

# Beyond the Paycheck:

A Human Resources Management  
Guide for Leaders of Small  
Youth-Serving Organizations

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## Foreword

Nonprofit youth-serving organizations rely on people to achieve their mission, deliver programming, and have a positive impact on young people's lives. Such organizations need the best employees and need their employees' best efforts to achieve the desired goals for children and youth. Consequently, wages and benefits are likely to be these service providers' largest expenses, and personnel issues are likely to consume a significant amount of management time.

This publication is for leaders of small youth-serving organizations. Leaders include presidents, executive directors, program managers, and others responsible for the people who do the organization's work. By small, we mean organizations or programs with budgets of less than \$2 million.

### About This Guide

The guide aims to help organization leaders develop the tools and knowledge they need to create and use sound human resources management (HRM) systems and practices that support program success and sustainability. It identifies key components of HRM systems and discusses important considerations in designing HRM policies, procedures, and protocols. It provides tips and advice on how to hire, develop, and retain staff and reduce the time spent dealing with personnel issues by implementing systems and practices that make staff satisfied, productive, and committed to the organization's mission to help children and youth thrive.

**Strong HRM is key to proving safe and meaningful programming to the youth your organization serves.**

Not every situation that a small youth-serving organization might face is addressed in this guide. Moreover, the guide does not deal directly with unions, collective bargaining, public employment, or civil service. The guide is a starting point. Resources provided at the end of each chapter refer you to information on more specific strategies.

This guide addresses legal issues, but its content is not meant to be legal advice. HRM can be complicated, and every organization is unique. Laws change frequently and organizations must also comply with federal, state, and local regulations. Therefore, we strongly advise you to consult an employment attorney who is licensed and practices in your organization's state of operation before implementing any new policies or procedures.

# Chapter 1

## Human Resources Management

- 1.1 HRM Defined
- 1.2 Potential Benefits of Strong HRM Systems
- 1.3 Potential Risks of Poor HRM Systems
- 1.4 HRM in Small Nonprofit Organizations

This chapter introduces basic concepts and terminology and looks at the benefits of good practices and the risks of poor practices in human resources management, concluding with observations on human resources management in the small nonprofit organization. The information should help you begin to understand what human resources management entails and how it could be improved in your organization.

### 1.1 HRM Defined

According to the Society for Human Resource Management (SHRM), the largest association for human resources (HR) professionals, human resources management (HRM) is the design of formal systems in an organization that ensure the effective and efficient use of human talent to accomplish organizational goals.<sup>1</sup> SHRM also identifies three major areas of HRM: administrative, operational, and strategic. Following are examples of activities that would fall into each area.

Administrative	Operational	Strategic
<ul style="list-style-type: none"> <li>✗ Recordkeeping</li> <li>✗ Reporting</li> <li>✗ Compliance</li> <li>✗ Benefits administration</li> <li>✗ Payroll</li> <li>✗ Screening</li> </ul>	<ul style="list-style-type: none"> <li>✗ Recruiting</li> <li>✗ Employee relations</li> <li>✗ Supervision</li> <li>✗ Employee engagement</li> <li>✗ Employee communications</li> </ul>	<ul style="list-style-type: none"> <li>✗ Planning and forecasting</li> <li>✗ Organization culture</li> <li>✗ Change management</li> <li>✗ Talent management</li> <li>✗ Performance management</li> <li>✗ Compensation and benefits design</li> </ul>

Every organization, even those with volunteer staff, uses people to accomplish its work and needs them to be effective. The degree of attention, complexity, and formality in how organizations deal with their people varies

<sup>1</sup> Society for Human Resource Management, "The SHRM Learning System: Module 1 Strategic Management" (Alexandria, Va.: Society for Human Resource Management, 2007), 6.

widely based on factors such as the size of the organization, the work to be done, and whether the organization is a startup or a more established

**HRM is not static and is not one person's responsibility. Leadership sets a tone and culture of consistent, shared responsibility for HRM practices that can evolve but should always support staff success.**

operation. A system that works well for one organization, may not work in another. One goal of this guide is to get you to think about what systems will best support the goals of your organization.

## 1.2 Potential Benefits of Strong HRM Systems

Ultimately, the most important benefit of strong HRM systems is that they support success in your mission, namely, making a positive difference in the lives of young people. Strong HRM systems do this by pursuing these strategies.

- Minimize job-related issues that distract from work or harm morale. For example, HR systems can create an environment of fairness and respect, can establish and communicate clear behavior and performance expectations, and can provide incentives to motivate performance.
- Save money. HRM systems can lower workers' compensation costs, unemployment insurance costs, liability costs, and director and officer insurance rates by reducing injuries, minimizing bad hires, and preventing errors or risk related to performance.
- Mobilize and enable staff and board members to be effective. Clear roles, performance standards, incentives, and support all contribute to the effectiveness of the staff and volunteers engaged in the work.
- Reduce risk by ensuring compliance with federal, state, and local laws. A strong HRM system protects organizations from mistakes that can have serious repercussions as well as use up significant time, energy, and financial resources.
- Ensure compliance with annual 990 reporting. The 2009 version of tax Form 990 asks whether an annual compensation review was conducted for the executive directors and whether the organization has a conflict-of-interest policy.

- Enhance the organization's reputation in the community. A strong HRM system is one way an organization can protect and enhance its reputation in the community as a good place to work and as an effective partner.
- Support future sustainability. Staff development, succession planning, and training prepare leaders for the future and give organizations a capacity for greater responsiveness to changing environments.

### 1.3 Potential Risks of Poor HRM Systems

Poor HRM creates several potential risks, including:

- harm to program participants from inadequate selection, training, or supervision of employees;
- failure to achieve organization goals because of inefficient staffing, poor performance, or lack of qualified staff to implement plans;
- damage to image, prestige, integrity, or goodwill that can affect community trust, fundraising efforts, or activities to recruit future talent;
- closure of the organization because of losses due to employment-related liability, poor performance, or inadequate transition planning for new leadership;
- financial losses because of higher workers' compensation, unemployment, or employment practice claims for workplace injuries, terminations, or negligent employment practices such as harassment, discrimination, retaliation, or wrongful termination;
- more wage and hour claims by employees not being paid appropriately; and
- an increase in liability claims for employee accidents or misconduct.

**Employment practices liability should be part of your directors and officers (D&O) liability insurance. Review your policy to make sure you have coverage and understand what is and what is not covered.**

## 1.4 HRM in Small Nonprofit Organizations

Strong HRM does not mean highly complicated, time consuming, or bureaucratic. HRM exists to serve the mission, not the other way around.

Organizations do not have to have perfect HRM, and organization leaders do not need to be experts in HRM to do exceptional work. Small organizations, with some planning, can implement systems based on fairness and high expectations for performance that are not overly complicated but still enable them to realize the benefits of strong HRM systems detailed earlier in the guide.

Small nonprofit organizations can take several common approaches to getting HRM done, not all of which are optimal. As with many practices in a resource-strapped organization, you make do with what you have and what you know.

- In addition to normal supervision, training, and performance management functions, supervisors or program staff can assume responsibility for recruitment, screening, hiring, new employee orientation, and employee communications. This can divert attention from program design and oversight.
- In addition to general office administration, including bookkeeping tasks, office or business managers can be given responsibility for personnel files; benefits administration; and payroll processing, either in house or via a payroll service provider.
- Chief financial officers or other top accounting or financial staff can be given responsibility for overseeing payroll, benefits, reporting, and compliance and, because they have authority over these areas, can assume much of the responsibility for employee relations and the compensation system.
- The executive director, or the top staff person, can assume responsibility for all HRM functions, delegating administrative tasks to support staff or paying for service providers.
- A mix of service providers can be retained to perform discrete functions



(e.g., payroll processing or administration of one or more benefit plans) or to carry out aspects of employee screening such as background checks.

Having staff with no experience in HR or staff with other essential duties and priorities handling key aspects of HRM often means that errors are made or resources are wasted. You can get by, at least until there is a problem, and then these practices can make things worse.

To get a sense of how your organization is doing, look at the following measures.

- Turnover: a ratio of total number of separations divided by the number employed for the period. One way to calculate the turnover ratio is to divide your total number of separations for the year by your average monthly number of employees (calculated as the sum of the number employed each month divided by 12).
- Retention: the percent of employees retained over a given period. One measure is to take the number employed at the start of the period, subtract the number of those who separated during the period, and divide the result by the number employed.
- Time to fill vacancies and cost to fill vacancies: the days from an opening until a new person is hired and the total cost (for advertising, screening, training, and lost productivity) to fill a vacancy.
- Number of accidents or workers' compensation claims: a high number of accidents or claims may indicate problems in training or other practices.
- Staff satisfaction survey: a way to gauge staff satisfaction with HRM practices.

These measures are often used to benchmark an organization against others in its industry and to give a sense of the stability of the workforce. High turnover, low retention, long periods of vacancy, many workers' compensation claims, or high levels of dissatisfaction all point to potential problems in the organization's HRM functions.

**If you undertake a review of your HRM and find problems, be sure to address the problems.**

You may even consider conducting a formal or informal HR audit to determine the state of your current HRM and areas that need attention. Your insurance provider may conduct a free review of HR practices as a part of its risk management strategy. If you have board members who are, or who employ, HR professionals or labor attorneys, you can ask for pro-bono assistance to conduct an audit. A sample self-evaluation of HR is available through the Greater Twin Cities United Way at [http://www.managementhelp.org/org\\_eval/uw\\_hr.htm](http://www.managementhelp.org/org_eval/uw_hr.htm).

## Resources

Small Business Administration

<http://www.sba.gov>

Society for Human Resource Management

<http://www.shrm.org>

Small Business Handbook

<http://www.dol.gov/asp/programs/handbook/contents.htm>

# Chapter 2

## HRM Design and Implementation

- 2.1 Guiding Principles
- 2.2 The Leader's Role
- 2.3 The Board's Role
- 2.4 HRM Implementation

As you begin to think about how you will approach HRM, keep in mind that any change can be disruptive to individuals and an organization, even if it ultimately is a change for the better. Change must also be supportive of overall strategic goals and involve stakeholders. This chapter looks at how mission and values are related to HRM and examines the roles of the board and staff leadership in HRM. It concludes with tips on how to implement new HRM practices in your organization.

### 2.1 Guiding Principles

Recall that the three major areas of HRM are administrative, operational, and strategic. Leaders should return to the mission and values of their organization when designing each area.

The administrative and operational systems ensure that an organization's policies and procedures are in compliance with laws and that basic processes such as employees receiving paychecks happen when they are supposed to. Some of the operational systems and many of the strategic systems ensure that an organization is structured in a way that sufficiently motivates employees to achieve desired results.

As you design your systems, keep in mind what your organization exists to accomplish and how you are willing to achieve your goals. Do not make the mistake of thinking that administrative and operational functions do not have an effect on services, organization culture, or ultimate success. Consider the following examples of practices that conflict with mission and values:

- an organization that promotes youth employment but fails to comply with child labor laws in how it pays youth;
- an organization that serves single parents but does not provide family-friendly benefits to its employees;

**Fairness and honesty are the best guiding principles for HRM implementation.**

- an organization that values diversity but implements screening practices or qualifications that unfairly, unnecessarily, or even unintentionally discriminate against certain populations; and
- an organization that hires marginalized or low-income staff, who may not have bank accounts, and that requires direct deposit or pay cards that have high user fees.

## 2.2 The Leader's Role

Leaders of small nonprofit organizations have multiple responsibilities and must juggle various tasks within the organization and larger community.

Their basic responsibilities are to:

- ensure the safety and positive development of youth in their programs;
- lead a community- or stakeholder-driven process to set the organization's vision;
- communicate the vision;
- make sure the organization achieves positive results;
- find and organize the people and resources to achieve results;
- create an environment that supports effective work;
- support the board, staff, and volunteers in contributing to results;
- collaborate with nonprofit, business, state, and local partners to achieve mutual goals;
- prove to donors, the community, and the public that the organization is a good steward of resources;
- set and ensure compliance with the organization's policies and procedures; and
- ensure compliance with federal, state, and local laws and regulations.

The complex nature of running a nonprofit organization means the director must constantly balance competing needs, demands, risks, and

opportunities. For example, directors have responsibility for ensuring performance, but they cannot do every activity. They can be the leader and head cheerleader, but they can not micromanage or supervise every employee or volunteer. Directors need and often want to give employees freedom and flexibility, but they must also implement structure and rules for their employees to follow.

Leaders sometimes find it challenging to uphold their responsibilities. This guide provides tools to help directors of youth-serving nonprofit organizations find and maintain the right balance to effectively perform their duties.

## 2.3 The Board's Role

The board of directors defines legal obligations of care and responsibility, and these extend to making sure the organization has strong HRM and complies with employment laws. The board can exercise its authority and help create strong HRM systems by taking several steps. It can:

- review the top employee on a regular basis and hold him or her accountable for good HR practices and performance reviews of subordinates;
- form a personnel committee with responsibility to advise, recommend policy to the board, and support strategic HRM functions such as planning and forecasting;
- require at least one seat on the board to be filled by an HR professional or attorney who practices in the area of labor and employment law;
- conduct an annual review of and approve key HR policies;
- review compensation and benefit practices to ensure they support recruiting and retaining qualified staff;
- allocate sufficient funding for staff selection, training, and development in the budget; and
- understand and function in its role as board, not in the role of management.

## 2.4 HRM Implementation

In considering what systems to establish, you should look at the size and complexity of your HR tasks. If you have relatively few employees and low turnover, you may not need a lot of technology or sophisticated systems. However, if you have a larger number of employees, seasonal fluctuations, or

**One natural reaction to learning about the risks and needs associated with HRM is fear, and you may be tempted to adopt complex policies and systems to protect the organization and achieve all the benefits of good HRM. That may do more harm than good. Adopt policies and systems that are appropriate for your organization's size and complexity and keep them simple, fair, and as flexible as possible.**

high turnover, or if you need to track and report HR information for regulatory or grant compliance, investment in more sophisticated systems may be necessary and appropriate. You also need to consider what infrastructure you have or would need to build to support any new systems.

Organizations have options when it comes to setting up their HR function. They can:

- delegate HR functions to non-HR staff;
- outsource some or all HR functions;
- perform all HR functions with trained in-house HR staff;
- use expert volunteers to perform or lead HR functions; and
- use a hybrid approach that combines options.

We do not believe it is a best practice to delegate HR functions to non-HR staff, unless they are provided with adequate training and support and can be relieved of other duties.

The conventional wisdom is that the administrative tasks related to HRM can be done better, quicker, and cheaper by outsourcing them to companies that specialize in these tasks. This may not be true given your particular circumstances.

