Under the North Carolina Equal Employment Practices Act, employers who regularly employ 15 or more employees are prohibited from discriminating against an individual based on age. **Note:** State law does not define a protected age group.

**AIDS**

*Discrimination:* Employers cannot discriminate against individuals with AIDS or HIV infection when determining suitability for continued employment. Employers, however, are permitted to take employment action (including reassignment or termination) if retaining an employee with AIDS or HIV infection would pose significant risk to the health of the individual, co-workers, or the public, or if the employee cannot perform his/her job duties.

*Testing:* While employers are prohibited from testing employees for AIDS to determine their suitability for continued employment, employers can:

1. require job applicants to submit to an AIDS test during a required pre-employment medical examination, and deny employment to applicants based solely on the confirmed positive test; and
2. include AIDS testing in an annual medical examination routinely required of all employees.

**ARRESTS/CONVICTIONS**

No general provision prohibiting an employer’s collection and use of arrest or conviction records.

**BREAKS**

No provision.

**BREAST-FEEDING**

A woman may breast-feed her child in any location, public or private, where she is authorized to be present.
● **CHILD LABOR**

Click on the following link [http://www.nclabor.com/wh/fact%20sheets/joint_state_fed.htm](http://www.nclabor.com/wh/fact%20sheets/joint_state_fed.htm) to access North Carolina’s Department of Labor’s reference guide on youth employment.

● **CHILD SUPPORT**

Employers served with a child support order must begin withholding with the first pay period occurring after 14 days after the order is served. Amounts are remitted within seven business days of payday. Employers must notify the custodial parent or the court promptly if the employee-obligor terminates.

● **COURT ATTENDANCE**

If employees are called as witnesses in criminal proceedings, the state has employer intercession services that seek employers' cooperation to minimize employed witnesses' loss of pay and other benefits.

● **DISABILITIES**

The North Carolina Persons with Disabilities Protection Act provides that no employer in North Carolina may discriminate in its employment practices against any employees or applicants on the basis of a physical or mental impairment.

Employers of 15 or more are covered by North Carolina’s employment protection law.

● **DRUG TESTING**

State law establishes procedural requirements for the administration of drug testing, including procedures for collecting and retaining samples, requirements pertaining to certified labs, and regulations regarding chain of custody.

If a test for a prospective employee produces a positive result, an approved lab will confirm that result by a second examination of the sample, unless the prospective employee signs a written waiver at the time, or after, they receive the preliminary test result.

All screening tests for current employees that produce a positive result will be confirmed by a second examination.

● **FAMILIAL/MARITAL STATUS**

The state recognizes same-sex marriage.
FAMILY/MEDICAL LEAVE

Coverage: State government employers.

General rule: Employees who have been employed for at least 12 months are entitled to up to 12 weeks of paid or unpaid family and medical leave in a single 12-month period measured from the date the leave begins for the birth of a child; for placement of an adopted child; to care for the employee’s child, spouse, or parent with a serious medical condition; or for the employee’s own serious medical condition.

See also pregnancy.

GENETIC TESTING

Employers may not deny or refuse employment to any individual, or discharge any individual from employment, because he/she requests genetic testing or counseling services, or on the basis of genetic information obtained concerning the individual or a member of his/her family.

HEALTH CARE CONTINUATION COVERAGE

Continuation coverage requirements apply to employer-sponsored group health plans that do not meet federal COBRA requirements. Eligible employees have the right to continue coverage for up to 18 months.

Click on the following link http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/ByArticle/Chapter_58/Article_53.html to access the applicable statute.

JURY DUTY

Employers may not demote or dismiss employees who are called for jury duty or serve as jurors.

LIFESTYLE DISCRIMINATION

It is unlawful for employers with three or more regular employees to discriminate against any person for engaging in the use of lawful products during non-working, unless a bona fide occupational requirement exists.

It is not a violation for an employer to offer, impose, or have a health, disability, or life insurance policy that makes distinctions among employees for type and price of coverage based on employees’ use or non-use of lawful products, as long as: 1) differential employee premium rates reflect actuarially justified differences in providing employee benefits; 2) employees are given written notice setting forth the differential rates imposed by the insurance carrier; and 3) the employer contributes an equal amount to the insurance carrier on behalf of each of the employer’s employees.
MASS LAYOFF NOTIFICATION

No state-specific notification provision.

MEDICAL DONATION LEAVE

No general provision.

MILITARY LEAVE

Members of the North Carolina National Guard are entitled to take leave without pay when called into service. Employers may not discriminate against employees on the basis of membership in state or federal military service.

