CHOI & HUANG | CHINA LABOR & EMPLOYMENT LAW

Expat Employee Rights in China: A Practical Guide

For foreign employees and teachers working in China: work permits, contracts, pay, social insurance, termination rights and what to do if a dispute arises.

1. 1. Your work permit is the foundation

[ ] Foreigners need a work permit (category A, B or C) and a work-type residence permit to work lawfully in China.
[ ] With a valid permit, you are protected by the Labor Contract Law like a Chinese employee.
[ ] Working without a valid permit, or for a different employer than the one on your permit, can undermine your legal protection.
[ ] Check that your permit names your actual employer and matches your job and city.
[ ] Your employer should cancel the permit when employment ends. Keep copies of all permit documents.

2. 2. Your labor contract

[ ] Insist on a written contract signed within one month of starting. If none, you may claim double wages for up to 11 months.
[ ] Contracts with foreigners are usually fixed-term, and in practice often no longer than the permit period.
[ ] Probation limits: up to 1 month for terms of 3 months to under 1 year, 2 months for 1 to under 3 years, 6 months for 3+ years.
[ ] Only one probation period is allowed per employee with the same employer.
[ ] Probation pay must be at least 80% of the agreed wage and not below the local minimum wage.
[ ] Keep a signed copy in a language you understand. If there are two language versions, check which one prevails.

3. 3. Pay, hours and leave

[ ] Overtime is paid at 150% on working days, 200% on rest days (unless time off in lieu) and 300% on statutory holidays.
[ ] Annual leave: 5 days after 1 year of cumulative service, 10 days after 10 years, 15 days after 20 years.
[ ] Unused annual leave the employer did not arrange is paid at 300% of the daily wage (monthly wage / 21.75).
[ ] Employers cannot impose penalties or deductions for breach except for training service periods and non-competes.
[ ] Housing, flights and school fees are contractual benefits. Get them in writing with clear conditions.
[ ] Keep payslips, bank statements and messages about pay. They are your best evidence.

4. 4. Social insurance

[ ] Social insurance has been mandatory for foreign employees in China since 2011.
[ ] Your employer must enroll you and pay its share. Your share is deducted from salary.
[ ] Bilateral agreements can exempt you from pension (sometimes also unemployment) contributions - countries include Germany, South Korea, Japan, France and Canada.
[ ] You usually need a certificate of coverage from your home country to claim an exemption.
[ ] When you leave China permanently, you may be able to apply for a lump-sum refund of your individual pension account.
[ ] An agreement to waive social insurance is invalid under the SPC Interpretation (II) effective 1 September 2025.

5. 5. If you are dismissed

[ ] Your employer needs a legal ground to dismiss you. Poor performance alone requires training or reassignment first.
[ ] Pregnant employees and employees on medical leave have extra protection against dismissal.
[ ] Severance (N): one month's wage per year of service, with a cap for high earners.
[ ] Unlawful termination: you may claim 2N compensation or ask to be reinstated.
[ ] Non-renewal of a fixed-term contract usually still triggers severance unless you refused an equal or better offer.
[ ] Ask for the termination reason in writing, and do not sign anything the same day.

6. 6. Before you sign a separation agreement

[ ] Check whether the agreement says you or the employer proposed the termination.
[ ] Confirm every payment: severance, notice pay, unused leave, bonus, expenses, relocation.
[ ] Check the tax treatment and when payment will be made.
[ ] Look for a full and final release. Once signed, it is hard to reopen.
[ ] Check non-compete and confidentiality terms and whether you will be paid for a non-compete.
[ ] Ask for a termination certificate and confirmation of work permit cancellation timing.

7. 7. Bringing a claim

[ ] Labor disputes go to labor arbitration first, before court. Filing is free.
[ ] Time limit: generally 1 year from when you knew or should have known of the violation.
[ ] Collect evidence early: contract, permit, payslips, bank records, emails, WeChat messages, attendance data.
[ ] Arbitration awards are normally due within 45 days of acceptance, extendable by 15 days.
[ ] You can appoint a lawyer by power of attorney and continue the case after leaving China.
[ ] Hearings are conducted in Chinese. Bring an interpreter or have a lawyer represent you.

General information only, not legal advice. Laws and local figures change - confirm current rules.
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