**Outsourcing is a staffing option in which an independent company with expertise in a specific function contracts with an organization to assume full operational responsibility for the function.**

When looking at outsourcing as an option, bear in mind that you probably cannot outsource every aspect of HRM. Even if an organization outsources most HR administration, it still needs to pay attention to HRM strategy and mission alignment. For example, if an organization decided to outsource payroll processing and the filing of employment taxes, it would still have

to monitor compensation levels and policies. Supervisors would also still be responsible for key activities such as employee hiring, employee performance management, and employee communications. These tasks would still require significant support.

An alternative to outsourcing is to administer HRM with your own employees. One consideration is determining what you will need and whether you can support the staffing level required. The staffing needs analysis and points on designing jobs in Chapter 4 can help you determine what level of staff you need to handle all HRM functions in your organization. Other considerations when determining how to staff HR functions are these:

- what turnover levels are expected for the organization; higher turnover probably requires more HR staff time;
- how much, if any, of the administrative tasks are outsourced or done by a service provider;
- whether the organization is undergoing growth;
- what regulatory oversight, compliance, and reporting requirements exist;
- how much training is required; and
- what level of HR service is expected.

A general rule of thumb is that the administration of HR functions in a company with 50 or fewer employees can be handled by one full-time-equivalent HR staff. However, the number of locations and the geographic dispersion of your organization may change this parameter.

A final important consideration in setting up your HRM is how you can use technology to support the efficient and effective functioning of HRM activities. As with any business process, the potential benefits of using technology include:

- reducing administrative costs as processes are simplified or converted to self-service models
- increasing the speed of transactions;
- providing real-time or closer to real-time data for management decision

making; and

- improving recordkeeping and reducing the need for storage space.

The risks of technology are also similar to those in other business areas and include:

- the high cost to implement and failure to deliver promised improvements or savings;
- possible problems with security or confidentiality;
- “garbage in, garbage out”—systems are only as good as the commitment to keep the data accurate and up to date;
- vulnerability to power outages, malicious viruses, loss of data, or system crashes; and
- ongoing costs associated with licenses, system maintenance, and staff training to use the technology.

Common HR tasks and software include:

- recruitment and applicant tracking through online application systems;
- employee screening and background services;
- a human resources information system to track employee records;
- time and attendance reporting;
- payroll administration;
- benefits administration;
- employee rewards programs;
- vacation and leave tracking, including Family and Medical Leave Act leave;
- performance management;
- budgeting and forecasting;
- training and learning management systems that can track employee



training and host computer-based training courses;

- employee communications systems that deliver HR forms and required communications regarding benefits; and
- employee self-serve technology that enables employees to manage their benefits or some of their personnel file.

## Resources

Board Source

<http://www.boardsource.org/>

Resource Directory | Nonprofit Board Basics Online

<http://www.compasspoint.org/content/index.php?pid=216>

Human resources management website for HR articles, news, and jobs as well as tools to make HR management and human resources administration easier.

<http://www.hrimmall.com/>

# Chapter 3

## Before Hiring

- 3.1 Employment Laws
- 3.2 Personnel Policies
- 3.3 Handbooks
- 3.4 Workplace Posters

**Many of the major federal employment laws apply only if your organization meets a threshold number of employees, but state laws covering the same areas often have lower thresholds.**

Employing people can be a very detailed and legally risky endeavor. This chapter examines steps you ideally can take before you hire your first employee to avoid many common problems and establish positive HRM practices from the start.

### 3.1 Employment Laws

Legal compliance is one area where HR gets a bad reputation, because compliance activities can feel cumbersome, overly bureaucratic, and time consuming. The mountain of paperwork required just to hire someone can be aggravating.

Remember that federal, state, and local employment laws exist mostly to offer employees and employers safeguards within the workplace. Among other assurances, these safeguards provide for equal opportunities, equal pay for equal work, and workplaces free of physical danger.

Practices such as the following are covered by employment law.

- **Hiring**—Laws such as the Civil Rights Act (Title VII) and the Americans with Disabilities Act (ADA) prohibit discrimination in hiring.
- **Compensation**—The Fair Labor Standards Act and Equal Pay Act are examples of laws that mandate minimum wages and equal pay.
- **Benefits**—The Employee Retirement Income Security Act, the Social Security Act, and unemployment insurance laws are examples of laws that govern benefits provided to employees.
- **Safety**—The Occupational Safety and Health Administration enforces rules on workplace safety.
- **Promotions and Training**—The same laws that prohibit discrimination in hiring generally also prohibit discriminatory practices in promotions and training opportunities.
- **Termination**—discrimination laws, unemployment insurance laws, and laws such as the Older Workers Benefit Protection Act all deal with aspects of terminating employment.

Compliance with these and related laws has become a significant part of HRM because of the number of laws introduced during the past century and the consequences associated with failure to comply. Heads of organizations must understand their legal obligations and the rights of employees. However, it is not practical for managers to learn all of the laws or to stay abreast of every change.

A good approach to compliance is to build basic awareness, adopt and follow policies and procedures under the guidance of an expert, and seek regular review to keep your organization's practices current. Staff assigned to key functions such as hiring, payroll, benefits, and terminations should be provided specific training, clear policies, and time to perform these duties.

Appendix A summarizes key federal employment laws, identifying what employers are covered, key provisions, and penalties for noncompliance. Links to the relevant federal regulatory bodies are listed in Appendix F.

If your youth-serving nonprofit organization is licensed by the state to operate, it may have to comply with additional laws or regulations that deal with employee conduct, employment eligibility verification, employee screening, staffing levels, or employee qualifications. Examples include the following.

- Mandated reporter laws—Because your organization works with youth, you and your staff may be required by law to report any suspicions of child abuse.
- Required background checks—Your organization may be required to obtain state child abuse registry checks for staff and volunteers.
- Employment eligibility—The state may have a list of factors that would bar a person from working with youth, such as a past criminal record involving child abuse.
- Staffing levels—The state may dictate the ratio of staff to children or require certain positions (e.g., a qualified social worker).
- Qualifications—The state may also dictate minimum qualifications or certifications for employee positions (e.g., an associate or a bachelor's degree or First Aid training).

You need to identify what, if any, specific regulations might apply to the work your organization is doing. Your state's equivalent of a department of children and family services may be a good place to start your inquiry.

**HR management and compliance are complicated and involve significant risk for an organization. You do not have to be an expert, but you have to recognize the areas of risk and know when to seek help.**

## 3.2 Personnel Policies

One way to deal with the legal complexities of HRM is to develop clear policies. Employment policies and procedures serve as organizational guidelines for employer and employee conduct (see Key Employment Policies and Procedures). In most organizations, these guidelines are dynamic and can be amended as the organization changes or as state or federal employment laws change.

It is not uncommon for nonprofit organizations to have poorly documented policies or to have a single personnel handbook for management and staff. A better practice would be to have clearly written policies compiled in a policy and procedure manual for management and a separate handbook to communicate the policies to all employees.

Personnel policies and procedures manuals should be written for managers and supervisors to document, in greater detail, the policies and procedures of the organization, state the purpose of the policies, and reveal how the policies are to be interpreted and applied. These manuals also play an important role in compliance and risk management, because written plans and policies are sometimes required and can serve as proof of nondiscriminatory practices. An easy way to start a policy manual is to assemble all benefit plan policies and all existing written policies into a large three-ring binder.

Whether you are establishing new policies and procedures within your organization or you are reviewing those previously established, it is a good idea to keep the following principles in mind to ensure equitable treatment for all employees.

- **Organization-wide policies and procedures.** You should establish policies and procedures with broad and consistent applicability to everyone in the organization.

### Key Employment Policies and Procedures

- ✗ At-will employment
- ✗ Conflict of interest
- ✗ Harassment
- ✗ Confidentiality
- ✗ Retaliation
- ✗ Workplace conduct
- ✗ Compensation policies
- ✗ State-specific policies for mandated reporting (if applicable)

- **Reasonable, fair, and legal.** The policies and procedures should be reasonable for the marketplace and the community, fair to all employees, and in compliance with federal, state, and local laws.
- **Disclaimers.** Keep in mind that some employees interpret written policies and procedures as contracts. This can leave the employer vulnerable to claims by employees that contract terms were not met. To prevent this, be sure to include disclaimers.
- **Staff Involvement.** Several staff members should be involved in creating, revising, and approving policies and procedures. These include the director, the personnel or human resources administrator, the financial manager, and, perhaps, program staff.
  - Expert Review. In addition to staff, be sure to have an attorney review your written policies and procedures before distributing them to employees.
  - Board Review and Approval. Ensure that the board of directors reviews and approves the employment policies and procedures. Review. Because laws, organizations, and employee preferences change, review and revise policies and procedures regularly.

The personnel policies of your organization should address issues specific to working with youth and in a nonprofit organization. These could include:

- children's rights;
- staff privacy in the workplace;
- allowed discipline practices and procedures;
- abuse and neglect (prohibitions as well as reporting requirements);
- volunteer management; and
- donor relations.

### 3.3 Handbooks

**Poorly written policies, or policies that are written but not followed, can be more harmful than not having written policies.**

Most organizations have “employee handbooks.” Because your staff may be comprised of employees and volunteers, you may prefer the term “staff handbook.” Alternatively, you can develop separate handbooks for employees and volunteers or for different positions (e.g., program staff versus administrative staff).

Handbooks should be written for all employees and volunteers to provide general information that summarizes policies, benefits, responsibilities, and expectations. In the event of a dispute or a poor performance review, the handbook is likely to be the first resource that a staff member consults to determine what actions to take.

In addition, handbooks are one of the most effective means of information exchange between organizations and staff. Therefore, they should be written in an accessible and easy-to-follow manner. (See *Tips for Developing a Handbook*.)

Handbooks tend to follow fairly standard templates that can be obtained from sources such as the Free Management Library, Nolo, the Nonprofit Risk Management Center, and the *Human Resources Kit for Dummies*. Another strategy is to ask other agencies with which you work if you can use their manual as a template; just make sure their manual is up to date. Whether you start with a template you purchase or borrow, it can save a lot of time and provide you with up-to-date, legally compliant language. However, before adopting any policies from a template, management and the board should review them to ensure the policies reflect the organization’s values and goals. In addition, a local labor attorney should review the policies to ensure compliance with state and local regulations.

### 3.4 Workplace Posters

In addition to a handbook, employers also are mandated under state and federal laws to post certain information in the workplace. Federal laws that may have posting requirements that apply to your organization include:

- the Employee Polygraph Protection Act;
- the Equal Employment Opportunity Act;
- the Fair Labor Standards Act;
- the Occupational Safety and Health Act; and
- the Uniformed Services Employment and Reemployment Rights Act.

You can obtain more information and download and print federal workplace posters **free of charge** from the U.S. Department of Labor's Poster Page at <http://www.dol.gov/compliance/topics/posters.htm>. You can also download most of your required state postings for free or order them by mail directly from your state's department of labor.

### Tips for Developing a Handbook

Following these tips can help produce an effective handbook.

- ✘ **Keep it short, clear, and user-friendly.** The handbook should contain enough detail to avoid confusion but not so much information as to overwhelm. For example, if other documents (e.g., a group insurance handbook or retirement plan documents) more appropriately provide details, do not recreate the information in the handbook. Instead, offer a brief summary and refer to the other document in the employee handbook.
- ✘ **Tailor policies to the size, needs, culture, and budget of your organization.** Every employer is different and has access to different types and amounts of resources. Therefore, policies need to be customized to your specific situation.
- ✘ **Avoid making implied promises or contracts.** A risk of putting policies in writing is that some employees may interpret the statements as promises or contracts. Be sure to include disclaimers that indicate the handbook is not intended as a contract.
- ✘ **Ensure all statements are consistent with employment laws.** Run the handbook by an attorney. This is especially important when organizations first develop their policy handbook or when managers intend to revise it.
- ✘ **Encourage employees to read the handbook.** Help employees understand the complexity of staffing arrangements and convey that they should check with their supervisor before making assumptions about policies and procedures.
- ✘ **Have policies for volunteers.** Be sure to address volunteer staff and volunteer management, if not in a stand-alone handbook than in the staff handbook. Have volunteer policies reviewed along with employee policies to make sure they also comply with federal, state, and local regulations.

*(Continued on page 24)*

**Some businesses will try to sell your organization posters for the workplace. Although this can be a convenient way to get all postings in a nicely laminated format, you do not need to buy them. You can get all required postings for free from federal and state agencies.**

*(Continued from page 23)*

- ✘ **Make the handbook easy to update.** Distribute your handbook in a three-ring binder so you can add and delete pages without needing to reprint the entire document. Or, “go green” and distribute the handbook electronically in a format that staff can easily access, view, and print, if desired.
- ✘ **Date each page in your handbook.** Make it easier to identify the latest version or determine when a policy was updated, changed, or added by including a date on each page. Retain copies of old policies for your records.
- ✘ **Provide samples.** Include samples of frequently used personnel forms, including time sheets, leave forms, and performance evaluation forms.
- ✘ **Obtain a signed acknowledgement form.** At the back of the handbook, include an acknowledgement form to be signed, dated, and returned by the employee and placed in his or her personnel file. The acknowledgement form should state that the employee understands his or her obligation to read, understand, and follow the policies; should reaffirm disclaimers such as an at-will employment statement; and confirm that the employee has received or knows where to access a copy of the handbook.

## Resources

Free Management Library

<http://www.managementhelp.org/>

Nolo—publishes a guide to writing an employee handbook.

<http://www.nolo.com/>

Nonprofit Risk Management Center—publishes many guides for screening, hiring, and risk management.

<http://nonprofitrisk.org/>

**The following resources are available through regulatory agencies:**

**Child Welfare Information Gateway**—provides access to information and resources to help protect children and strengthen families.

[http://www.childwelfare.gov/systemwide/laws\\_policies/state/](http://www.childwelfare.gov/systemwide/laws_policies/state/)

**“Employment Law Guide”**—describes the statutes and regulations administered by the U.S. Department of Labor.

<http://www.dol.gov/compliance/guide/index.htm>



**Employment Laws Assistance for Workers and Small Businesses**

**Advisors**—is an interactive system (elaws) designed to help employers and employees understand and comply with many laws administered by the U.S. Department of Labor.

**Equal Employment Opportunity Commission**—no-cost outreach program.

<http://www.eeoc.gov/outreach/nocost.html>

**FirstStep Employment Law Advisor**—helps employers determine which laws administered by the U.S. Department of Labor apply to their business or organization.

# Chapter 4

## Organization Staffing

- 4.1 Needs Analysis
- 4.2 Employment Options
- 4.3 Job Design
- 4.4 Use of Volunteers
- 4.5 Use of Contractors

**Staffing refers to the number, type, and qualifications of personnel used to perform a given level of work. When determining the appropriate or ideal staffing level, an organization must consider workload, budget, standards, employee skills, and desired goals.**

There are many ways to approach getting any job done and, as a small nonprofit organization, you have options available that private companies do not. As you look at any task or project, you should spend some time thinking about the best way to achieve the job, not just in terms of its cost or speed

of implementation but also its fit with your organization's overall goals and strategy. This chapter takes you through how to look at your needs and assess the various employment options you have available to meet those needs.

