

THE NDA REVIEW KIT

(POST #MeToo EDITION)

***A Guide to "Gag Orders", The Speak Out Act,
and Your Right to Speak***



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Nationally Recognized Employment Law Firm

"Can they really force me to stay silent?"

For decades, employers used Non-Disclosure Agreements (NDAs) to bury allegations of sexual misconduct. That landscape has changed.



THE LAW HAS CHANGED.

In 2022, the **Speak Out Act** was signed into law. This federal statute fundamentally alters the power dynamic regarding sexual harassment and assault. The law does not cover other forms of discrimination (e.g., race, age, disability) or general workplace grievance.

WHAT YOU NEED TO KNOW:

1

Pre-Dispute NDAs are Unenforceable

If you signed a generic NDA before a dispute arose (like in your original employment contract), that agreement cannot be used to silence you regarding allegations of sexual assault or harassment.

2

You Have the Right to Report

No contract can legally stop you from reporting a crime or filing a charge with the EEOC.

3

The "Silence" Trap

Employers still put these clauses in severance agreements hoping you think you are silenced. Don't be fooled by "zombie clauses" that are no longer legal.



CONTENTS & HOW TO USE THIS KIT

Keep this guide private. Review NDA language before you sign anything.

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HOW TO USE THIS KIT

READ BEFORE SIGNING

Use this guide before you sign a severance agreement, settlement offer, or confidentiality clause.

MARK THE CLAUSE

Underline confidentiality, non-disparagement, cooperation, and protected activity language.

WRITE ANSWERS DOWN

If HR gives you an answer, record the exact words, date, and person who said it.

SAVE PRIVATELY

Keep copies on a personal device or paper file, not a company computer or email account if permitted by your employer's rules and regulations.



WHAT CAN THEY HIDE?

Legitimate business secrets are different from attempts to silence reports of misconduct.

NDAs were designed to protect recipes and code, not predators. Knowing the difference is your first line of defense.



WHAT THEY CAN PROTECT (LEGITIMATE SECRETS)

Employers have a valid legal right to protect their competitive advantages. You can likely be barred from discussing:

- ✓ **Trade Secrets:** Client lists, proprietary algorithms, or manufacturing processes.
- ✓ **Financial Data:** Unreleased earnings reports or internal profit margins.
- ✓ **Strategic Plans:** Upcoming mergers, product launches, or marketing strategies.



WHAT THEY (OFTEN) CANNOT PROTECT

Under the new legal landscape, broad attempts to hide the following are increasingly void:

- ✗ **Sexual Harassment:** Conduct that violates Title VII (hostile work environment, unwanted touching).
- ✗ **Sexual Assault:** Criminal acts or physical violations.
- ✗ **Illegal Retaliation:** Punishing an employee for reporting the above violations.



Rule of thumb:

A narrow clause protecting true confidential business information is different from a broad gag order that tries to stop you from reporting harassment, assault, or retaliation.

THE HR MEETING SCRIPT

Ask precise questions. Write down precise answers.

HR works for the company, not you. When discussing a settlement, severance, or harassment report, use this script to clarify your rights without revealing your full hand.*



THE SETUP:

Bring a notebook. Write down their answers verbatim.

QUESTION 1: THE SCOPE

"I see there is a confidentiality clause in this agreement. Does this clause specifically prevent me from discussing allegations of sexual harassment or cooperating with the EEOC?"

Watch for vague answers like *"It covers everything."* Demand specifics.

QUESTION 2: THE REPORTING CHANNEL

"If I sign this, what is the specific procedure for reporting future misconduct I witnessed? Does this agreement waive my right to be a witness in other investigations?"

Ensure they confirm you can still testify.

QUESTION 3: THE EXCEPTIONS

"Does this agreement contain a specific carve-out for 'Protected Activity' under federal law?"

Legally, it should. If it doesn't, that is a red flag.

* This script is not a substitute for legal advice. Use it to clarify what HR is claiming the agreement does.



RETALIATION RED FLAGS

Subtle retaliation is still retaliation.

Watch for changes after refusing to sign or after reporting misconduct.

Refusing to sign a silence clause - or reporting misconduct - often triggers subtle retaliation. Watch for these signs.

IF YOU REFUSE TO SIGN (OR REPORT), WATCH FOR:

▶ **The "Slow Freeze"**

You aren't fired, but you are suddenly left off emails, calendar invites, and key client meetings you used to lead.

▶ **The "Paper Trail"**

A supervisor who previously gave you glowing reviews suddenly starts documenting minor errors in formal emails (e.g., "Per our conversation, you were 5 minutes late").

▶ **The Reassignment**

Being moved to a "special project" that has no budget, no team, and no future.

▶ **The Bad Reference**

Hearing that a potential new employer received a "neutral" or negative comment from your old boss.

▶ **SOLOMON LAW TIP:**

If you see these signs, document them immediately in your [Incident Log](#). Retaliation is often easier to prove in court than the harassment itself. And, consult an attorney of your choosing.



BEFORE YOU SIGN...

A signature is permanent. The pressure is temporary

***A signature is permanent.
The pressure is temporary.***

If you have been presented with a severance agreement, settlement offer, or NDA that makes you uncomfortable, do not sign it on the spot.

1

YOU HAVE TIME

Most agreements give you 21 days (or more) to review.

2

YOU HAVE POWER

The Speak Out Act may have already voided the clause they are threatening you with.

3

YOU HAVE HELP

We review these documents daily to ensure our clients aren't silenced.

DO NOT SIGN ON THE SPOT.

Use the review period to understand what you are waiving, what you can still report, and whether the financial terms match your leverage. And, consult with an attorney.



GET A CONFIDENTIAL AGREEMENT REVIEW

You should understand every clause before you give up any right.

Protect your voice. Review before you sign.

Get a Confidential Agreement Review



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We help employees review confidentiality language, severance packages, settlement terms, and clauses that may attempt to silence protected activity.

1

We review severance packages for "gag orders" and other problematic terms of the agreement.

2

We try to negotiate for better terms (and more money).

3

We ensure your voice remains yours.

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