Reinstatement: Members of the state National Guard must be restored to their previous position or a position of like seniority, status, and salary if: 1) application for reemployment is made in writing to the previous employer within five days of release from duty or from hospitalization related to military service, and 2) they are still qualified to perform the previous job. If no longer qualified for a previous position, an employee must be placed in another position for which he/she is qualified and that will give him/her appropriate seniority, status, and salary. An exception is made if the employer’s circumstances make restoration unreasonable.

MINIMUM WAGE


Basis for overtime: Over 40 hours/week.

Opportunity wage for under 20-year-olds: None.

Note: Employers may pay a lower state minimum wage only if they’re not covered by interstate commerce.

NATIONAL ORIGIN

Under the North Carolina Equal Employment Practices Act, employers who regularly employ 15 or more employees are prohibited from discriminating against an individual based on national origin.
NORTH CAROLINA

➤ NEW-HIRE REPORTING ➤

Data to be reported: Employee’s name, address, SSN, first day of work, any other information the federal government may require; employer’s name, address, federal EIN, state UC number.

Employees rehired after being off the payroll for 60 consecutive dates are considered new hires.

Reporting deadline/form: Within 20 days of hire or rehire; on W-4s or through the state’s website.

➤ OVERTIME ➤

Basis for overtime: Over 40 hours in a workweek.

➤ PAY STATEMENTS ➤

Information required: Itemized deductions. Employers may not intentionally communicate employees’ Social Security numbers to the public.

➤ PERSONNEL FILES ➤

Employees and former employees have a right to access personnel records indicating their exposure to toxic materials or harmful physical agents.

Public employees are entitled to examine their own personnel files, except reference letters and certain medical information.

The state has also enacted a law that imposes penalties for breaching the confidentiality of school employee personnel files.

➤ POLYGRAPH TESTING ➤

No provisions specified in the general employment context.

➤ POSTING REQUIREMENTS ➤

Notice to Employees (English & Spanish) — All employers
Unemployment Insurance Notice — All employers liable under NC Security Law
➢ PREGNANCY ➢

Coverage: Teachers.

Length of leave: The maximum length of leave available is up to 12 weeks of annual leave, personal leave, or leave without pay to care for a newborn child. This leave must be taken within 12 months of birth, unless the teacher and school board agree otherwise.

See also family/medical leave.

➢ RACE ➢

Under the North Carolina Equal Employment Practices Act, employers who regularly employ 15 or more employees are prohibited from discriminating against an individual based on race or color.

➢ REFERENCES ➢

Blacklisting: Employers cannot attempt to conspire to prevent a discharged employee from obtaining employment with any other employer. However, a former employer may supply a truthful, written statement of the reason for discharge upon request of an employer with whom the discharged employee has applied for employment.

References: Employers that disclose information about a current/former employee’s job history or performance to a prospective employer, at the request of the prospective employer or the employee, are immune from civil liability and are not civilly liable for the disclosure or any consequences of the disclosure. Immunity is lost if the employer knew or reasonably should have known that the information was false.

➢ RELIGION ➢

Under the North Carolina Equal Employment Practices Act, employers who regularly employ 15 or more employees are prohibited from discriminating against an individual based on religion.

➢ REPORTING PAY ➢

No provision.

➢ SAFETY ➢

Click on the following link http://www.nclabor.com/osha/osh.htm to access North Carolina’s Occupational Safety and Health Division home page. For compliance manuals and procedures, click on http://www.nclabor.com/osha/compliance/manuals.htm.
NORTH CAROLINA

➢ SCHOOL VISITATION LEAVE ➢

Employees who are parents, guardians, or standing in the place of a parent are entitled to four hours of leave per year to attend or otherwise be involved at a child’s school. Employers are prohibited from discharging, demoting, or otherwise taking an adverse employment action against employees for requesting or taking such leave; but leave need not be paid.

The employer and employee must mutually agree upon the time for the leave. Employers may require a written request at least 48 hours in advance and written verification from the school that the employee attended or was otherwise involved at the school during the leave time.

➢ SEX DISCRIMINATION ➢

Under the North Carolina Equal Employment Practices Act, employers who regularly employ 15 or more employees are prohibited from discriminating against an individual based on sex.

➢ SEXUAL HARASSMENT ➢

State employers must provide employees and applicants a work environment free from sexual harassment.

All state employees are required to participate in workplace harassment training programs.

➢ SEXUAL ORIENTATION DISCRIMINATION ➢

No provision.

➢ SMOKING ➢

Smoking is prohibited in state government buildings and in state vehicles. Smoking is also prohibited in restaurants and bars, with limited exceptions.

See also lifestyle discrimination.