### 4.1 Needs Analysis

How many people does it take to meet your current demand? What programs do you want to offer in the future, how many people will you need, and what skills will they need to do it well? Who will lead the organization in the future? One of the strategic contributions of HR to an organization is helping answer questions such as these.<sup>2</sup>

One way to approach analyzing, identifying, and planning for current and future workforce needs is through a four-step staffing needs analysis.

Supply Analysis: Where Are We Now? What Do We Have?

- Do we have the right mix of personnel (staff, volunteers, or contractors) to enable the organization to achieve its short-term and long-term goals? To answer this question, you can examine whether you have a backlog of work or are current with or ahead of demand. You can also consider whether your employees are always busy and burning out or whether they appear to have sufficient time to perform well at a reasonable pace.
- Are employees and volunteers using time appropriately and are jobs properly set up? Or, can work be reallocated to be done more effectively?
- Are there gaps in need and staff levels or expertise?
- Should we look to external sources to add to our job pool? Can we

<sup>2</sup> The four-step analysis suggested in this guide is a slightly modified version of one contained in Society for Human Resource Management, "The SHRM Learning System: Module 2 Workforce Planning and Employment" (Alexandria, Va.: Society for Human Resource Management, 2007), 92–94.

share a position with another agency, outsource a function, or use other nonemployees to perform functions?

- Can the gaps be filled by workers or volunteers in the local area? Or, will we have to seek applicants elsewhere?
- Can we address the gaps through increased training to achieve short-term and long-term business goals?

Demand Analysis: Where Do We Want To Be? What Do We Need?

- Are we retrenching or growing? How fast? In what areas? Is there need for our current services or new services? Are other agencies providing the same services to the same population?
- Do we have grant or contract obligations or opportunities to provide services?
- Does the current staff have the needed knowledge, skills, and abilities to be successful, if the organization is moving in a new direction?
- Does the organization need to redefine job descriptions to achieve its long-term goals?
- How many employees are needed in each job area? (This may require an analysis of work flow and projected demand in each area.)

Budget Analysis: How can we achieve cost-effective staffing?

- What are our labor costs, including costs for wages and benefits and costs associated with hiring or transitions?
- Do we get full funding for labor in our grants or contracts?
- Do we have policies to manage costs?
- Are we using volunteers to supplement our labor pool and minimize our costs?

Strategic Analysis: How will we get what we need?

- Will we look internally or externally to fill vacancies?
- What sources should we use?

- Should we have a continuous recruitment program or wait until vacancies appear before engaging in an intensive recruitment effort?
- At what level are we seeking to fill vacancies? Is it best to hire people at a full performance level or should we seek entry-level candidates and train/develop them?
- What are the costs versus the benefits of the recruitment strategy?

## 4.2 Employment Options

One important aspect of the staffing decision is the type of employment relationship that will best suit your needs, goals, and budget. In most work settings, a traditional relationship exists between employer and employee. You hire people, you agree to a wage level, and they work for you.

There are alternatives to the traditional employer-employee model, including the use of volunteers. These alternatives may provide a better way of staffing your organization. When analyzing need, you should examine whether the need could be met or the position filled by a volunteer or other type of employee. Volunteers provide a staffing alternative that not only may work better for a nonprofit organization's budget, but also has the potential to bring in higher-qualified staff than a paid employee. (See, also, *Employing Youth*.)

Another aspect of the staffing decision is what combination of full-time, part-time, on-call, permanent, or temporary help will best meet your needs. Employing temporary, part-time, and on-call staff may cost less, because they typically do not get benefits. Yet such employees may not always be available, or they may be harder to train and support because they are on site only for limited periods.

Following are some common employment alternatives and associated legal issues, benefits, and disadvantages. (See, also, *Employing Members of the Clergy or Religious Orders*.)

### Employee-Employer Model

- The employer is the person or entity that controls what work will be done within the workplace, how that work will be done, and the amount of

### Employing Youth

Your organization may employ young people as part of your program services to youth or as part of your staffing model. These young people may be volunteers, interns, or paid employees. No matter what their status, you should familiarize yourself with employment laws that apply to persons below age 18, particularly provisions addressing wages and hours they are allowed to work.

If you employ youth, particularly as part of a training program, it will be to their benefit and yours if you hold them accountable to the same standards for screening, performance, and conduct as you would any other employee. How you classify employees and pay them carries significant legal risk. Refer to Chapter 10 for more information on how to avoid common mistakes.

compensation that employees will receive for that work. The employee is the person who performs services for the employer.

- According to the Internal Revenue Service and common law, anyone who performs services for you is your employee if you can control what will be done and how it will be done. This is so even when you give the employee freedom of action. What matters is that you have the right to control the details of how the services are performed.
- Employment laws that apply to the employer (based on factors such as size and location of operations) will cover this employment relationship. The employer assumes liability for the employee's actions and must pay all employment taxes and provide unemployment insurance and workers' compensation.
- Most people understand this type of relationship. They accept that the employer has complete control over work and that the employee may stay with the organization and develop skills or relationships with service recipients over time.
- With this type of relationship, less flexibility exists to change staffing levels compared with alternatives. The employee-employer model may also be more expensive than other models, because the employer must pay payroll taxes and mandated benefits.

### **Co-employment**

- Co-employment is a modification of the traditional employment relationship under which organizations collaborate to share an employee. The person is employed by two or more employers who jointly control work (i.e., each employer controls the work performed at its organization), benefits, and compensation.
- Employers will share responsibility for legal compliance, including payment of employment taxes and mandated benefits. Employers may also share liability for the employee's actions. The agreement between the employers may require expert legal advice to design and properly execute.

- This approach reduces the cost to provide full-time employment and benefits, which should enable the organizations to attract and retain an employee with higher expertise than might otherwise have been possible.
- This model may prove confusing to the employee. The relationship with the two employers may be a source of tension if organization cultures and policies differ or if one organization violates the agreement by, for example, using more time than its share. Also, the organizations become interdependent. Consequently, if one organization fails, the remaining partner may not be able to retain the employee.

### **Leased Employee or Professional Employer Organization**

- Leasing and professional employer organizations (PEOs) are not identical, but they have enough in common to be treated together. A leased employee is leased from one organization to another. A PEO normally contracts to employ the staff at an organization and assumes responsibility for the management of human resources, including employee benefits, payroll, payroll tax compliance, workers' compensation, and unemployment insurance claims for existing employees.
- A leasing agency or PEO is the employer, or co-employer with the organization, and, depending on the agreement, may assume most of the compliance obligations and liability. However, your organization would still have to comply with, for example, the Equal Employment Opportunity Act. Moreover, if a "co-employment" relationship exists, your organization could retain obligations as employer. A leasing agency or PEO will generally be responsible for paying all mandated benefits.
- These models enable an organization to maintain control over work and to have long-term employees. These models may reduce administrative tasks associated with employment and potentially lower costs for benefits. They reduce the burdens for HR practice and compliance, because the leasing agency or PEO assumes these functions.
- Some leasing and PEO practices have a bad reputation. The arrangement may include fees that raise the cost of employment, limit choices regarding benefits design, or reduce control over key aspects of

candidate prescreening and employment policies. The relationship may be confusing to employees.

### **Personnel Service or Staffing Agency**

- These agencies provide a wide range of employment services and solutions, including temporary and contract staffing, recruiting and permanent placement, outplacement and outsourcing, training, and human resources consulting.
- Typically, an agency places its employees with an organization on a fee-for-service basis. Organizations will use staffing agencies to obtain temporary assistance or to access technical expertise. The organization generally controls the work, though it may only control the result.
- Service agencies generally assume full legal responsibility as employers, though the organization retaining their services must still comply with employment laws such as the Equal Employment Opportunity Act. Service agencies assume responsibility for all employment taxes and mandated benefits.
- This model enables an organization to maintain control over work. It affords the most flexibility, because the organization hires staff only when needed, can usually get qualified staff in place on short notice, and does not need to conduct recruiting, screening, and hiring. This model can be less expensive than other options, because the organization pays no benefits and has limited administrative tasks.
- Under this model, however, the organization does not control selection, so it may not always get the best fit or qualified candidate. In addition, the organization may pay a higher hourly rate than for an employee. The organization also does not get the benefit of a long-term employment relationship.

### **Independent Contractor**

- The general rule, according to the Internal Revenue Service (IRS), is that an individual is an independent contractor if you, the person for whom the services are performed, have the right to control or direct only the result of the work and not the means and methods of accomplishing the result. An employer can complete Form SS-8 asking the IRS to decide on whether a person is an independent contractor.

- The contractor is not an employee, so many employment laws do not apply.
- The contractor assumes full responsibility for employment taxes and, generally by agreement, assumes responsibility for liability and workers' compensation.
- One of the benefits of this employment model is that expertise for a specific job is retained only when needed. The organization has few or no administrative burdens, employment costs, or benefit costs.
- A disadvantage of this approach is that the organization loses control over how the work is done. Moreover, the hourly wage may be higher than for an employee. In addition, the organization may not be sent the same person every time it needs him or her, which reduces opportunities for employees to learn over time how to improve their work.

### Interns

- Interns usually perform work for educational benefit or as part of an education program. Interns are often unpaid, though some receive wages or a stipend. The employer has obligations to the intern to provide an educational experience. The duration of employment is usually tied to some required number of hours or to the school term.
- An intern may qualify as an employee and be covered by all applicable employment laws. If the intern is paid, the employer may be liable for employment taxes.
- Unpaid interns, or interns paid on a stipend basis, generally cost less than employees. Most interns bring an enthusiasm and a willingness to complete tasks that veteran employees may lack.
- Interns are generally inexperienced, so they may not be able to perform at the level of employees and may require greater supervision to meet internship guidelines.

### Volunteers

- Volunteers are persons who perform service with no expectation of pay.
- Some employment laws cover volunteers, for example, those providing equal employment opportunity protection and protection from discrimination.



- With this employment relationship, the organization assumes liability for the volunteer's actions. The organization may also have to pay workers' compensation.
- The benefits of this model are no wage costs and few, if any, benefit costs. Volunteers are typically flexible, very motivated by the mission, and bring a generous spirit and willingness to do whatever is needed.
- Volunteers receive no remuneration, so some think this means that performance or availability may be issues and that more training and greater supervision may be necessary. Using volunteers requires a commitment from the organization to recruit and retain them and keep them engaged.

### 4.3 Job Design

According to the Society for Human Resource Management, a job analysis is a process to study a job to determine<sup>3</sup>:

- the purpose, work environment, and position in the organizational structure;
- the duties and responsibilities of the job;
- the specifications and qualifications, which include the knowledge, skills, and abilities required to successfully perform the job; and
- performance criteria, including desired behaviors and results.

A job analysis can be a time-consuming exercise that can involve observing, interviewing, surveying, or keeping a work log. The time and effort invested upfront in a good analysis can help prevent problems later by ensuring that the job description and job specifications are legally defensible and as accurate and useful as possible.

A job analysis can be used to identify the essential job functions and bona fide occupational qualifications (see Definitions of Essential Job Functions and Bona Fide Occupational Qualifications). Both are important when it comes to compliance with antidiscrimination laws such as the Americans with Disabilities Act.

#### Employing Members of the Clergy or Religious Orders

If your agency is church affiliated or you employ members of the clergy or religious orders, be aware that clergy and members of religious orders may be treated differently under employment laws than members of the laity. If you do employ clergy, you should seek clarification on any unique treatment they receive under the law. For example, when you hire a member of a religious order you may pay the religious order, much like you would pay a staffing agency, or you may not be required to withhold payroll taxes.

<sup>3</sup> Ibid, 113.

## Definitions of Essential Job Functions and Bona Fide Occupational Qualifications

Following are definitions of essential job functions and bona fide occupational qualifications.

### × Essential job functions:

These are functions that are necessary to do the job. Essential job functions are determined by the employer but would be subject to review by compliance agencies. In determining whether a function is essential, the Equal Employment Opportunity Commission will consider the employer's judgment, the written job analysis, the amount of time spent on that function, and the consequences of not requiring the incumbent to perform the function.

× **Bona fide occupational qualifications:** Under the Civil Rights Act and Age Discrimination in Employment Act, narrow exceptions exist to the prohibitions against discrimination on the basis of the protected classes of age, gender, religious belief, or ethnicity if the qualification is reasonably necessary to the normal operations of the business. For example, a theatre could reasonably cast a person in a role based on age, gender, or ethnicity if those qualifications were characteristics of the role.

A position description is a vital document to have for every position—paid, volunteer, and nonemployee positions. It is a basis for guiding staff and holding them accountable and for articulating goals and key tasks or behaviors.

A position description should summarize the most important features of a job. Typical descriptions include the following information.

- Title
- Status (exempt or nonexempt if an employee, a contract employee, or a volunteer)
- Department
- Who the position reports to
- Whether the position supervises others and those positions
- Summary and general purpose
- Responsibilities (essential functions and nonessential functions)
- Qualifications
- Essential skills and experience (required or minimum)
- Nonessential skills and experience (preferred or success factors)
- Working conditions and physical requirements of the position

Your organization should adopt a standard format for all job descriptions (see *Tips for Writing Good Job Descriptions*). Among other benefits, standardization can ease position comparisons for the purpose of establishing salaries.

Some organizations also create an additional document called a job specification that documents the qualifications of the incumbent and what is required for satisfactory performance. Other organizations include this information as a section of the job description. Job specifications typically cover experience, training, education level, licenses and certifications, physical and mental demands, and level of organizational responsibility.

### Tips for Writing Good Job Descriptions

- ✘ Use realistic titles.
- ✘ Limit the description to major duties, tasks, and responsibilities, rather than list every possible task.
- ✘ Identify essential functions.
- ✘ Regularly review the job description with supervisors and incumbents—perhaps as part of the annual performance review—to make sure it still accurately reflects the position and the needs of the organization.
- ✘ Include disclaimers such as “other duties as assigned” or “duties may change.”
- ✘ Use gender-neutral language.
- ✘ Avoid any statements that could conflict with your at-will employment status.

**Once you have created a position description, you should stick to it or revise it if it is not accurate. A practice of making exceptions or setting precedents to hire people who do not meet qualifications can lead to issues, including possible litigation by applicants who may claim discrimination.**

## 4.4 Use of Volunteers

Many organizations make the mistake of not including the use of volunteers in their staffing plan and only use them in a limited capacity to help with events or perform menial tasks such as stuffing envelopes. Nonprofit organizations can and should include volunteer labor in their staffing model, in part because it reduces labor costs. They should do so also because a strong volunteer program offers benefits in terms of morale, community engagement, and mission effectiveness. Some organizations are entirely staffed and run by volunteers, others are using volunteers in supervisory positions over paid staff, and almost all have at least a voluntary board of directors. In deciding whether and how to use volunteers, an organization should consider the following.

