

New Year, New Hires? Protect Your Business with an Offer Letter

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For many New Jersey employers, the start of each new year begins a hiring season. Although presenting a formal offer letter to prospective employees is not required, it has become common practice and is a good idea. In addition to making the most professional presentation, an offer letter provides an opportunity to formally offer a position to the prospective employee and to present the general terms and conditions of employment as a protective measure for an employer. We know that the first 90 days of new employment are the most critical in an “employer-employee” relationship. As a New Jersey employer, you may want to protect yourself against any legal claims by new employees. Because employment policies and details of employment should be contained in the Employee Handbook, an offer letter is typically brief. However, an offer letter should contain the right information to protect your business from claims by new employees. The following Offer Letter Checklist will help to guide you in developing an offer letter template that is right for your business.

Drafting an Offer Letter: A Checklist

1. **Fundamental Terms.** Include the basic terms of employment such as the position title, salary or hourly rate, and the employer’s expectation for the number of hours per week the employee is expected to work.
2. **The expected work schedule is important to include and even more so if it varies from the standard 9-5, Monday-Friday work week.** For example, if the employee is expected to work two Sundays every month, include that in the offer letter to be clear and to avoid (or disprove) any claim made by an employee that he or she did not know about the requirement to work on Sundays when accepting the position.
3. **Ongoing Requirements.** Include requirements (e.g., education, certification, etc.) that must be fulfilled to remain in good standing. For example, if an IT professional is expected to keep up with software changes, include a statement that a requirement of the position is to complete software certification by a certain date, or annually, or whatever is required for success. Therefore if the employee does not complete the required course on time, action may be taken with confidence that this requirement was clearly communicated to the employee at the earliest stage of employment.
4. **Restrictive Covenant Protection.** Include a statement that the prospective employee is not subject to a non-competition or restrictive covenant agreement to protect yourself from legal claims made by the employee’s prior employer that employment with your organization violates the employee’s non-competition agreement with his or her prior employer, if one exists.
5. **At-Will Employment Language.** Most importantly, include clear and bolded language that the offer of employment is for at-will employment. Make clear that such employment is not for any period of time, and that either the employer or the employee may end the employment relationship at any time and for any reason.
6. **No Contract of Employment.** Make clear that the offer letter itself does not create a contract of employment with the employee by stating that it does not. Any obligation that the employer wants to contractually make with an employee, such as an arbitration agreement or a non-competition agreement, must be contained in a writing separate from the offer letter.

TAKEAWAY: A clear offer letter can protect you against misunderstandings and legal claims by new hires.

If you are an employer that needs help developing an offer letter or have questions about employment law claims in New Jersey, contact [Stephanie Gironda](#) or any member of the Wilentz Employment Law Team at 732-352-9858.

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Practice

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