➢ SOCIAL SECURITY NUMBER PRIVACY ➢

North Carolina’s Identity Theft Protection Act prohibits employers from intentionally communicating or otherwise making available to the general public an individual’s Social Security number. Social Security numbers may not be printed on any card required to access products or services provided by the employer; transmitted over unsecured Internet connections; used to access an Internet site unless accompanied by an authentication device (a unique password or personal identification number, for example); printed on any materials mailed to the individual, with limited
exceptions; or sold, leased, loaned, traded, rented, or otherwise disclosed to a third party without written consent from the individual.

Employers are required to: 1) establish detailed written policies and procedures for destroying personal information, and 2) ensure that employees are fully trained to comply with these policies and procedures. Employers must also report a security breach "without unreasonable delay" to anyone whose personal information might have been compromised.

See also pay statements.

➢ UNEMPLOYMENT INSURANCE ➢

Click on the following link https://desncc.com/DES to access the Employment Security Commission of North Carolina business services home page, which includes unemployment insurance links for employers.

➢ VACATION PAY UPON TERMINATION ➢

No employer is required to provide vacation for employees. However, if an employer provides vacation for employees, the employer shall give all vacation time off or payment in lieu of time off at the time of termination in accordance with the company policy or practice. Employees must be notified in writing or through a posted notice of any company policy or practice that results in the loss or forfeiture of these promised wages. Employees not notified are not subject to forfeiture.

➢ VIOLENCE ➢

A workplace violence prevention law: 1) establishes civil no-contact orders for the protection of employees from workplace violence; 2) permits employers to file a civil no-contact order on behalf of an employee who has suffered unlawful conduct from any individual that can reasonably be construed to be carried out, or to have been carried out, in the workplace; 3) includes relief from stalking, harassment, assault, and other contact; and 4) prohibits employer discrimination under a no-contact order.

Domestic violence: An employer may not discriminate against or take retaliatory action against an employee who exercises his/her rights under the state’s domestic violence law. These rights include taking “reasonable time off” from work to obtain or attempt to obtain a protective order or other relief under the state’s domestic violence law. An employee who is absent to seek such relief must follow the employer’s usual time off policy or practices; if the employer generally requires advance notice of absences, an employee must provide advance notice unless an emergency prevents the employee from doing so. An employer may require the employee to provide documentation showing the reason for the employee’s absence.
VOTING

No time-off-to-vote provision.

WAGE DEDUCTIONS

An employer may make deductions from an employee’s wages when the employer is required or permitted to do so by state or federal law, or the employer has a written authorization from the employee that is signed on or before the payday for the pay period from which the deduction is to be made indicating the reason for the deduction.

WAGE GARNISHMENT

The amount subject to garnishment is controlled by federal law. The lesser of 25% of disposable weekly pay, or the amount by which disposable weekly pay exceeds 30 times the federal minimum wage in effect during the week the garnishment is to occur, may be withheld. The state has no provisions prohibiting discharge, but federal law prohibits discharging an employee for any single indebtedness.

WAGE PAYMENT ON TERMINATION

Employee who quits: Next payday.

Employee who’s fired: Next payday.

WAGE PAYMENTS

Payday requirements: Daily, weekly, biweekly, semimonthly, or monthly.

Direct deposit: Employers may not require employees to be paid electronically. Employee may choose bank.

WHISTLEBLOWING

All employers in North Carolina are subject to the Retaliatory Employment Discrimination Act, which protects employees from retaliation because of the exercise of rights granted to them. The protected conduct includes rights associated with the Workers’ Compensation Act, the Wage and Hours Act, the Occupational Safety and Health Act, and the Mine Safety and Health Act.

Generally speaking, employers may not terminate or take any negative action in any form against an employee who, as provided under these Acts, files a claim or complaint, or provides information for, or initiates or participates in, any inquiry, investigation, inspection, proceeding, or other action with respect to these laws.
➢ WORK AUTHORIZATION ➢

State agencies, departments, institutions; community colleges; all government contractors and subcontractors; and local education agencies are required to use E-Verify to confirm the employment eligibility of newly hired employees.

Private employers that employ at least 25 employees must use E-Verify to check the work status of all new hires. Employers must keep records of employees’ work status for the duration of their employment and for one year after termination. Employers will not be required to check the work status of employees who will be employed for fewer than nine months during a 12-month period.

➢ WORKERS’ COMPENSATION ➢

Click on the following link http://www.ic.nc.gov to access the North Carolina Industrial Commission Workers’ Compensation home page. To access Workers’ Compensation information for employers, click on http://www.ic.nc.gov/employers.html.