- Your organization’s goals and staffing strategy should be reviewed to determine whether investment in a volunteer program can help in achieving its goals.
- While there are no direct wage costs associated with volunteers, they are not entirely free; there are costs involved in recruitment, screening, supervision, and recognition.

- Managing volunteers—the risks involved and the structure required—requires attention and can be as complex as managing paid employees.
- Volunteers do not rely on the organization for their livelihood, so they may not be as dependable and can end their service at any time. The organization can also terminate the relationship without the same costs as are involved in terminating an employee.
- The benefit of using volunteers can go beyond savings on labor costs, because volunteer programs often engage the community and service recipients in ways that typical employment does not.
- Your organization’s liability insurance should be reviewed to determine whether coverage extends to volunteers for actions they take while volunteering.

### Managing Volunteers

Volunteers are not employees and, though they are protected in most states by various volunteer service acts or Good Samaritan laws from personal liability for actions done while volunteering, volunteers are not necessarily protected for their own injuries, lost wages, or death through workers’ compensation-type benefits. You should ensure that your volunteers are protected from personal liability under your organization’s general liability insurance. In addition, you should consider either purchasing workers’ compensation coverage for volunteers (if available), or ensuring they understand the risks associated with injuries incurred while volunteering and sign a waiver.

Managing a safe and successful volunteer program involves many of the same elements as HRM for paid staff—you are still dealing with people and human capital (see Managing Volunteers). Some aspects that are unique to volunteers are covered in this section, but, throughout the guide, the highlighted HRM practices apply to all staff, paid and volunteer alike.

Who counts as a volunteer? Much like the employment relationship, it can depend on who you ask and no universally accepted definition exists under the law. The Fair Labor Standards Act offers the following definition: “An individual who performs hours of service for a public agency for civic, charitable, or humanitarian reasons, without promise, expectation, or receipt of compensation for services rendered, is considered to be a volunteer during such hours.”

Volunteers, though not employees, are afforded protection by many of the same laws that apply to employees. Your organization may define a person as a volunteer. However, different laws may not distinguish between “employee” and “volunteer” or may be written so as to extend the definition of employee to include volunteers. So the fact that you have classified someone as a volunteer will not matter when it comes to complying with these laws.

One key point with volunteers is that employees cannot volunteer to do the same work they are paid to do for an organization. Your employees can volunteer, but the work they volunteer to do must be different and distinct from their normal role; otherwise you could be found to owe them wages.

To deal with some of the confusion, when entering into a volunteer arrangement, it is important that you have a written agreement that makes it clear that:

- the position is voluntary;
- the person intends to serve as a volunteer; and
- the person has no expectation of compensation.

In addition, it is important to detail what, if any, benefits will be provided. Volunteers can receive some benefits, such as reimbursement for expenses, workers' compensation coverage, a small stipend, medical insurance, or noncash recognition and awards.

Creating opportunities for volunteer involvement requires management and staff to coordinate a well-developed volunteer program. Organizations should take these steps.

- **Analyze organization needs and resources.**
  - Be clear about why the organization wants to involve volunteers, how the relationship supports organization goals and staffing patterns, what specific purposes the volunteers will serve, and how the organization will mobilize the resources and establish the systems necessary to support volunteer involvement. Ready the organization.
  - Involving volunteers requires investments of time, money, emotions, and management skills by staff.
  - Managers must develop and implement plans for involving volunteers; create policies and procedures to guide recruitment, selection, performance review, day-to-day conduct, and conflict resolution; support staff and board or council members as they build new relationships; and invest in opportunities to symbolically (and genuinely) recognize volunteers and staff for their outstanding contributions to the organization and community.

- **Involve staff in designing opportunities.**
  - The relationships between staff and volunteers are critical to ensuring relevant and active involvement, high-quality performance, smooth coordination, and supportive environments.
- **Establish a coordination, management, and support function.**
  - Decide who will handle paperwork, scheduling, orientation, training, performance review, and recognition.
  - In small organizations, many of these responsibilities will be added to an existing staff person's plate. Larger organizations may have the resources to hire a volunteer coordinator. Some organizations recruit a volunteer coordinator who serves on a voluntary basis.
- **Specify roles and responsibilities for individuals and committees.**
  - Just like staff positions, volunteer positions require "job" descriptions. Develop descriptions for individual volunteers and scopes of work for boards, councils, and committees. The descriptions should include specific roles and responsibilities, reporting relationships, terms of service, and desired qualifications.
- **Offer training and other supports.**
  - All volunteers, regardless of whether their focus is on setting policy or delivering services, require some training.
  - Orientations should introduce prospective volunteers to the organization—its mission, geographic area, major areas of work, and key partners—and to the roles and responsibilities that pertain to specific volunteer positions.
  - Even if a volunteer has served on numerous boards or worked with hundreds of children, the organization needs to train the volunteer on its specific approach to the work.
  - If prospective volunteers have no prior experience or education in the substantive aspects of the volunteer position, further education may

be required (e.g., through shadowing current volunteers or participating in organization-sponsored training events).

- Be sure to provide other supports, such as a place to work and ongoing guidance, as necessary.

- **Review performance.**

- Plan to review the performance of volunteers, either informally or formally. Offering feedback to volunteers helps ensure the consistency and quality of their participation across all organization activities.

- **Listen to staff and volunteer concerns.**

- Check in with both staff and volunteers occasionally. These brief conversations can provide hints of troublesome situations and offer insights into effective strategies for addressing them. Difficulties may arise, for example, when overly ambitious volunteers want to supplant rather than supplement the work of staff, or when staff are not responsive to volunteers' needs because they are too busy, are unsure how to help, or are protecting turf.

- **Value contributions.**

- Know what kind of value the volunteer places on different types of rewards. Some value public recognition, while others are more comfortable with a private reward.
- Give, for example, photographs, certificates, or thank-you cards, to acknowledge volunteers' exceptional contributions. More costly alternatives include recognition events and gift certificates.
- Explore ways to reward volunteers in an ongoing way, not just once a year.

- **Set limits on terms and commitments.**

- Limits provide organization leaders and volunteers with an "out" if the fit is not right.
- Leaders may not want to continue involving a volunteer once a term is completed; likewise, busy volunteers may feel overburdened by

their obligations and use a term limit to gracefully withdraw from future commitments.

Just as there are different types of employees, there are different ways volunteers can serve and different sources of volunteers.

### **Long-term Volunteers**

These traditional volunteers provide the most potential benefit to an organization because they make a commitment to provide regular service hours over an extended period. This type of volunteer will require a significant commitment to developing volunteer management capacity to provide meaningful work, supervision, and recognition.

### **Short-term Volunteers**

Many events or services could not be offered without a mass of volunteers for just that purpose. These volunteers are typically engaged for a specific event or limited timeframe.

### **Service Learning**

Similar to interns, these are students whose service is related to a formal learning experience, a school-sponsored event, or required service hours as part of the curriculum. One benefit of working with schools to recruit students is you can access a reliable source of volunteers for a defined timeframe and specified number of hours. The organization does not typically have the same level of responsibility as with an intern for providing the educational experience tied to a degree.

### **Mandated Community Service**

Some individuals are required by the courts to perform a certain number of voluntary service hours. One of the benefits of volunteers such as these are they are obligated to show up. The down side is they may not have the same motivation as a traditional volunteer and, depending on the reason they are being required to perform service, they may not be appropriate for certain types of service.

### **Virtual Volunteers**

Virtual volunteers provide services without being physically present by using e-mail, the Internet, or other technology. These are perhaps the lowest cost



and easiest type of volunteers to manage. However, their service is limited to tasks that can be done using technology (e.g., writing grants or designing a website).

### Religiously Affiliated Volunteer Organization

Many religious congregations sponsor volunteer programs that recruit, screen, and place volunteers in positions at nonprofit organizations, usually for a year. The volunteers usually participate in a formal program sponsored by the congregation, in addition to their service role at an organization. The organizations and work do not have to be religious in nature. The volunteers usually serve as full-time staff and are not paid. Organizations typically pay a fee to the congregation to cover the administrative costs, stipend, training, travel, and insurance for the volunteers.

### National Service Organizations

While persons serving in an AmeriCorps program are not technically “volunteers” under the law but “members,” they are in many ways like volunteers. The Corporation for National and Community Service sponsors AmeriCorps, Senior Corps, and Learn and Serve, which aim to promote volunteer service in America. They help recruit applicants and provide financial and programming support for the recruitment, funding, and use of volunteers as well as incentives to volunteers in the form of stipends, health insurance, and education awards. National service organizations are funded through the government, so some restrictions exist on their activities and the roles they can fill. Members can be placed at your organization in several ways. For example, a member can be placed by another agency or your organization can apply directly to the Corporation for National and Community Service or its state offices to have members assigned.

## 4.5 Use of Contractors

Who or what is a contractor? Independent businesses, trades, or professions that offer services to the public, such as a lawyer, an architect, a handyman, a plumber, a carpenter, or an accountant, normally do so

**As with the hiring of employees, the organization should abide by its conflict-of-interest policy in selecting contractors. Any person with an actual or perceived conflict of interest should not participate in selecting an independent contractor.**

as contractors. No single authority defines a contractor; the Internal Revenue Service, the U.S. Department of Labor, and state departments of labor all offer guidance with regard to complying with their regulations. The Internal Revenue Service provides the following guidance: The general rule is that an individual is an independent contractor if you, the person for whom the services are performed, have the right to control or direct only the result of the work and not the means and methods of accomplishing the result.

Why use an independent contractor? Most organizations use contractors for expertise or for special projects, such as performing legal work, constructing a building, or setting up a computer system. Contractors can also be used for ongoing services (e.g., catering), support functions (e.g., payroll), or staff functions (e.g., grant writing). Before contracting out for any service or function, an organization should ask the following questions:

- What is the specific need or goal to be met?
- Can an outside entity perform the function more efficiently and effectively and at a lower cost?
- Would keeping the function in house contradict or impede the organization's mission?
- Would contracting violate or impede the organization's core mission or the funders' requirements (e.g., hiring a large out-of-state contract firm instead of providing work for the community or a small minority- or woman-owned business)? Would contracting strengthen relationships and/or win partners and friends?

The benefits associated with using nonemployees include:

- gain greater flexibility to retain specific, skilled labor or experts only when you need them;
- save money on wages, benefits, and materials, because you do not have to pay employment taxes or benefits (e.g., withholding, unemployment insurance, and workers' compensation) or provide tools and equipment;
- reduce the cost and timeframe of a project by retaining expert staff who should have higher productivity; and

- reduce your exposure to employment practices lawsuits, because non-employees do not have the same rights and protections as employees.

Using nonemployees also entails some risks for an employer.

- If an employer misclassifies an employee as an independent contractor, the employer could be fined and required to pay back wages, employment taxes, and even damages.
- Employers may attract greater scrutiny from state and federal agencies for classifying significant numbers of staff as contractors.
- Employers could face poor publicity for failure of the contractor or staffing agency to comply with antidiscrimination or employment eligibility laws.
- Employers surrender a certain amount of control over the work, particularly how and when it will be conducted.
- Employers may be liable for the contractor's actions or accidents or for debts related to the contractor's failure to pay suppliers or subcontractors.
- The employer's workers' compensation will not cover a contractor, so the employer could be sued for damages related to injuries while the contractor is working.
- An employer may save money using a contractor compared with hiring an employee, but the employer will probably pay more by the hour and this might negatively affect employees.
- An employer does not develop institutional knowledge with a workforce of nonemployees, who may be more transitory.

Employers can minimize some of the risks by taking steps such as these:

- have a written contract;
- follow a standardized bidding, screening, and selection process; and
- require and obtain waivers and proof of insurance, including workers' compensation and liability insurance. (You may even request a certificate of insurance naming your organization.)

## How to Select a Contractor

Depending on how your organization is funded or governed, you may have to follow specific guidelines or public rules when establishing a contract. Common steps in selecting a contractor include these.

**You should apply the same risk assessment to nonemployees that you do to employees, based on the level of access they have to assets or the vulnerable population you serve. The same background and screening requirements that you use with employees with similar access should be applied. The state may mandate that you perform certain background checks on employees and nonemployees alike.**

- Define the goal and budget.
- Obtain bids. This usually involves creating a request for proposals that outlines the problem and the submission requirements for contractors. Several approaches to obtaining bids can be pursued.
  - Competitive-bidding process. This process is used for larger contracts when more than one organization could fulfill the requirements. In contrast, a sole-source contract is used when only one organization can fulfill the requirements.
  - Open bids versus solicited bids. Open bids are used when anyone can apply for a contract. With solicited bids, only preselected vendors are invited to apply. If an organization uses solicited bids, it needs a process to select vendors that is fair and open.
- Check references and conduct other screening steps to ensure the contractor is reliable and professional and will deliver on the agreement.
- Evaluate proposals and select the winning bid. Cost is often a primary consideration in reviewing proposals. Yet other factors, such as reputation, professional licensure, insurance, and bonding as well as the ability to stand behind the quality of work, should also be considered. The organization's policies against nepotism and conflict of interest should be followed in selecting a contractor.
- Negotiate the contract, including the cost and timeline. Consider the following.

- Different contracts for different levels of expenditures. Often contracts for \$5,000 or less can use a simpler form than larger contracts.
- Different contracts for individuals and organizations. When contracting with an individual, organizations need to state that the individual is not an employee, that he or she is not eligible for employee benefits, and that the income earned is reported to the Internal Revenue Service through Form 1099-MISC.

These elements should be included in any contract:

- parties to the contract, including key contacts;
- statement that the organization and the worker agree to an independent contractor relationship;
- scope of work;
- budget and process for making modifications to the budget (e.g., how cost overruns will be handled);
- term of agreement and timeline for work;
- who will provide materials, equipment, and office space and who owns the materials and equipment;
- who will be responsible for obtaining any required work permits;
- ownership of work product;
- allowable and unallowable expenditures (e.g., food, travel, and capital expenditures) and who will handle expenses;
- expected performance in terms of effort and outcomes and consequences for acceptable or unacceptable performance;
- reporting requirements;
- payment procedures (how the organization will pay, how much it will pay, and when it will pay—usually either a fixed fee for a finished product or a sum based on unit of time (e.g., by the hour or by the week);

- liability protection for the organization and the contractor;
- termination conditions and processes;
- dispute resolution process;
- confidentiality policy; and
- conflict-of-interest policy.

Contractors should also be asked to provide:

- a Form W-9 to provide taxpayer identification or employer identification number;
- a statement that they will pay state and federal income taxes;
- a statement that they have all the permits and licenses the state requires to legally do the work;
- a waiver acknowledging the organization is not liable for damages and that they are not entitled to any of the benefits the organization provides employees;
- a certificate of liability insurance and proof of workers' compensation insurance;
- references; and
- proof of payments for supplies or payments to subcontractors.

