

DO YOU NEED AN EMPLOYMENT CONTRACT?



Summary: *Employment contracts carry benefits and disadvantages for both employers and employees. Evaluate your needs to decide if you should use an employment contract.*

Most jobs in the United States do not involve an employment contract, since they are not required by law. In fact, most jobs are considered “at-will,” meaning the employee can leave at any time without retaliation or penalty. Likewise, under lawful guidelines, an employer can dismiss an at-will employee at any time for just about any reason.

Employment contracts are agreements between employees and employers that clearly define job duties and a variety of employment terms such as length of the employment, pay, and specified clauses that protect the employee and/or the company. So, what are the advantages and disadvantages to employment contracts versus at-will employment?

Employee Advantages

- Job Security – Length of job may be guaranteed.
- Pay – Pay is guaranteed, based on work completed.
- Defined Duties – Unexpected scope of work cannot be added.

Employee Disadvantages

- Lose Job Flexibility – Job changes may be difficult under contract terms.
- Intellectual Property – Discoveries, creations, and patents may belong to employer.

Employer Advantages

- Hiring Talent – Defined terms may attract employees with unique skills.
- Keep Best Talent – Limit reasons or time frame in which an employee can quit.
- Guaranteed Performance – Contracts can clearly define productivity quotas.
- Protects Sensitive Information – Contracts may include non-disclosure or no compete clauses.
- Intellectual Property – Company may retain rights for patents, etc.
- Better Return on Training Investment – Clauses defining length of job term and notice to terminate help to retain talent long enough to find and train replacement.

Employer Disadvantages

- Lose Flexibility – Even if scope of work changes, employee cannot be required to perform new duties.
- Additional Legal Issues – A breach of terms may lead to legal proceedings and loss of rights.
- Loss of Competitive Edge – Compensation is guaranteed even if the market price changes.
- Over staffing – Even if the job is completed, it can be difficult to terminate an employee.

Employment contracts work best when hiring specialized employees or in businesses that deal in highly valuable trade secrets, and probably will not prove advantageous in well established business sectors or where the pool of appropriately trained candidates exceeds job demand. Just remember, agreements made in employment contracts are binding, but may also be subject to interpretation. Always consult with a [contract attorney](#) to review or prepare your employment contract.

See [What Does It Actually Cost to Hire a New Employee?](#) for information on a related topic.