheet does not address exemptions and does not go into detail regarding legal rights. In addition, laws and legal procedures are subject to frequent change and differing interpretations, and the North Carolina Justice Center cannot ensure the information in this sheet is current nor be responsible for any use to which it is put. Do not rely on this information without consulting an attorney or the appropriate agency about your rights in your particular situation.

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your rights, see our Family and Medical Leave Act factsheet.

- Retaliation for having complained about workplace safety or a work injury. The federal Occupational Health and Safety Act generally requires employers to provide work environments that are free from recognized hazards that may cause death, serious injury, or physical harm to employees. In addition, the North Carolina Workers Compensation Act generally covers employees whose injuries arise “out of and in the course of” their employment. If you complained about workplace safety or a work injury and were fired for complaining, you may have a retaliation claim. For more information on your rights if you are injured on the job or have workplace safety concerns, see our Workers Compensation factsheet and our Health and Safety factsheet.
- Retaliation for having complained about wage violations or having filed a wage complaint. State and federal laws require most employers to pay a minimum wage, to pay time and a half for overtime, to pay you on time, and to only make deductions from your pay that are allowed by law. If you complained about your wages and were fired for complaining, you may have a retaliation claim. For more information on your rights under these laws, see our Wage Theft factsheet.
- Retaliation for engaging in union activity or collective action. Federal law prevents most employers from taking any adverse action, such as firing or demoting against an employee for organizing a union, participating in a union, or joining with coworkers to complain about conditions of employment. For more information, contact the National Labor Relations Board.

When does a termination violate a public policy?

There are limited cases when a termination is unlawful, even if the employee is not protected by a contract or a federal or state statute. There is no specific list of the kinds of discharges that violate public policy, but examples include firing someone for refusing to lie under oath.

What should I do if I think I have been terminated in violation of a law or public policy?

Depending on a number of factors, including the size of your employer, you may be able to file a complaint with the government agency that specializes in that law. A lawyer may be able to help you if you were fired in violation of a public policy. There are often short deadlines to file a complaint.

RESOURCES

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| For help finding a lawyer, call: | • North Carolina Advocates for Justice | 1-(800) 688-1413 |
| | • North Carolina Bar Association Lawyer Referral Service | 1-(800) 662-7660 |
| | • Legal Aid of North Carolina | 1-(866) 219-5262 |

To file a claim with a government agency or to seek information on the following issues, contact:

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| DISCRIMINATION | ▪ US Equal Employment Opportunity Commission | 1-800-669-4000 - or - www.eeoc.gov |
| | ▪ Office of Special Counsel for Unfair Immigration-Related Employment Practices | 1-800-255-7688 - or - www.justice.gov/crt/about/osc/ |
| E-VERIFY | ▪ Department of Homeland Security / E-Verify | 1-888-897-7781 - or - www.dhs.gov/e-verify |
| FAMILY AND MEDICAL LEAVE | ▪ US Department of Labor | 1-866-487-9243 - or - www.dol.gov/whd |
| HEALTH & SAFETY | ▪ NC Department of Labor | 1-800-NC-LABOR (625-2267) - or - www.nclabor.com/osh/osh.htm |
| MISCLASSIFICATION | ▪ Internal Revenue Service | http://www.irs.gov/pub/irs-pdf/fss8.pdf |
| | ▪ NC Industrial Commission, Employee Classification Section | (919) 807-2582 - or - www.ic.nc.gov/EmployeeClassificationSection.html |
| RETALIATION | ▪ NC Department of Labor, Employment Discrimination Bureau | 1-800- 625-2267 - or - www.nclabor.com/edb/edb.htm |
| UNEMPLOYMENT INSURANCE | ▪ NC Department of Commerce, Division of Employment Security | 1-877-841-9617 - or - https://www.ncesc.com/ |
| UNIONS & COLLECTIVE ACTION | ▪ National Labor Relations Board | 1-866-667-6572 - or - www.nlr.gov |
| WAGE THEFT | ▪ NC Department of Labor, Wage and Hour Bureau | 1-800-625-2267 - or - www.nclabor.com/wh/wh.htm |
| | ▪ US Department of Labor | 1-866-487-9243 - or - http://www.dol.gov/whd/ |
| WORKERS' COMPENSATION | ▪ NC Industrial Commission | 1-800- 688-8349 - or - http://www.ic.nc.gov/ |