## Resources

American Staffing Association

<http://www.americanstaffing.net/index.cfm>

Board Source

<http://www.boardsource.org/>

Catholic Network of Volunteer Services

<https://www.cnvs.org/aboutus/index.php>

Corporation for National and Community Service

<http://www.nationalservice.org/Default.asp>

Employer Services Assurance Corporation

<http://www.esacorp.org/>

Equal Employment Opportunity Commission

<http://www.eeoc.gov>

Idealist.org

<http://www.idealists.org/>

National Association of Professional Employer Organizations

<http://www.napeo.org/>

State Labor Offices

[http://www.dol.gov/esa/contacts/state\\_of.htm](http://www.dol.gov/esa/contacts/state_of.htm)

Volunteer Match

<http://www.volunteermatch.org/>

Resource for the legal issues regarding volunteers is Anna Seidman, *Negotiating the Legal Maze to Volunteer Service: A Community Service Brief from the Nonprofit Risk Management Center* (Leesburg, Va.: Nonprofit Risk Management Center, 1998), <http://www.ed.gov/inits/americanreads/resourcekit/Negotiating/employee.html>.

Volunteer management self-assessment tool of the Greater Twin Cities

United Way, [http://www.managementhelp.org/org\\_eval/uw\\_hr.htm](http://www.managementhelp.org/org_eval/uw_hr.htm).

# Chapter 5

## Recruitment and Hiring

- 5.1 Legal Considerations
- 5.2 Recruitment
- 5.3 Application and Screening
- 5.4 Hiring

Many laws exist to protect applicants from illegal discrimination, and you must comply with these laws while being very discerning about who you choose to work for your organization. A good hire prevents many problems, and getting the right people is essential to the success of your mission. Do you know the skills needed to do the work you need done? Do you know the personality characteristics most likely to fit in with your organization? Do you know how to legally tell whether applicants have the right attributes? This chapter reviews the steps of an effective recruiting, screening, and hiring process.

### 5.1 Legal Considerations

Many federal laws apply to aspects of the screening and selection process, including these.

- Title VII of the Civil Rights Act of 1964
- Civil Rights Act of 1991
- Age Discrimination in Employment Act
- Pregnancy Discrimination Act
- Rehabilitation Act
- Americans with Disabilities Act
- Uniform Guidelines on Employee Selection Procedures
- Vietnam Era Veterans' Readjustment Assistance Act
- Immigration Reform and Control Act
- Uniformed Services Employment and Reemployment Rights Act



Appendix A contains further details on these and other key federal employment laws. These laws create what are generally referred to as the protected classes under law: race, color, religion, sex, national origin, age, disability, pregnancy, and veteran status. Except in very narrow circumstances, an employer may not discriminate against an applicant or employee on the basis of any of these characteristics for any employment-related purpose. (See, also, Discrimination Defined).

**Your state may have adopted employee rights legislation that extends greater protection than that afforded under federal law. You should make sure your organization's practices are reviewed by an attorney familiar with your state's rules.**

### Discrimination Defined

Multiple federal and state laws make it illegal to discriminate in hiring and employment practices on the basis of race, color, religion, sex, national origin, age, disability, pregnancy, and veteran status. Employers must be aware of factors that cannot be used in making employment-related decisions. They should seek guidance on how to make employment-related decisions on allowable factors related to the ability to do the job.

The law distinguishes between two types of discrimination: disparate treatment and disparate impact. Disparate treatment is an intentional act to discriminate against people based on one of the protected classes (e.g., race). Disparate impact is discrimination that results from a policy or practice that unintentionally has an adverse impact on one of the protected classes. Unless the policy or practice is related to a bona fide occupational qualification, the organization would be deemed guilty of discrimination even if its intent was not to discriminate.

The Equal Employment Opportunity Commission (EEOC) is the federal enforcement body that investigates discrimination complaints from employees, former employees, or applicants. The EEOC provides guidelines and fact sheets to help employers avoid discriminatory practices. In its 2006 compliance manual, the EEOC describes common pitfalls and best practices for employers striving to avoid discriminatory practices.

The *EEOC 2006 Compliance Manual* lists these best practices:<sup>4</sup>

- develop a strong equal employment opportunity policy that is championed by senior management;
- train all supervisors and senior staff on the policy;
- enforce the policy and hold supervisors accountable for enforcement;
- make employment decisions in a transparent manner and document them;
- recruit, hire, and promote with equal employment opportunity in mind and implement practices that widen and diversify the pool of applicants;
- monitor equal employment opportunity by conducting self-assessments;
- create objective, job-related qualification standards for each position;
- identify and remove barriers to equal employment opportunity, such as word-of-mouth recruiting in nondiverse workplaces;
- monitor hiring, compensation, and performance appraisals for patterns of potential discrimination or apparent discriminatory practices;
- provide training and professional development opportunities to encourage staff members' growth in their positions and opportunities for advancement;
- promote a culture of diversity and inclusiveness;
- encourage open communication and dispute resolutions; and
- prohibit retaliation and make every employee aware of the policy.

Supervisory training is recognized as a best-practice risk management approach to reducing discrimination and harassment complaints, and it is credited with reducing the number of cases of sexual harassment in recent years. Several states now even mandate annual harassment training for supervisors.

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<sup>4</sup> Equal Employment Opportunity Commission, *EEOC 2006 Compliance Manual* (Washington, D.C., Equal Employment Opportunity Commission, 2006), [www.eeoc.gov/policy/docs/race-color.html](http://www.eeoc.gov/policy/docs/race-color.html); and Jennifer Hauge and Melanie L. Herman, *Taking the High Road: A Guide to Legal Employment Practices for Nonprofits*, 2d. ed. (Leesburg, Va.: Nonprofit Risk Management Center, 2006), 37.

## 5.2 Recruitment

The best time to look for staff is when you do not need them. Organizations that are growing or that are in industries with high turnover rates or hard-to-fill positions may engage in continuous recruiting activities. As you evaluate your organization's needs, you may consider adopting a continual recruiting strategy.

After you have completed a job analysis, developed a position description, and determined you are looking for a permanent employee or volunteer, you should have an understanding of the kind of skills and personality characteristics that candidates would need to succeed in the position.

This assessment will inform your recruitment marketing.

How you advertise and recruit should reflect the type of candidate you desire. For example, if what you really need is people with experience, postings on a college campus may not be the best strategy because undergraduates may not have experience.

In addition, your recruiting message should clearly communicate the following:

- basic details of the position—not the job description but enough information so applicants understand what the position entails (e.g., title, reporting structure, full-time or part-time status, work location, salaried or hourly position, and benefits);
- why the applicant should choose to work for your organization instead of another organization offering a similar opportunity; and
- your organization's mission and the effect it has on society.

Recruiting activities generally fall into three categories: activities targeted to internal candidates, activities targeted to active job seekers, and activities targeted to qualified candidates who may not be looking (i.e., passive candidates). Typical examples and some considerations for each are listed on the next page.

**Your recruiting process is not just about attracting applicants. Your recruiting activities may be your first point of contact with many parts of the community—potential contributors, service recipients, or volunteers. Therefore, your message and materials should be professional looking, well edited, and consistent with your organizational messaging.**

	Internal Candidates	Active Job Seekers	Passive Candidates
<b>Typical Recruitment Strategies</b>	<ul style="list-style-type: none"> <li>• internal postings</li> <li>• formal development or succession plans</li> </ul>	<ul style="list-style-type: none"> <li>• traditional print or media ads</li> <li>• Internet job sites</li> <li>• job fairs</li> <li>• use of a search firm</li> </ul>	<ul style="list-style-type: none"> <li>• employee referral programs</li> <li>• word of mouth through board or service recipients</li> <li>• targeted outreach to community or campus leaders who know appropriate candidates</li> <li>• social networking websites</li> <li>• people in the field working for your competitors</li> </ul>
<b>Considerations</b>	<ul style="list-style-type: none"> <li>• may not have the expertise you need in house</li> <li>• may not be ready to move up when positions become open</li> <li>• may limit diversity of workforce</li> <li>• is positive for retention and maintaining organizational knowledge</li> </ul>	<ul style="list-style-type: none"> <li>• can be costly per hire</li> <li>• may not attract a diverse applicant pool, or a pool reflecting your service population</li> <li>• reaches primarily those who are currently looking</li> </ul>	<ul style="list-style-type: none"> <li>• targets qualified candidates who may not be looking</li> <li>• may be discriminatory in that you will only get more people like your current employees</li> </ul>

Other recruitment strategies your organization can pursue are to:

- use internships and volunteer opportunities to develop and recruit future staff;
- explore whether service recipients could be developed to become future staff;
- become active in local associations and bodies in your field and community to build your word-of-mouth network and meet potential future applicants; and
- consider hosting trainings or workshops for staff of other agencies to raise awareness of your organization.

### 5.3. Application and Screening

The goal of screening is to help you select the best person for the position by eliminating those who might pose a risk to the children you serve. If someone did cause harm, at a minimum, you want to avoid the guilt and the legal consequences of negligent hiring for hiring a person you should have known was unfit for a position.

The goal of your application process is to identify the person with the greatest potential for success in the position and convince this individual that he or she wants to work for you. The goal of your hiring process is to agree to the terms, confirm the employment relationship, and start the person successfully.

**Your screening, application, and hiring process provides a place to start the orientation and onboarding process for a new employee. Consider the message you can send about who you are, what kind of workplace you offer, and what expectations you have for staff by how you deal with applicants. Are you professional? Do you communicate clearly? Do you check references?**

Developing a nondiscriminatory screening and hiring process is important because of the risk of violating key employment laws. A good strategy is to follow a standard process for all positions. Considerations and steps in developing your process include these.

- What is the risk level associated with the position? (Many organizations have tools for assessing positions based on level of access to service recipients or organizational assets.)
- Are the checks you are conducting reasonable and appropriate to the position?
- Are any of your steps having an unintended or disparate impact on any class of applicant?
- Have your application and screening tools been reviewed for legal compliance?
- Are all persons involved in screening and hiring trained?
- Prior to starting the screening and hiring process did you clearly identify items that would disqualify a person from consideration?
- Do you have a plan to handle all application materials in accordance with privacy and record retention standards?
- If you are using commercial background check services, have you reviewed Fair Credit Reporting Act guidelines and are you prepared to provide the required notifications to applicants?
- Will all applicants receive the same treatment?

- Have you identified background checks or screening that you could be required to perform by law or under a contract or grant?

**Under several federal laws, employers are required to save job advertisements, internal job postings, and employment applications for up to three years. See Appendix B for information on the recordkeeping requirements of key federal employment laws and Appendix C for guidelines on record retention.**

- Have you defined the inquiry and application process (e.g., do you accept resumes, e-mail submissions, and phone inquiries)?

The steps of a screening and hiring process, the purpose of the steps, and some considerations for each step are listed below.

- **Resume.** Resumes are commonly accepted as a first step for an applicant expressing interest in a position.
  - Resumes should not replace the standard application.
  - Study the resume to determine gaps in employment, tenure with employers, and whether the applicant has the required experience and qualifications.
- **Written Application.** The purpose of a standard application is to collect basic information on each applicant and permission to conduct further screening.
  - A standard application should be used to avoid allegations of discrimination.
  - Applicants should identify that they are applying for a specific opening or job. In instances where this is not the case, discrimination may be claimed by persons not considered.
  - An application should ask for:
    - ◆ identifying information (name, addresses for the past five years, and Social Security number);
    - ◆ qualifications (education, licenses, or certifications);
    - ◆ experience (paid and volunteer positions, dates, and names of contacts);

- ◆ references (personal and professional);
  - ◆ waivers and consent to verify information (required for conducting background checks);
  - ◆ legal history or criminal background statement (identify if the person has disqualifying convictions);
  - ◆ statement verifying truthfulness; and
  - ◆ signature of applicant.
- Applications should contain statements of employment at will, equal employment opportunity, and consequences of providing false information.
  - As with resumes, look for gaps, whether the applicants have the required experience, and whether they have provided waivers.
  - Look for red flags such as:
    - ◆ frequent moves and job changes;
    - ◆ downward progression of responsibility or authority in jobs held;
    - ◆ missing or incomplete information; and
    - ◆ disqualifying criminal convictions
- **Prescreening phone call.** The purpose of this call is to verify (or clarify)

information on the resume or application and to provide the applicant with more information on the position.

- Not all employers include this step, but it is especially helpful with out-of-town applicants and when you must select only a few candidates for in-person interviews.
- A standard set of prescreening questions should be used.

**Some debate exists as to what constitutes an application, particularly with regard to electronic submissions. Your organization should be clear whether a resume is acceptable or whether an application is required to apply. Electronic applications are more common as the cost of technology has come down and Internet use has increased. Often, applications are available right from an organization's website. This makes it easy for people to apply, and the applications can be legally acceptable. However, you may still want applicants to verify and sign a copy of the application during the interview.**

- This step can save time, because applicants may self-select out at this point or provide information that causes you to end the process.
- **Internet search.** With the rising use of the Internet and social networking sites, many employers are including a search of the Internet as part of their screening.
  - The searches are relatively easy, do not normally involve a cost, and can be very informative about a candidate.
  - There is some debate as to the legality or appropriateness of these searches. Opponents point to concerns over reliability of information; invasions of privacy; and discrimination, because you may collect information you would otherwise not be able to ask for. Those in favor of the searches say the information is publicly available, so there is no expectation of privacy.
  - If you conduct Internet searches, it is best to have a policy covering how you use the information so you avoid claims of discrimination.
- **Interview(s).** The purpose of an interview is to get a sense of the candidate and determine whether his or her knowledge, skills, and abilities meet the needs of the organization. While proven in multiple studies to be an unreliable method of choosing candidates, interviews remain the most heavily relied on screening tool.
  - Several different approaches to interviewing can be taken. In structured interviews, the same questions are asked of every applicant. In open interviews, applicants respond to open-ended questions. Behavioral interviews focus on past behavior. The approach you use should be based on the type of information you need to collect.
  - Interviews can be done one-on-one, or they can take the form of a group or panel interview.
  - Some organizations have multiple interviews, including asking candidates to meet in different social circumstances (e.g., in the office or for a meal) to see how they conduct themselves in different situations.
  - A standard interview process should be followed for each applicant.



- All interviewers should be trained in interview techniques and topics and questions to avoid in an interview.
- Things to look for in an interview that would be a red flag include:
  - ◆ inappropriate attire;
  - ◆ excessive nervousness;
  - ◆ statements that contradict the application or resume; and
  - ◆ an inability to answer questions.
- Common errors in the interview process include:
  - ◆ stereotyping;
  - ◆ asking different questions of different candidates;
  - ◆ deciding based on first impression;
  - ◆ overemphasizing a negative or positive trait or comment;
  - ◆ responding to nonverbal mannerisms such as grooming;
  - ◆ selecting candidates similar to the interviewer;
  - ◆ contrasting one candidate to another; and
  - ◆ mistaking socially acceptable responses for actual fact.
- **Reference checks.** Reference checks are used to verify information provided by applicants and to identify any concerns about their ability to perform the job.
  - Standard reference questions should be used for each position.
  - While past employers may be reluctant to answer questions, they should confirm employment dates, title, salary, and eligibility for rehire. Confirmation of that information is useful.

