**At-Will Employment in NC**

As a general rule, employees hired for an indefinite period of employment can be discharged “for good reason, bad reason, or no reason at all.” The “employment-at-will” doctrine is based on the legal concept of mutuality. That is, because an employee can quit his job at any time for any reason, the employer has a right to discharge an employee whenever and for whatever reason it chooses.

Historically, the only exceptions to the employment-at-will doctrine have been:

1. statutes like Title VII which prohibited discriminatory discharges;
2. employment contracts for a definite term;
3. collective bargaining agreements in which the employer agrees to discharge employees only for just cause; and
4. when an employee gives up something of value in exchange for a promise of job security.

Courts in most states have fashioned exceptions to the at-will doctrine. North Carolina courts were initially reluctant to liberalize the at-will rule. North Carolina is among the growing number of states that recognizes significant exceptions to the at-will rule.

The most common exception to the employment-at-will rule is the public policy exception where an employee’s discharge violates public policy embodied in a specific statutory or constitutional provision. The exception has been applied to discharges resulting from whistleblowing (*Retaliatory Discrimination in Employment Act*), filing workers’ compensation claims, performing jury duty, invoking health and safety laws, making wage and hour complaints, and other laws which embody public policy.

North Carolina courts have ruled that employee handbooks and policy manuals do not constitute employment contracts.  It is important, however, that handbooks include contract disclaimers and that the handbook states that the employer has complete discretion to terminate employees for reasons not stated in the handbook.  It is also recommended that a statement be included in the employer’s progressive disciplinary policy clarifying that the employer reserves the right to invoke discipline at any level depending upon the frequency and/or the severity of the circumstance(s) involved.

Employers should be aware, however, of specific promises of wages and benefits contained in a handbook.  Courts are likely to uphold these claims. Employers should also avoid statements that limit discharge to only for “just cause” and should explicitly state that discharge of employees is not limited to the reasons listed in the handbook.  Further, employers should retain the discretion to change personnel policies at any time.

Employers should make sure that their management staff understands that oral promises can be considered by the court when determining whether an employment contract exists.  Employment agreements for definite time-periods can also create a contractual exception to employment-at-will.

For a deeper dive, please contact Catapult’s Advice Team at 919-878-9222.

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