



CHAPTER 168A

N.C.G.S. § 168A-9.

Affirmative defenses.

SOURCE General Statutes of North Carolina, as published by the General Assembly	LAST AMENDMENT IN THIS TEXT S.L. 2011-94, s. 4 — third act in the lineage	RETRIEVED 21 September 2026, 05:11 UTC	SOURCE FINGERPRINT b7175c7c5797fcdbe3e6fe2b - fb67273ae5c47697eadc95ce - 39b9a7fdda82625b
--	--	---	--

Any employer may assert affirmative defenses in any action brought under this Chapter. This section shall not create any inference that an employment action which is not listed as an affirmative defense is therefore, by implication, a discriminatory practice, so long as the employment action is not otherwise prohibited by this Chapter. The following is a non-exclusive list of affirmative defenses:

The failure of the qualified person with a disability to comply with or meet the employer's work rules and policies or performance standards, absent a reasonable accommodation excusing noncompliance, provided that the person is not held to rules or standards different from other employees without a disability similarly employed;

The excessive, willful or habitual tardiness or absence of a qualified person with a disability, absent a reasonable accommodation that allows for flexible working hours, provided that the standard used by the employer in determining whether such tardiness or absence is excessive is the same as that applied by the employer to employees without a disability similarly employed; or

A bona fide seniority or merit system, or a system which measures earnings by quantity or quality of work or production, or differences in location of employment.

END OF SECTION TEXT

APPARATUS FOLLOWS — DERIVED, NOT ENACTED

APPARATUS I
3 ACTS

Amendment lineage

The State prints this history as a single parenthetical at the foot of the section. It is reproduced verbatim in the colophon and unpacked below in order of enactment.



Nº	YEAR	ACT	CHARACTER
01	1985	c. 571, s. 1	ENACTED
02	1999	S.L. 1999-160, s. 1	AMENDED
03	2011	S.L. 2011-94, s. 4	AMENDED

APPARATUS III

Citation

FULL SECTION

N.C. Gen. Stat. § 168A-9 (2011).

Pinpoint keys are set in the left margin of the text rather than line numbers: subsection designators are stable across editions and paper sizes, line numbers are not.

COLOPHON

Provenance

This document reproduces the text of one section of the General Statutes of North Carolina from a source file whose SHA-256 digest is printed on every page. The digest fixes the bytes this export was made from; if the State's file changes, the digest will not match.

The text of the section is unaltered. Subsection designators have been moved from the run of text into the margin. The amendment history and the table of authorities are derived from the section by mechanical extraction — they add no characterization of the law.

This is not the official text. The official text is published by the General Assembly of North Carolina.

HISTORY PARENTHETICAL, AS PRINTED BY THE STATE
(1985, c. 571, s. 1; 1999-160, s. 1; 2011-94, s. 4.)

SET IN SPECTRAL AND ARCHIVO
NORTH CAROLINA LAW — STATUTE EXPORT, FORMAT V1