**All notes retained on applications, on resumes, and from interviews may be reviewed for purposes of addressing any allegation of discriminatory hiring practices. Employers should be certain that notes are professional, are job related, and are not open to misinterpretation that the hiring decision was based on any unpermitted basis. For example, candidates may volunteer information about their religion, marital status, or number of children. Making notes of these may indicate that you used the information in your hiring decision.**

- Red flags are failure to provide the required number of references, references who are reluctant to speak, or references who do not respond.

**Often candidates will provide copies of reference letters. These are certainly helpful to receive, but because they can be forged and because they do not address all the questions you may have in your standard reference check, they should be verified and not take the place of your standard reference check.**

- **Background checks.** Background checks are used to verify information on a candidate as well as to identify past convictions or activity that may disqualify a candidate from consideration. (See, also, Common Findings of Criminal Background Checks.)
  - Checks may include any or all of the following based on your risk assessment and regulatory requirements:
    - ♦ criminal history check at the local, state, and/or federal level (you may be required to run all three);
    - ♦ verification of education, past addresses, and Social Security number;
    - ♦ driving record (if the position requires driving);
    - ♦ credit (if the position requires handling money);
    - ♦ child abuse registry (if the position requires working with youth);
    - ♦ sex offender registries; and
    - ♦ state licensing agency verification or approval.
  - You should determine how far back you need to check, including whether to check local or state records for all prior addresses.
  - Some of these checks can be performed directly by the organization, but many are done by reporting agencies on a fee basis. Some are done by state licensing agency.
  - If background checks are performed by an agency, you will have to comply with the Fair Credit Reporting Act and Fair and Accurate Credit Transactions Act regarding notifications to applicants.

- One area of concern with criminal record checks is whether employers are allowed to use arrest records, which may be discriminatory because some groups have a higher incidence of arrest than others. State laws vary on this, though many permit youth-serving organizations to consider arrest records.
- Employers should have clearly defined disqualifiers and a basis for the disqualification prior to conducting checks.
- Background checks are only as good as the databases used. Moreover, they only reveal past history where a record was created (e.g., as a result of being arrested). They are not a complete protection against hiring a potential abuser or criminal.
- Fingerprint background checks are recommended as the best way to confirm an applicant's identity.
- Some states have defined disqualifiers that agencies have to follow. For example, a licensing authority such as the department of children services may have to approve hires by reviewing their criminal history checks and comparing the information against a list of felonies and misdemeanors that are unacceptable for child-serving positions. Agencies must seek approval prior to a person starting.

### Common Findings of Criminal Background Checks

According to Automatic Data Processing, Inc.'s Annual Screening Index of all background checks the firm performed in 2007:

- ✘ approximately 10 percent of background checks came back with at least one hit;
- ✘ more than one in three candidates have violations or convictions on their driving record;
- ✘ nearly 45 percent of job candidates who were checked for credit have at least one mark on their credit reports;
- ✘ one out of 20 (5 percent) of the candidate reference verifications that contained information differences also had at least one negative remark about the candidate; and
- ✘ of the 1.7 million criminal record checks, 6 percent of candidates showed a criminal record during the past seven years.

- **Job preview.** The purpose of a job preview is to give an applicant an opportunity to get a better sense of the actual demands of a position and the working environment. A preview may involve a tour, interviews with incumbents in the position, or a job simulation.
  - Not all employers include a job preview.
  - A preview can enable the organization and applicant to develop a better sense of whether the applicant will fit with the organization.
  - Previews may occur at any time in the process, but because they can be time consuming and disruptive, they are often reserved for only the final candidates.
  - Because the applicant is in the workplace for the preview, employers should be clear about what they can and cannot do and any requirements for liability or compensation.
  
- **Contingent offer.** Some screening can only be conducted after a contingent offer has been made to a candidate. A contingent offer is often extended when the employer requires a physical exam because a physical exam cannot be required until after an offer is made. The offer is usually “contingent” on successfully completing the final screening and steps of the application process.
  - The “contingencies” should be clearly communicated to the applicant.
  - Employers should be clear that all contingencies are an allowable basis to withdraw an offer. For example, a physical exam may reveal a disability, but unless employers can show that the person cannot do the essential functions of the position, they may risk violating the Americans with Disability Act if they elect not to hire a person because of the disability.
  
- **Drug testing.** Employers are generally allowed to screen applicants prior to employment for the use of illegal drugs or the illegal use of drugs. Some employers may be required to perform the screening because of contracts or licensing.

- Employers should have a written policy on drug testing, an applicant's rights in this regard, and how the results (e.g., a false positive or dilute negative) will be interpreted.
- State laws on drug screening procedures and applicants' rights vary.
- If you receive federal government contracts that total more than \$25,000, you may be required to comply with the Drug-Free Workplace Act.

- **Psychological, cognitive, job fit, or personality assessments.**

Testing is not conducted by all employers because of the risk of litigation and concerns about the cost and the true predictive value of testing.

Written tests may be administered at the time of the application, or more extensive tests may be reserved for only final candidates.

- Tests are used to learn more about motivation, personality fit, or cognitive function.
- Employers have to determine what test results are predictive of an applicant's success in the position, and this may require investment in studying the position, past incumbents, and the organization.
- A common error employers make is to disregard test results based on positive interviews or other aspects of the process. This creates a significant risk of litigation from applicants denied on the basis of a test.
- In addition to demonstrating that whatever testing is used is valid (actually tests what it claims it will test) and reliable (comes up with the same results each time), an employer must show that what is being tested is job related.

- **Physical examinations.** Not all employers use a physical exam in the process. An exam may only be required if it is job related, consistent with business necessity and only after an offer is extended.

- Some youth-serving organizations are required to conduct a physical exam by law, for example, to determine whether an applicant has tuberculosis.

- The purpose of a physical exam and how the results are to be used constitute an area of legal risk.
- When exams are conducted, it is to determine an applicant's ability to perform the essential functions of the job and to confirm that he or she is free of communicable diseases that could put your service recipients and other staff at risk.
- Health information collected during the exam should only be shared with staff who need to know, and the results must otherwise be kept confidential and separate from personnel files.
- How results are shared and stored is subject to the Americans with Disability Act and the Health Insurance Portability and Accountability Act.
- Employers must be careful in using the results of an exam to ensure they do not violate an employee's rights.

**Be careful when communicating with applicants that they have not been selected before you have made a final selection of another candidate, unless they fail to meet the minimum required qualifications or fail a preliminary screening/testing. Such communication could lead to discrimination claims.**

### **How to Communicate with Applicants**

It is good practice to communicate with applicants throughout the process. Depending on the volume of responses and cost involved, you may want to consider responding to each submission to confirm the receipt of a resume and notify an applicant when he or she can expect to hear from you. (With e-mail resumes, this type of communication could be set up as an "auto reply.")

For applicants who progress through the process, you should provide communication letting them know where they are in the process and when a decision will be made. Candidates not selected should be told so, though it is not necessary to provide specific reasons. All candidates should be thanked for their interest.

## 5.4 Hiring

After the screening and application process, the employer must review all data gathered and make a decision on which candidate best fits the needs of the organization. The decision should be based on the totality of information collected and include feedback from each participant. The criteria established in the position description should be followed, because hiring a candidate who clearly does not meet the criteria over a candidate who does meet the criteria opens the organization to allegations of discrimination.

Once a candidate has been selected and has completed all of the screening requirements, a formal offer may be extended. (If a contingent offer is made, it will also follow these basic principles.)

Following are key points in making an offer.

- **Negotiation of base pay and benefits.** Prior to extending an offer, the employer should know the hiring salary range, what benefits are provided, and what aspects of the total rewards package are open for negotiation. Applicants will normally want the high end of any salary range, so the employer should be prepared to provide the rationale for the offer.
- **Per pay period.** Consider stating compensation in terms of a per-pay period figure (hourly, biweekly, monthly, etc.) to avoid implied contracts. There have been instances where employees have sued for wages under the guise that their offer letter listed an annual figure and therefore implied a contract for a specific duration.
- **Disclaimers.** Offers should contain appropriate disclaimers to protect at-will employment status, and persons discussing the offer should be trained in this status and what not to say.
- **Authority.** Organization policy should identify who can make an official offer and in what format an offer must be made (e.g., only a written offer from the chief executive officer is official).

**Be honest about the position, the expectations, and the status of the organization. A sure way to lose new hires is to have created false expectations about the organization and the work they will be doing.**

- **In writing.** Official offers should be in writing and should contain at least the position title, wage and benefits, Fair Labor Standards Act employment status, at-will policy, any contingencies, and start date. The employer should request that a signed copy of the letter be returned by the applicant to confirm acceptance of the position.

## Resources

Immigration and Naturalization Service

<http://www.ins.usdoj.gov>

Internal Revenue Service, Department of Treasury

<http://www.irs.gov>

*EEOC Compliance Manual*

<http://www.eeoc.gov/policy/docs/race-color.html>

“Employment Background Checks: A Guide for Small Business Owners”

<http://www.privacyrights.org/fs/fs16b-smallbus.htm>

### **Samples of state preemployment inquiry guides:**

Maine

[http://www.maine.gov/mhrc/publications/pre-employment\\_inquiry\\_guide.html](http://www.maine.gov/mhrc/publications/pre-employment_inquiry_guide.html)

Missouri

<http://www.dolir.mo.gov/HR/interview.htm>

New York

<http://www.dhr.state.ny.us/pdf/employment.pdf>

Washington

[http://www.chr.wsu.edu/Content/Documents/chr/print\\_interview\\_techniques.pdf](http://www.chr.wsu.edu/Content/Documents/chr/print_interview_techniques.pdf)



# Chapter 6

## Compensation and Benefits

- 6.1 Compensation and Total Rewards
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- 6.4 Voluntary Benefits
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A common adage related to nonprofit organizations is that “it is not about the money.” It is true that people are not attracted to the field because they want to become rich. However, as an employer, you have a moral obligation to treat staff fairly. Moreover, if you want to keep staff, you have to provide wages that are competitive and benefits that meet their needs. You also have to comply with regulations mandating certain benefits and prescribing the way benefits are administered.

### 6.1 Compensation and Total Rewards

HR professionals speak in terms of “total rewards”—all forms of financial and nonfinancial returns that an employee receives from an employer. This includes direct compensation in the forms of base pay, incentives, and cash awards, and indirect compensation in the forms of mandated benefits and different employer-provided fringe benefits.

Key considerations when setting up your “total rewards” system are these.

**Finding, getting the most from, and retaining the best staff requires an approach that considers total rewards and good supervision, not just pay.**

- **Your organization’s mission and strategy.** What are your goals and what kind of talent do you need to attract to meet those goals? Would certain benefits be inappropriate given your mission and the population you serve (e.g., Would large cash bonuses be perceived negatively?)?
- **Your organization’s culture.** Is the organization there to take care of employees, so all employees are entitled to benefits, or are employees meant to be contributors to the company so benefits are tied to performance?
- **Flexibility.** Within the bounds of the law and your budget, can you appropriately and fairly provide different benefits to different employees based on what they want or most need? Can you support a “cafeteria” approach, or will you offer one set of benefits to everyone?

- **Workforce.** Is your workforce made up of experienced professionals (who could command higher wages and value certain benefits) or entry-level workers (who may accept lower salaries but want flexibility and growth options)? Do you regularly survey employees to identify what rewards are most important to them (e.g., Would free or lower-cost day care be more important than lower medical premiums or a bonus program?)?
- **External equity.** In for-profit organizations, external equity means making sure wage levels are competitive and attract top talent. Some organizations set wages for key positions at the highest rates. In non-profit organizations, external equity has the added dimension of public perception of wages that are seen to be extravagant.
- **Internal equity.** Internal equity goes beyond complying with legal notions of equal pay for work. Employees will react negatively if they do not perceive basic fairness at work in the compensation and benefits provided. You do not have to pay everyone the same, but you do need to have valid reasons for any differences (e.g., education, experience, and performance). Where contractors, interns, or individuals from staffing agencies are used, you also need to ensure there is equity in what they are paid versus what employees are paid.
- **Nonemployee compensation.** Persons receiving any payment as nonemployees must be properly classified as nonemployees. Payments to contractors or volunteers have to be properly reviewed to ensure they are appropriate, and they may have to be reported to the Internal Revenue Service.

Your rewards system is a key element in the successful recruitment and retention of qualified employees. Failure to offer compensation and benefits that are at least on a par with your competition, or failure to tailor your rewards to your ideal candidate, may reduce your pool of qualified applicants.

Multiple studies indicate that turnover is high in youth-serving nonprofits. In a recent [OpportunityKnocks.org](https://www.opportunityknocks.org) study, 20 percent of respondents cited “a competitive job offer” as the leading reason for leaving a job.<sup>5</sup>

<sup>5</sup> [OpportunityKnocks.org](https://www.opportunityknocks.org), “Nonprofit Retention and Vacancy Report” (Atlanta, Ga.: [OpportunityKnocks.org](https://www.opportunityknocks.org), 2008).

Wages comprise a significant portion of nonprofit organizations' budget, and these organizations often have limited ability to raise wages. Yet they can consider offering other, lower-cost benefits that may be meaningful to employees, such as a flexible schedule, opportunities for professional growth, deferred compensation, cafeteria plans, or increased time off. They can also collaborate with other organizations to create shared positions, where the combined wage and benefits package is more competitive than what could be offered if only one organization employed the person.

## 6.2 Issues with Paying People

Paying people can be complicated. Beyond determining a fair wage, organizations must deal with issues such as taxes; proper classification for the purposes of offering and calculating overtime pay; allowable deductions; and garnishments.

Not paying people or payroll taxes appropriately entails risk, so organizations must ensure they hire a well-qualified person to administer payroll or contract for a qualified payroll provider. Key considerations in legally and fairly paying staff include these.

- **Exempt versus nonexempt.** This distinction refers to whether a position is exempt from the minimum wage and overtime provisions of the Fair Labor Standards Act or state wage and hour laws. Organizations covered by federal or state wage and hour laws have to properly classify and pay nonexempt employees, or they face liability for back wages.
  - To be considered exempt, generally employees must satisfy one of these tests.
    - ♦ Executive: manage the enterprise, a department, or a subdivision; regularly direct the work of at least two or more other full-time employees; and have the authority to hire or fire or have their opinion given particular weight in hiring and firing decisions.
    - ♦ Administrative: primary duty must be the performance of office or nonmanual work directly related to management

or general business operations and includes the exercise of discretion and independent judgment with respect to matters of significance. This does not cover all administrative support positions in the sense that an organization should not be compensating receptionists, administrative assistants, and the like as exempt employees.

