

SOUTH CAROLINA EMPLOYMENT-AT-WILL LAW

SECTION 41-1-110. Conspicuous disclaimer of contract of employment created by handbook, personnel manual or other document issued by employer.

It is the public policy of this State that a handbook, personnel manual, policy, procedure, or other document issued by an employer or its agent after June 30, 2004, shall not create an express or implied contract of employment if it is conspicuously disclaimed. For purposes of this section, a disclaimer in a handbook or personnel manual must be in underlined capital letters on the first page of the document and signed by the employee. For all other documents referenced in this section, the disclaimer must be in underlined capital letters on the first page of the document. Whether or not a disclaimer is conspicuous is a question of law.

This statute is important because unless there is an employment contract or a specific statutory protection, all employment in South Carolina is employment-at-will. Employment-at-will simply means that the employer may terminate the employment or the employee may leave the employment at any time for any reason (or for no reason). It is also up to each employer to decide if its employees may view their own personnel file. However, there are laws that protect employees from termination, demotion, or other discrimination in certain circumstances. Below is a partial list.

The most common protected categories are those that protect an employee's civil rights based on age, race, sex, religion, national origin, color, disability, or pregnancy. For questions or information on these protected categories, you may contact the South Carolina Human Affairs Commission in Columbia at <http://www.state.sc.us/schac/> or (800) 521-0725 toll free or locally at (803) 737-7800. You may also contact the Federal Equal Employment Opportunity Commission (EEOC) at (800) 669-4000 toll free and be connected to your local EEOC office. Military Leave violations are covered under the Uniform Services Employment and Reemployment Rights Act (USERRA). For information, <http://www.osc.gov/userra.htm> or telephone the Adjutant General's Office at (803) 806-2672. On-the-Job injury questions or violations are the responsibility of the Workers Compensation Commission (803) 737-5700. Violations of the Mine Safety and Health Act (MSHA) (800) 746-1554. The majority of Pensions, Group Health & Welfare, and 401K plans are governed by the Employee Retirement Income Security Act (ERISA), their web site is <http://www.dol.gov/dol/topic/health-plans/erisa.htm> or telephone (404) 562-2156

Another protected category is the South Carolina Occupational Safety and Health Act. (OSHA) protects employees against retaliation by an employer when an employee engages in activity under this law. Their telephone number is (803) 896-7665. If you have a complaint involving unpaid Wages or Child Labor, contact the Office of Wages and Child Labor at (803) 896-4470. For questions concerning Overtime, Rest Breaks, Minimum Wage or the Family Medical Leave Act (FMLA), contact the United States Department of Labor at (803) 765-5981 or their web site at <http://www.dol.gov/dol/topic/wages/index.htm> .

If your allegation of discrimination or unfair treatment is not based on one of the above or another specific law, you may wish to consult with an attorney. If you do not have an attorney or know of one to contact, you can telephone the South Carolina Lawyer Referral Service at (800) 868-2284, toll free or <http://www.sobar.org/public/lrs/default.asp> for a referral in your geographic location.