

Does your job offer require that you sign a non-compete agreement?

Generally, only exempt employees earning a high salary can be subjected to a non-compete. An exempt employee is one that is engaged in administrative, executive or professional work who: (a) Performs predominantly intellectual, managerial or creative tasks; (b) Exercises discretion and independent judgment; and (c) Earns a salary and is paid on a salary basis. If an employee does not meet the exempt and salary requirements, an employer may, however, pay that employee a statutorily set sum in order to enforce the non-compete.

In order for a non-compete to be enforceable, the following conditions must be met: First, for new employees, the employer must inform the employee in writing two weeks before the first day of employment that a noncompetition agreement is required as a condition of employment. Next, the employer must have a protectable interest; in particular, trade secrets, competitively sensitive confidential business or professional information, or the employee must be on-air talent. Further, the geographic restrictions of the agreement must be reasonable under the circumstances, balancing the employer's legitimate protectable interest with the employee's right to earn a living. Finally, within 30 days after the date of the termination of the employee's employment, the employer must provide a signed, written copy of the terms of the noncompetition agreement to the employee.

Employers cannot avoid the non-compete law's limitations by including a clause providing that another state's law governs the agreement. Nothing in the non-compete law prohibits employers from enforcing reasonable non-solicitation agreements.

Additionally, starting in 2022, generally only exempt employees making \$100,533 (and adjusted for inflation yearly thereafter) can be subjected to a non-compete agreement in Oregon for a maximum of 12 months.

Does your salary match the salary of your co-workers?

Every employee must get equal pay for equal work regardless of race, color, religion, sex, sexual orientation, national origin, marital status, veteran status, disability, or age. Employers must pay employees the same amount as employees doing comparable work except in limited circumstances, such as a consistent and verifiable seniority or merit system. Oregon employers are not required to provide you with the pay scale for the position offered to you. However, you can still ask for this information. Employers cannot ask for an employee's salary history before they make an offer of employment or screen job applicants based on current or past salary history. You can share your compensation details with co-workers and ask them if they are willing to share such details with you. You are protected by law to inquire about, discuss or disclose your wages or the wages of another employee. In addition, employers cannot discriminate against an employee because they make a report of unlawful conduct internally or with a government agency.

Assuming your employment is "at will," can you negotiate for contractual protections?

Although most employment in the private sector is "at-will" – meaning your employer can terminate your employment or change the terms of your employment whenever they want, for whatever reason they want, other than for illegal reasons – you may be able to negotiate for better employment terms. Employees can try to negotiate for additional protection in their employment contract. For example, you can seek a provision requiring notice pay or severance pay if terminated or a provision barring termination absent "just cause."

Have you properly excluded your individual inventions prior to accepting your job offer?

Your employer may have you sign an agreement clarifying that any invention you develop while working for the employer becomes their property and/or that you are required to assign your rights to the employer. This agreement is limited to inventions that are "within the subject matter" of the employment relationship and does not apply to inventions you create before joining the employer. Usually, there is a place in the agreement to identify any such prior inventions and you should make sure you identify any such inventions and avoid using them or incorporating them in to work you do for the employer.

Does your job offer require that you sign a forced arbitration agreement?

Many employers require that employees sign arbitration agreements that waive the employee's right to pursue claims in court. In most cases, such agreements are permitted. Sometimes these agreements require you to pay much more than you would have to in court and can severely limit timelines related to bringing claims. In addition, arbitration can conceal repeated wrongdoing and require a confidential process, in contrast to a transparent court process. Some employers' agreements have opt-out provisions which allow you to opt-out of the arbitration process. It is generally a good idea to do so if given the option. Additionally, some employers have elected not to force their employees to sign such agreements and whether a perspective employer requires that you sign an arbitration agreement can be one factor you consider when evaluating multiple job opportunities. Finally, employers are not allowed to require claims of sexual harassment or sexual assault be brought in arbitration. Those types of claims may be brought in court, either individually or as collective or class claims, regardless of the existence of an arbitration agreement.

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