

KNOW YOUR RIGHTS: The Right to Unionize

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

► **YOUR RIGHT** to be treated fairly and equally at work while organizing.

WHAT IS A UNION?

A union is a group of two or more employees who join together to become a stronger voice for change in their workplace. A union usually has power to bargain with their employer over working conditions. Employees in the union democratically vote on issues relating to how the union functions including:

- Whether to form a union.
- Who leads the union.
- What actions the union can take to advance its goals.
- Whether to approve a collective bargaining agreement with management.
- How to protect and advocate for its members.

WHAT IS A COLLECTIVE BARGAINING AGREEMENT?

A collective bargaining agreement is a legally enforceable contract between a union and an employer that sets the terms and conditions of employment. The contract is called this because the process for negotiating a collective bargaining agreement is called "collective bargaining." During collective bargaining, representatives elected by the union membership meet with management to negotiate the terms of employees' work.

Employers and unions must bargain over some terms and conditions of work called "mandatory subjects of bargaining." These subjects include: wages, benefits, scheduling, disciplinary rules and procedures, grievances procedures, layoff and recall rights, and job assignments. Other subjects are "permissive subjects of bargaining" that parties can, but do not need to, bargain over. These subjects include: current retiree benefits, political action committee contributions, and job applicant provisions.

After the union representatives and management come to an agreement, the union membership votes on whether to approve the agreement. Once the agreement is approved by the union membership, it becomes their collective bargaining agreement.

WHY SHOULD I JOIN OR TRY TO FORM A UNION?

The National Labor Relations Act (NLRA) is a federal law that governs union activity. Under the NLRA, covered employers must collectively bargain with a union over the terms and conditions of employment. This means that as a group of employees, you have real power to fight for what you want and deserve. Union members have a powerful seat at the table to negotiate higher wages, better benefits, safer workplaces, and protections against unjust discipline.

Some of the potential impacts of union-driven workplace changes include higher wages, better benefits, and more safety-compliant workplaces:

- Union workers make **higher wages** than non-union workers.
- Union workers have **greater** enrollment in employer-sponsored health insurance coverage and are more likely to have access to good health care.
- Union workers have **better** access to retirement benefits.
- Union workplaces are **more likely** to adhere to national safety standards than non-union workplaces.

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.

ARE UNIONS LEGAL IN NORTH CAROLINA?

Yes. Not only is unionizing legal in North Carolina, for most workers it is also a protected right. The NLRA is a federal law that protects the right to unionize (among other rights) for nearly all private sector workers across the country—including in North Carolina.

WHAT IF I AM A PUBLIC SECTOR EMPLOYEE?

Public sector employees in North Carolina have a right to organize and join unions.

However, unlike unions protected by the NLRA, public sector unions in North Carolina are prohibited by statute from collectively bargaining with employers. In addition, North Carolina law, unlike the NLRA, makes it illegal for public sector employees to go on strike.

HOW DO I ORGANIZE A UNION AT MY WORKPLACE?

If you want to organize a union at your workplace, you should start by talking with your coworkers to get a better understanding of the issues they care about and their potential interest in a union. A group of interested coworkers can then:

- Talk to a union organizer to strategize next steps.
- Prove that your coworkers who would potentially be represented by the union are interested in unionizing. You can do this by having your coworkers sign cards or a petition saying they want a union.
- If more than 50% of your coworkers who would potentially be represented by the union sign a card or petition saying they want a union, you can ask your employer to voluntarily recognize the union.
- Another route to recognition requires at least 30% of your coworkers to sign a card or petition saying they want a union. You can submit the cards or petition to the National Labor Relations Board (NLRB) and request an election. When the NLRB receives your cards or petition along with the request, they will conduct an election at your workplace.

- If a majority of your workplace votes in favor of the union, the NLRB will certify your union.

WHAT TYPES OF UNION ORGANIZING ACTIVITIES ARE PROTECTED?

The NLRA protects many different types of union organizing activities including:

- Distributing union literature
- Wearing union buttons and t-shirts
- Soliciting coworkers to sign union authorization cards
- Discussing the union with coworkers
- Other protected concerted activities

This means that you cannot be fired, demoted or disciplined solely for engaging in any of these activities. Managers also cannot spy on, bribe, or threaten you based on your union activities.

Employers do have a right to prohibit employees from discussing the union during work time in work locations. But the employer cannot prohibit employees from:

- Discussing the union in the non-work areas (like a break room or parking lot) during non-work hours (like a break or lunch)
- Discussing the union during work time if it does not prohibit you from discussing other non-work related issues during work time
- Distributing union literature in parking lots or break rooms during non-work time

WHAT IF MY EMPLOYER TAKES ACTION AGAINST ME FOR MY UNION ACTIVITIES?

Under the NLRA, your employer cannot fire, discipline, threaten, or coercively question you about union activity. Any of these actions against you could be a violation of the NLRA called an “unfair labor practice.” The NLRA provides ways to get backpay, reinstatement, and other sanctions against your employer if they punish you or other employees for protected concerted activities including union activities.

MORE INFO

Want to know more?

The NC Justice Center's Workers' Rights Project offers factsheets on a range of workplace rights topics in English and Spanish. Find our factsheets here:

<https://www.tiny.cc/ncworkers>



TELL US YOUR STORY

The Workers' Rights Project at the NC Justice Center is on a mission to improve job conditions in North Carolina. Have you ever experienced unfair treatment at work? Dealt with wage theft or union busting? — Share your story* with us. We're gathering testimonies to advocate for better workplace protections, including safety, fair wages, and support during difficult times:

<https://tinyurl.com/ncworkerstories>

**Your story will remain confidential unless you give us written consent to share it.*

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RESOURCES

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:		
DISCRIMINATION	US Equal Employment Opportunity Commission	1-800-669-4000 www.eeoc.gov
E-VERIFY	Department of Homeland Security/EVerify	1-888-897-7781 https://www.e-verify.gov/
FAMILY & MEDICAL LEAVE	US Department of Labor	1-866-487-9243 www.dol.gov/whd
HEALTH & SAFETY	NC Department of Labor	1-800-NC-LABOR (625-2267) www.nclabor.com/osh/osh.htm
MISCLASSIFICATION	Internal Revenue Service	http://www.irs.gov/pub/irs-pdf/fss8.pdf
RETALIATION	NC Department of Labor, Employment Discrimination Bureau	1-800- 625-2267 www.nclabor.com/edb/edb.htm
UNEMPLOYMENT INSURANCE	NC Department of Commerce, Division of Employment Security	1-877-841-9617 https://www.ncesc.com/
UNIONS & COLLECTIVE ACTION	National labor Relations Board	1-866-667-6572 www.nlr.gov
WAGE THEFT	NC Department of labor, Wage and Hour Bureau US Department of Labor	1-800-625-2267 www.nclabor.com/wh/wh.htm 1-866-487-9243 http://www.dol.gov/whd/
WORKERS' COMPENSATION	NC Industrial Commission	1-800-688-8349 http://www.ic.nc.gov/

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