

THIS IS NOT LEGAL ADVICE

State Resources

Georgia Commission on
Equal Opportunity

<http://www.gceo.georgia.gov>

Reviewing Your

GEORGIA

Job Offer

Federal Resources

Equal Employment
Opportunity Commission

<http://www.eeoc.gov>

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

Non-compete agreements for employees are valid in Georgia, so long as the restrictions are reasonable in time (i.e. usually two years or less), geographic area (i.e. usually the areas where you work or have some material contact), and the scope of prohibited activities (e.g. positions with similar job duties). However, enforcement of contracts that restrict competition after the employment ends are only permitted against certain types of employees who are engaged: in sales, marketing, or customer service related positions; as managers of the company or of a division or department of the company; as key employees (specifically defined in the Georgia Restrictive Covenants Act); or as professionals. Georgia law further protects employers by allowing courts to “blue pencil” or modify unreasonable restrictions in order to make otherwise unlawful non-compete agreements enforceable.

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

Georgia employers are not required to provide the pay scale for the position offered to you, but it never hurts to ask the person who is hiring you when the job offer is made. If that does not work, or if you are uncomfortable asking the person hiring you, once you are hired, you can ask co-workers about their wages and benefits in order to compare your compensation package. Also, the National Labor Relations Act protects the right of most employees to engage in “concerted activities” such as discussing not just wages and benefits, but all other policies, procedures, terms and conditions of their employment as well.

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

Most employment in the private sector (as opposed to being employed by a governmental agency) is “at-will.” This means that you can quit at any time, for any reason, or for no reason at all. Likewise, the employer can discharge you or change the terms and conditions of your employment whenever they want, for whatever reason they want, other than a few reasons that are illegal (like certain forms of discrimination and retaliation). Even if you do not like changes in the terms and conditions of your employment, and you complain about the changes, if you continue working under those new terms and conditions, then you are deemed to have agreed to them. However, it is always wise to try to negotiate for an actual employment agreement (as opposed to a simple job offer letter) that provides some protection. For example, you can seek a provision that if you are discharged for a reason that does not amount to “good cause” (which must be defined in the employment agreement, but usually consisting of specific, bad behavior) or if you need to resign for “good reason” (usually defined to include things like the employer diminishing your compensation, authority, or being subjected to illegal discrimination/harassment) then you are entitled to a benefit such as a number of months of severance, benefits, accelerated vesting of your equity/stock options, etc.

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

Your employer may have you sign an agreement clarifying that any logo, invention or other creative work that you develop while working for the employer becomes the employer’s property and/or that you are required to assign your rights to such creations to the employer. If so, there is usually a place in the agreement to identify any previous creations and you should identify all prior creations and avoid using them or incorporating them into work you do for the employer. Even without such a written provision, the federal Copyright Act defines a “work for hire” as something prepared by an employee within the scope of his or her employment, and as such is owned by the employer. This federal law does not apply to things created prior to employment, and it does not apply to creations outside the scope of employment. For example if a person is employed with a car dealership as a receptionist, and that employee creates a video game, such a creation will not be within the scope of receptionist duties, and the video game would not be owned by the car dealership.

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 or to pursue claims collectively through class actions. As much as the employer will try to make it look like arbitration is in your best interest, usually it is not. You lose the opportunity to have a real judge and jury hear your case, and the amount and type of subpoenas and depositions that you can have in preparation of your case is also limited. In most situations, arbitration agreements are allowable and you are unlikely to be able to negotiate around such an agreement if your employer requires all employees to sign them. There are some specific requirements for arbitration agreements to be valid, so if a potential employer requires that you sign an arbitration agreement, it is well worth the investment to have a knowledgeable attorney review the agreement and advise you. An employer’s decision to require employees to sign a forced arbitration agreement is a factor to consider when evaluating whether that employer is the right employer for you.

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