- ♦ Professional: requires a degree, essentially. Primary duty must be the performance of work requiring advanced knowledge, predominantly intellectual in character, and requiring the consistent exercise of discretion and judgment; must be in a field of science or learning; and must be customarily acquired by a prolonged course of specialized intellectual instruction.
- Under the Fair Labor Standards Act, exempt employees must be paid at least \$455 per week on a salaried basis. Nonexempt employees must be paid at least the minimum wage for the first 40 hours worked and one and one-half times their regular rate for all hours worked above 40 in a week.
- The federal minimum wage was set at \$6.55 per hour effective July 24, 2008, and it will increase to \$7.25 per hour effective July 24, 2009. Many states, and some cities, have adopted higher minimum wages with provisions for annual increases.
- **Compensable time.** With nonexempt, hourly paid employees, you need to know what counts as compensable time—time for which an employee must be paid. Does your organization have policies to address times when an employee might be on call, on a break, or commuting? Failure to pay employees creates liability under federal and state laws governing wages.
- **Permitted to work.** If an employee works and reports hours, even if he or she did not have proper authorization to work, the employer must pay the employee. An employer can discipline the employee for not following policies, but the employer must still pay the employee.
- **Improper deductions.** Taking improper deductions from the salary of an exempt employee (e.g., docking pay for a partial day missed) could jeopardize the employee's exempt status and that of all other similarly classified employees. Improperly administering court-ordered garnish-

ments can also create problems. Your organization should have policies addressing deductions.

- **Bonuses, cash gifts, or awards.** These are usually subject to payroll taxes and must be reported. Bonus pay may be taxed at a higher rate than regular wages. Before deciding to give employees any cash incentive, be sure you understand the tax consequences.
- **Special pay, such as incentive pay, piece rates, stock plans, shift differentials, or profit sharing.** In small nonprofit organizations, practices such as these generally do not exist. However, if your organization elects to use these approaches, you should investigate how to properly administer them in compliance with tax and labor laws.
- **Internal equity.** Are similar positions paid similar amounts? (This principle is required under the Equal Pay Act for men and women performing similar jobs.) Does the compensation for positions with greater responsibility or authority reflect their higher level of authority?
- **Perceived inequity.** This may occur when the rationale for paying positions differently is not clear, and an employee believes his or her pay is not fair compared with that of another employee.
- **Externally competitive.** Are compensation levels in line with what is paid in the market for similar positions?
- **What your budget will allow.** For a nonprofit organization, this consideration often trumps all others. A risk exists that employees hired during good budget years could be paid at higher rates than those hired during poor budget years.
- **Direct deposit.** Direct deposit can save employers on the cost of payroll, because this strategy is usually cheaper than printing and distributing checks. However, state laws may not allow your organization to require direct deposit.
- **Pay increases.** Organizations should establish policies regarding pay increases. Key considerations are these.
  - On what basis will increases be granted? Common criteria used are performance or merit, cost of living, increases in the market, tenure,

increased job responsibilities (new or expanded compensable factors), and qualifications (completion of a degree or certificate program).

- How often will increases be granted and when are they effective? Some organizations only grant increases at the start of the fiscal year and do not allow for back pay. Others grant increases as employees meet the established criteria.
- How will the amount of increase be determined? Some organizations establish a flat base percentage (e.g., a cost-of-living adjustment) and provide a maximum additional percentage that is granted based on meeting criteria.
- Are increases permanent? Some organizations provide differential pay or one-time increases related to performance or to recognize an employee working different hours (shift premium) or assuming different duties.
- **Pay compression.** This occurs when the compensation of longer-term employees fails to keep pace with that of new hires, because starting salaries increase at a faster pace than normal raises.
- **Reaching the top of a pay grade.** When employees reach the top of a pay grade, they typically become ineligible for future increases. This could lead to negative feelings. For this reason, regular reviews of pay grades and of employee opportunities to move from one grade to another through promotion or assumption of additional duties are good practices.

Organization leaders should take three steps to establish a compensation system: evaluate jobs to determine their worth in the organization, review external information from salary surveys, and establish pay ranges.

**1 Evaluate jobs to determine their worth in the organization.** The simplest approach for management in a small organization is to compare positions and rank them from highest to lowest. While easy, it may not always appear fair or clear why one job is ranked higher than another. A more complicated; quantitative; and, therefore, defensible method that could be used is a point factor system that identifies compensable factors and ranks jobs based on these. The federal government uses the Factor Evaluation System, and another well-known system is the Hay Plan.

**2 Review external information from salary surveys.** With the advent of the Internet, collecting salary information from comparable organizations has become much easier. Some potential sources to gather information:

- The Child Welfare League of America and the Alliance for Children and Families publish annual salary surveys of youth-serving and human services organizations.
- *NonProfit Times* and Opportunity Knocks publish salary surveys of the nonprofit market.
- The Bureau of Labor Statistics publishes salary data by industry and by region.
- In addition to national and regional surveys, you may also want to collect information from competitors in your local area. In addition to calling competitors, you can look at information available through published Form 990s or salary surveys conducted by your state labor department or nonprofit associations in your state.

In the end, some nonprofit organizations will not be able to match the market and may need to think of creative ways to still attract top talent (e.g., rich and/or flexible benefits).

**The 2009 version of Form 990 focuses attention on the issue of compensation. The form asks whether the organization has conducted an annual compensation review for the executive director and other key employees that included, for example, a review by independent persons and the use of comparable salary data.**

- 3 Establish pay ranges.** Larger organizations may establish pay grades (groupings of positions) and pay ranges (maximum and minimum compensation) for each grade. Smaller organizations, with fewer positions, will normally establish a range for each position. New hires are typically paid within the range based on experience. Because of concerns such as pay compression and long-term employees reaching the top of a pay range, organizations need to periodically review their ranges and adjust compensation accordingly.

## 6.3 Mandated Benefits

**The American Recovery and Reinvestment Act of 2009 made changes to government-mandated benefits. Some of these changes are permanent, while others are only temporary. You should consult with an expert or the regulatory body responsible for administering the benefit to make sure you understand current requirements.**

The government requires certain “benefits,” so they are often referred to as taxes. Not every organization has to provide every one of these benefits, but if the law applies to your organization, you face significant penalties if you do not.

The mandated benefits include these.

- **Social Security.** Most employers are required to pay Social Security taxes; exceptions are made for clergy and some public employees. The revenue provides retirement, disability, death, and survivors benefits based on earnings and contributions to Social Security. The tax is set as a percentage of salary, up to an annual maximum (for 2009 the rate is 6.20 percent; it applies to earnings up to \$106,800). Both the employer and employee pay Social Security taxes, and the employer is mandated to withhold the tax from employee wages.
- **Medicare.** A component of Social Security, this benefit also applies to all employers. The tax is set as a percentage of wages and is taken on all earnings, with no annual maximum (in 2009 the rate is 1.45 percent). Both the employer and employee pay, and the employer is mandated to withhold the tax from employee wages. Medicare has three parts: Part A provides hospital insurance; Part B provides optional supplemental medical insurance; and Part D, added in 2003, provides a prescription drug benefit.



- Medicare is not based on earnings, and all individuals reaching age 65 are eligible, whether or not they are retired.
- For persons ages 65 and older participating in an employer's group health plan, the employer's plan provides primary coverage.
- **Workers' Compensation.** This is a state-administered insurance program that applies to all employers, with the employer paying the full cost.
  - Regulations vary by state. Some states allow employers to set up their own self-funded plans or to purchase private insurance. Some states require employers to participate in a state fund.
  - Workers' compensation rates are generally based on the type of job and are adjusted based on the employer's experience rating (claims history).
  - Workers' compensation will pay benefits for work-related injuries that include permanent or temporary disability, survivor benefits, medical expenses, and rehabilitation.
  - The employer assumes all the risk, and the insurance is provided on a no-fault basis. (This means it does not matter who is to blame; employees are eligible if the injury is work related.)
- **Unemployment Insurance.** Nonprofit organizations are exempt from federal unemployment insurance taxes, and they may opt out of state unemployment insurance programs (see Considerations in Opting Out of Paying Unemployment Taxes). Unemployment insurance was established as part of the Social Security Act of 1935 to provide a subsistence income to persons between periods of employment.
  - It is administered at the state level, and the laws vary by state.
  - If a nonprofit organization opts out of paying state unemployment taxes, it becomes a "reimbursable employer." Reimbursable employers do not pay the payroll tax, but instead reimburse the state for any claims paid.
  - Some states do not tax employers, while others also impose a tax on employees.

- The state rates are set using an experience rating, which is based on the number of employees terminated, so the actual state unemployment tax paid can vary from 1 percent to 10 percent of taxable wages.
- Benefits are paid to unemployed persons based on a percentage of earnings prior to becoming unemployed, up to a maximum limit, and upon meeting eligibility criteria. The percentage, limit, and eligibility criteria vary by state.
- Generally, workers eligible for unemployment insurance benefits are those who are out of work (or have reduced hours) through no fault of their own, who have not have refused suitable work, and who are available for and seeking employment.

### Considerations in Opting Out of Paying Unemployment Taxes

Opting out of paying unemployment taxes may not be a good strategy for your organization. The potential risk of opting out is that you must reimburse the state, usually dollar for dollar for base benefits and a pro-rated amount for extended benefits, for all benefits paid by the state. If your organization terminates an employee who collects benefits, it could cost more than paying the insurance would have cost and could require significant lump-sum payments.

Organizations need to make a risk assessment and weigh carefully whether to participate in unemployment insurance. Consider your organization's likely level of terminations, potential cost savings from not paying, and the effects on your organization if it has to pay multiple claims.

- **Family and Medical Leave.** This is not a payroll tax, but a mandated leave benefit created by the 1993 Family and Medical Leave Act (FMLA). Employers with 50 or more full- or part-time employees within 75 miles of a given workplace must comply.
  - The act provides that employees may take up to 12 weeks of unpaid leave during any 12-month period:
    - ◆ for the birth and care of the newborn child of the employee;
    - ◆ for placement with the employee of a son or daughter for adoption or foster care;

- ◊ to take medical leave when the employee is unable to work because of a serious health condition; or
- ◊ to care for an immediate family member (spouse, child, or parent) with a serious health condition.
- At the end of an FMLA leave, the employer must reinstate the employee to the same or a similar job as the employee held prior to the leave.
- The act does not require the leave to be paid, but it does allow employers to require family and medical leave to be taken concurrent with any paid leave to which the employee is entitled.
- Employers must continue health benefits during FMLA leave, with the employee paying his or her portion.
- Revisions to FMLA in 2009 provided new provisions for military leave.
- **Consolidated Omnibus Budget Reconciliation Act of 1985.** The Consolidated Omnibus Budget Reconciliation Act (COBRA) requires covered employers to allow for the continuation of employee health benefits for any employee or covered dependent who would lose coverage due to termination, divorce, death of the employee, loss of eligibility due to a reduction in work hours, or loss of eligibility for a dependent child (e.g., too old to qualify as a dependent). It applies to employers who provide health benefits and employ 20 or more employees, though exceptions exist for church plans.
  - There is an exception for loss of employment due to gross misconduct.
  - The employee is responsible for paying 100 percent of the premium for the continuation. (Note: The American Recovery and Reinvestment Act of 2009 (ARRA) provided for a reduction in the premium through a tax credit)
  - The duration of the continuation generally ranges from 18 to 36 months, depending on the reason for loss of coverage.

- Coverage normally ends when the employee is eligible for coverage under another plan, gains access to Medicare, or voluntarily terminates or stops paying the premium.

## 6.4 Voluntary Benefits

Voluntary or fringe benefits are those benefits provided by an employer that are not required by law. Key considerations with respect to voluntary benefits are these.

- While not mandated, workers expect these benefits. The absence of benefits or the offering of poorly designed benefit plans may create challenges in recruiting and retaining the best qualified staff.
- The benefits offered should be responsive to your workforce. Employee surveys and regular evaluation of utilization are good ways to measure the attractiveness and effectiveness of benefits offered.
- Benefits, just like wages, should be equitable, nondiscriminatory in terms of eligibility, and externally competitive. Not every employee has to have the same benefits, but valid and legal reasons must exist for any differences.
- Benefits do not have to be expensive to have a positive effect on the workforce. For example, flexible scheduling may cost an organization little or nothing to offer, but it may mean a great deal to an employee.
- Your organization should document its benefit plans. Many fringe benefit plans are required to have a plan document under Internal Revenue Service regulations to qualify as tax exempt. Documenting the plan also helps protect against claims of discriminatory treatment in terms of benefits or eligibility.
- In addition to complying with the law, you should evaluate the cost and potential benefit to the organization of extending eligibility to the largest number of employees.
- The organization and employees responsible for administering certain plans may have fiduciary responsibilities, and plans may have disclosure

and notification rules that must be followed. These include requirements to provide plan summaries, notices of changes, or any denial of a claim. Organizations should obtain guidance from reputable sources to ensure they comply with these requirements.

Some benefits lower your costs because they can be excluded from wages and reduce employee taxable income. This can reduce the organization's payroll taxes. Examples include deferred compensation plans such as 401K, cafeteria plans, or commuter assistance plans. These plans must comply with Internal Revenue Service (IRS) regulations to get the tax benefits. See IRS Publication 15-B, *Employer's Tax Guide to Fringe Benefits* at <http://www.irs.gov/pub/irs-pdf/p15b.pdf>.

Because of the special tax status many benefits enjoy, benefits can be worth more to your employees than they cost you to provide. Once benefits are offered, IRS regulations and many laws, such as the Consolidated Omnibus Budget Reconciliation Act (COBRA) or the Employee Retirement Income Security Act (ERISA), apply and must be adhered to.

Common voluntary fringe benefits include the following.

**Health, dental, and vision care.** Employer-provided health insurance is a tax-free benefit to employees. Plans usually provide coverage for eligible employees and often qualified dependents. Employers may pay the full cost of the premium; may split the premium with employees; may pay only employee premiums (and not for dependents); or may provide a voluntary plan with 100 percent of the premium paid by employees, which is common for dental and vision benefits. Most employers purchase coverage from a health insurance company through a broker. Because of privacy issues and the administrative complexity, most employers rely on the insurance provider to administer claims. Employee-paid portions of the premium can be deducted from wages on a pretax basis, reducing payroll taxes for the employee and employer. Group plans offer employees lower premiums and potentially fewer insurability limitations than individual plans. Some plans include wellness programs that contribute to employee productivity.

**Life insurance.** Employers can provide group life insurance as an employer-paid or employee-paid benefit. Most employers offer term life coverage,

which provides a fixed benefit at the time of death. In the event of the death of the insured, life insurance provides some financial security to the insured's beneficiaries. Typically, an organization will use a broker to obtain a policy from an insurance provider. In 2009, employers can provide up to \$50,000 in life insurance as a tax-free benefit. Premiums paid for amounts of more than \$50,000 are subject to payroll taxes.

