

Changing an employee's job title? What employment laws have to say

The company at which Anne works has experienced numerous changes since coming back on-site after the COVID-19 pandemic. Senior leaders decided to revise some employee job titles and job duties. They feel the restructuring better reflects current organizational operations and what management expects from workers.

Anne, however, does not see it this way. Now being called a “public relations assistant” rather than a “public relations representative” feels like a demotion — even though her job responsibilities actually have increased. She wonders what employment law says about an employer changing such things without her consent.

Title changes under at-will employment

The first thing Anne and any other employee in this situation needs to consider is their type of employment arrangement. Is the relationship bound by an employment contract, union contract, or a collective bargaining agreement? If so, changing an employee’s job description or giving someone a new title could be considered a breach of contract. Employers wishing to make changes involving someone in a union or covered by a contract should first seek legal advice. Any sort of altering of working conditions or terms in these instances usually involves approval. It might even require hashing out a whole new document for both sides to sign.

But the majority of modern employment arrangements are “at will.” At-will employment means that an employer can terminate an employee with or without notice for any reason. (This, of course, excludes illegal reasons for termination such as sexual or racial discrimination, which we will discuss in a moment). Likewise, an employee has the right to quit for any reason or no reason.

What at-will employees sometimes do not realize is that at-will employment also allows an employer to change job title, pay rate, work hours, job duties, benefits, and more as the organization sees fit. If the affected party does not like these alterations, he is free to quit at any time. (Two weeks’ notice is a courtesy, not an obligation. However, employers can state in their employee handbook the repercussions of failing to give such notice, such as forfeiting the possibility of future employment with the organization.)

Speaking of employee handbooks, smart employers spell out in theirs what at-will employment entails. Many companies face tough choices regarding restructuring, downsizing, and cutting costs. Thus, employees need to recognize an employer’s right to carry out actions in line with business needs. Workers like Anne may have an easier time accepting title changes and similar actions when informed in black and white that such things are well within their employer’s rights.

Improper changing of a job title

The concept of at-will employment provides employers with a great deal of flexibility to change job titles, issue pay cuts or layoffs, and alter job descriptions. However, companies cannot implement such things for retaliatory or discriminatory reasons.

Employers cannot make changes as retaliation for employees exercising their employment rights. For instance, a company could get into trouble for taking actions that look like punishment for whistleblowers or women who report departmental sexual harassment to human resources. Also, an employer cannot decide that someone who takes time off under the Family and Medical Leave Act (FMLA) will receive a lesser role upon return.

Similarly, changes cannot target members of a protected group. Treating individuals or whole groups differently because of their gender, religion, race, sexual orientation, age, or disability is a road that can lead to legal and reputational disaster.

Employers also should note that changing someone's title may offer support to the case of an ex-employee claiming constructive dismissal. In this type of wrongful termination, the employer does not fire the worker but instead makes working conditions intolerable so that the employee will resign. Along with other evidence, a title change could be viewed as part of an overall effort to belittle or demote a worker to encourage him to quit.

Considerations about changing job titles

Even though at-will arrangements offer employers a great deal of freedom, companies should proceed carefully when making any changes to working conditions — including altering someone's title. Workers tend to view their job title as a symbolic representation of their worth to the company. As with Anne in the opening, switching it to something else can come off as a demotion. While an employer may not by any means have intended it as such, the effect on morale can be significant.

Keep employees in the loop

To keep workers from feeling disrespected, talk with them about potential job title changes. Most importantly, listen to their concerns. You may be able to reach a suitable compromise. At the very least, workers will understand the thought process behind the action, which may aid in acceptance.

Sometimes, employees welcome changes to their job titles. They may regard the change in title as a badge of merit for taking on greater responsibility or performing exceptionally. They may feel it commands more respect or will look better on a resume.

Reassess changing responsibilities

Employers also may change titles as a way to clarify current positions. Over time, the work someone performs can look very different from what was listed when he accepted the job offer. Maybe automation has removed the need for the employee to perform certain tasks. Or, perhaps the worker gained five new major responsibilities when the company eliminated someone else's position. Revising a job description — and possibly coming up with a new job title — presents a more accurate picture of the role. Outlining current duties and expectations serves as a point of reference for both sides. Come annual review time, the document acts as the basis for evaluation.

Most job descriptions contain a clause about an employee performing additional duties as the employer sees fit. Some employers view this statement as justification for piling on more responsibilities without offering a promotion or greater compensation. Such a mindset may enable work to get done in the present, but likely at the expense of the future. Employees tend to resent this behavior. Asking too much without a corresponding reward often sends employees packing.

Especially in times of worker shortages, employers cannot afford to lose their superstars. Sit down with high performers. Talk about their contributions, and express appreciation. Together, come up with a new job description that more accurately reflects their range of duties. Consider changing the job title, too, and boosting wages to compensate fairly.