**Voluntary additional insurance.** These are employee-paid plans that supplement employer-paid benefits. Examples include life insurance, supplemental hospitalization, or a cancer plan. The benefit of purchasing such insurance through the employer is the potential for lower group rates and guaranteed issue. The employer typically agrees to make payroll deductions, submit payments to the insurer, and handle enrollments, but the employer pays no fees or premium.

**Short-term and long-term disability insurance.** These are insurance plans that provide income replacement in the event of sickness or injury that prevents a person from working. Plans usually replace a portion of wages, and they are subject to time restraints covering when a disabled worker is eligible for benefits and when benefits expire. These plans are separate from workers' compensation, which covers only work-related injuries. Typically, an organization will use a broker to obtain a policy from an insurance provider. Some states require short-term disability insurance that is paid through a payroll tax that may be employer- or employee-paid, depending on the state's regulations.

**Employee Assistance Program.** Some Employee Assistance Programs (EAPs) are bundled with group health or life insurance benefits, though stand-alone products are also available from insurance companies. EAPs are intended to help employees deal with personal problems that could adversely affect their health, well-being, and work performance. They generally include assessment, short-term counseling, and referral services for employees and their household members. Some plans are telephone based, while others provide office visits. EAPs are provided on a tax-free basis. The benefit to employees is additional support in times of difficulty. For employers, the plans help employees deal with stress and life issues that could otherwise cause them to miss work or hamper performance. EAPs can be expensive and, depending on the mental health benefits provided in the group health plan, they may not be needed.

**Section 125 Flex or Cafeteria Plan.** These plans draw their name from the section of the IRS code that established them. Employees must be given a choice between receiving compensation or one or more welfare benefits. These plans have up to three possible components:

- a premium-only plan that allows employee-paid health premiums to be withheld from wages on a pretax basis;
- health care flexible spending accounts that allow employees to have money withheld from wages on a pretax basis to reimburse them for eligible health care expenses; and
- dependent care assistance plans that also allow employees to have money withheld from their wages on a pretax basis to reimburse them for eligible work-related child care expenses.

The regulations for these plans changed effective January 1, 2009, with stricter requirements for written plan documents. The most cost-effective way to administer a small plan may be to self-administer. However, to address privacy concerns and ensure compliance with IRS regulations, some employers hire third-party administrators. These plans provide a tax benefit to both employees and employers because they reduce the amount of taxable wages. Employers assume some risk under the plans for losses related to reimbursing employee expenses that are not recovered from an employee due to termination.

**Vacation and sick days and paid time off.** These plans provide employees with paid time off (PTO) from work. Traditional vacation plans allow the time available to be used only for vacation or personal reasons and typically have limits on use and carry over. Traditional sick day plans allow employees a set number of days for use only in the event of illness, and a doctor's note may be required. Unused sick days typically are not paid out to employees when they terminate. PTO plans combine the traditional vacation and sick time plans and allow employees to use the time for any need. PTO plans usually have accrual limits. State laws apply to the accrual and pay out of vacation and PTO time; some states forbid "use it or lose it" policies and some require any accrued time to be paid at termination.

PTO or vacation time is normally tracked through the payroll system. Supervisors typically monitor and approve the use of any PTO or vacation time by employees. Compensation earned under vacation and sick or PTO plans is subject to taxes as wages. The benefit of both plans to employees is the ability to take time away from work and still receive compensation. PTO plans provide greater flexibility to the employee in terms of use of time, and they reduce the need for employees to fake illness to use sick days. For employers, the benefits of PTO and vacation and sick time plans include reducing burnout and not having employees come to work when they are sick and contagious. PTO plans are administratively easier than maintaining separate vacation and sick time policies, but they do expose employers to the possibility of having to pay out more time than they would have under the separate plans. Employees may use their leave and end up with no PTO for long-term illness. Employees who accumulate a lot of leave may affect the balance sheet with a large leave payable. Employees who are rarely ill may use more leave than under a traditional system.

**Compensatory time, or “comp time,” is the practice of giving an employee paid time off for working extra hours in a week. This practice is generally not legal, and it runs afoul of the Fair Labor Standards Act when employers award comp time instead of paying overtime.**

**Holidays.** Many organizations establish holidays when the business will be closed and the employees will be paid for the day. Typically, these coincide with major national or religious holidays. Because not all employees will want to celebrate the same religious holidays, organizations typically include an accommodation to allow employees to switch a holiday or designate

floating holidays that the employee can choose when to use. Unlike vacation time, holidays do not typically accrue and are not paid out when an employee terminates. Holidays are normally tracked through the payroll system, with supervisors assuming responsibility for monitoring the use of any floating holidays. Compensation earned under a holiday policy is subject to taxes as earned wages. Paid holidays are so expected that it would negatively affect the workforce if employers elected not to provide them. Employers need to be mindful they do not discriminate against employees’ religious beliefs by not allowing them to celebrate their own important religious holidays.

**Funeral days or bereavement leave.** This is time off with pay provided for the death of a member of the employee’s immediate or even extended family. Some employers provide unpaid bereavement leave, while others provide



paid leave in addition to time allowed under their vacation or PTO policies. Bereavement leave is usually tracked through the payroll system, though supervisors typically are responsible for granting permission. Employers may require some proof of the relationship and death. Compensation paid under a bereavement leave policy is subject to taxes as wages earned. Providing paid bereavement leave is a compassionate gesture to an employee at a time of personal loss.

**Deferred compensation plan.** Deferred compensation plans typically refer to retirement savings plans. The most common of these offered by nonprofit organizations are 401(k) and 403(b) plans, which take their names from the sections of the IRS code establishing them. Section 403(b) plans used to be the only option available to nonprofit organizations, but since nonprofit organizations have been allowed to offer 401(k) plans, many more have opted to do so. These retirement plans provide options for employees to receive income later. Under a 401(k) or 403(b) plan, employees defer a portion of their income on a pretax basis into the savings plan. An employer may provide matching or discretionary contributions to the plan (i.e., a defined contribution), sometimes based on employee tenure.

Other deferred compensation savings plan options available include certain IRA arrangements and 529 higher education savings plans. Effective January 1, 2009, the IRS adopted new regulations for 403(b) plans that, in effect, make them operate more like 401(k) plans. Employers may establish their own plan and handle all administrative and fiduciary responsibilities. Due to the complexity and possible liability involved, it is more common for employers to seek out a plan administrator for their deferred compensation offerings. Payroll usually processes all withholdings and requests disbursements of employee funds to the plan. Because contributions are made on a pretax basis, the employer and employee benefit from lower payroll taxes. Employees receive benefits in the form of tax deferred savings that will be available for use in retirement or, under some plans, for education expenses or home purchases. Employers must be certain that plans are compliant and contributions are made in the required timeframe, or they could face serious liability.

**Autos or travel allowances.** Employers may provide a vehicle or a cash allowance for transportation to employees who require transportation for

work. Employers can administer this benefit in house, though they can work with an auto dealership to secure a leasing arrangement. The IRS has specific guidelines and regulations for determining what constitutes an allowed fringe benefit, for valuing an auto or auto use, and for declaring any benefits received above that amount as income.

Commuter savings plans. Under a commuter savings plan, employers can withhold funds on a pretax basis from employees' wages to reimburse them for expenses related to:

- a ride in a commuter highway vehicle between an employee's home and workplace;
- qualified parking; and
- qualified bicycle commuting.

Typically, these plans are administered through payroll deductions and reimbursement of qualified expenses. Third-party providers can be hired to administer your plan for a fee per participant. Because the funds for the commuter savings plan are set aside on a pretax basis, the employer and employee benefit from reduced payroll taxes.

**Unpaid leave.** Besides the leave required by the Family and Medical Leave Act, employers may offer employees the option to take unpaid leave to deal with personal or family issues. The leave request is typically handled by the supervisor. The benefit for employees is an ability to deal with a situation and not lose their job. For the employer, it provides a means to retain an employee who might otherwise be forced to resign. Issues that affect unpaid leave are the employee's eligibility to continue any employer benefits while on leave and coverage of the employee's duties while he or she is absent.

**Child care or child care assistance** (other than through a Section 125 cafeteria plan). Employers may provide assistance to employees in the form of on-site day care or referrals to day care for qualifying dependents. Employers self-administer this benefit. The cost to establish and run on-site day care makes this option difficult for small employers. Such assistance can be important to employees with dependents.

**Cell phones.** Employers may provide a cell phone for work use by an employee, or they may agree to reimburse employees for business phone

use. A company-owned phone that is used for personal calls could be subject to taxes under IRS regulations. Reimbursing employees for business use of their phone is less problematic. Providing cell phones enables greater flexibility and contact with employees.

**Alternative or flexible scheduling and job sharing.** These approaches afford employees greater freedom in when they work, which can be very important to employees with dependents or a desire for more days off in a week. Examples of flexible or alternative scheduling include flextime (employee works a set number of hours in a week and employee determines when), and a compressed work week (employee works longer days and takes more days off). Job sharing is similar, but it typically involves two part-time employees sharing one full-time position.

The administrative challenges in alternative or flex schedules include tracking employee work time and determining what positions can be effective with a flexible schedule. In a job sharing arrangement, the employees must have good communication and shared responsibility. Such approaches should not have tax consequences, because employees are receiving their normal wages. State wage and hour laws sometimes require the payment of overtime on a daily basis instead of weekly, which could make a compressed week more costly. However, with job sharing, the employer can save money through reduced overtime exposure and usually pays fewer benefits to part-time employees.

**Recognition or achievement awards.** These awards are given to provide incentives and recognize performance. Examples include holiday, performance, time-in-service, or employee-of-the-month awards. These awards are usually administered in house. Employers should be certain the recognition programs are fair and do not discriminate. Cash bonuses are subject to taxes, at least as wages but possibly at a higher rate for bonuses. Employers should consider other forms of recognition that may not be subject to payroll taxes.

**Health savings account.** A health savings account (HSA) is a special account owned by an individual used to pay for current and future medical expenses. Employers and employees can contribute funds to an HSA tax free. HSAs are only offered in conjunction with a high-deductible health plan. Employers that elect a high-deductible health plan to reduce premium

expenses may offer an HSA to offset the effect on employees of the high deductible and typically administer the HSA in conjunction with group health care benefits. Like a flexible spending account, employers may prefer to have a third party administer the health savings account because of privacy and compliance concerns. HSAs are governed by and must have written plans that comply with IRS regulations.

**Education assistance or tuition reimbursement.** Employers have two options to provide tax-free education benefits to employees. Job-related and required training can be reimbursed as a business expense. Course work and other education pursuits that are not job related can be reimbursed under a qualified education assistance plan, according to IRS guidelines. The benefit to employees is an opportunity to enhance their skills and grow personally and professionally. Employers get a more productive and skilled workforce.

## 6.5 How to Provide Cost-Effective Health Care Benefits

Health care benefits are among the most common and most expensive benefits an organization provides to employees. Selecting benefits and deciding how to provide these benefits in a cost-effective and legally compliant manner are important issues.

Small nonprofit organizations, like any small employer, face several challenges in securing cost-effective benefits, in part because their small size affords them very limited bargaining power. Many employers are controlling health insurance costs by lowering premiums and passing more of the costs to employees through these strategies.

- Using managed care networks—many employers use different forms of managed care (e.g., health maintenance organizations or preferred provider organizations) that limit employee options for service providers or require preapproval for treatments.
- Increasing deductibles—deductibles are the amounts that participants must pay before the plan benefit rates will apply.
- Increasing out-of-pocket limits—this limit is the total amount participants can spend out of their own pocket before the insurance will cover all costs.

- Increasing copayments—a copayment is the amount employees pay for service each time they obtain the service and may not count against their deductible or out-of-pocket limits.
- Limiting benefits—some employers are electing not to cover as much, or to limit total occurrence or lifetime benefits.
- Decreasing premium contributions—some employers are decreasing the proportion of the premium they pay for an employee and/or decreasing or eliminating the amounts they pay for dependents.

These strategies help reduce employer health care costs, but they may have unintended effects. First, the cost-containment strategies can cause employees to become dissatisfied and leave. Second, the strategies may ultimately cause higher claims because only employees who absolutely need the coverage will stay in the plan or employees will put off regular wellness care because of cost and risk developing more severe health issues.

A few strategies enable small organizations to gain the flexibility and lower costs of a large group plan.

- **Professional employer organization.** A professional employer organization (PEO) can provide lower rates on mandated and voluntary benefits because your employees are employed by the PEO and become part of a larger group.
- **Associations or group purchasing.** Entering a joint purchasing agreement, or joining an existing state or national nonprofit association or chamber of commerce that offers members the benefit of group purchasing, can give your organization greater leverage to negotiate lower rates.

The proliferation of different types of plans and providers creates the need for a method to determine which options are best for an organization and its employees. One way to examine different plans is to use ask questions related to the three “C’s”: cost, coverage, and customer satisfaction.

**Cost.** No health insurance plan will cover every expense. To get a true idea of what your costs will be under each plan, you need to look at how much you will pay for your premium and other costs.

**Coverage.** In choosing a plan, you have to decide what is most important to your organization. All plans have trade-offs, and each increase in coverage or treatment options comes with a cost. Look at the services offered by each plan. What services are limited or not covered? Is there a good match between what is provided and what your employees value or need?

**Customer satisfaction.** You can obtain information on customer satisfaction several ways.

- Federal and state agencies regulate many managed care plans. State insurance commissions regulate indemnity plans. Be sure the plans have a good record with their regulating bodies.
- Ask the plan how it ensures good medical care. Does the plan review the qualifications of doctors before they are added to the plan? Plans are supposed to review the care that is given by their doctors and hospitals. How does the plan review its own services? Has it made changes to correct problems? How does the plan resolve member complaints?
- Ask the plan if it surveys its members about their health care experiences and obtain the results of at least one survey.
- Ask the plan for current members who can talk about their experiences with you.

## 6.6 How to Fully Cost a Position

From the discussion on benefits, it should be clear that all positions cost more than their base pay. For purposes of planning, budgeting, and writing grants, organizations need to know these additional costs. In some cases, granting agencies may prescribe an allowed percentage of wages for taxes and benefits. In those cases, it is important to know if your actual costs will exceed what the grant provides.

## Annual Cost of Employee Pay and Benefits Worksheet

(Tax rates reflect 2009 rates)

<p><b>Annualized Salary or Base Pay</b></p> <p>For hourly employees, to get a weekly rate multiply their regular hourly pay rate by the anticipated hours, up to 40 hours per week, and 1.5 times their regular rate for hours that will be worked above 40 hours in a week or 8 hours in a day (depending on state overtime laws). In California, you may also need to calculate double-time pay for hours worked above 48 hours in a week or 10 hours in a day. Multiply the weekly rate by the anticipated number of weeks to be worked to get an annualized base pay.</p>	<p>\$ _____</p>
<p><b>Adjustments to Base Pay (Optional)</b></p> <p>For a more accurate prediction of the cost of payroll taxes, you could reduce base pay by the anticipated amounts to be withheld on a pretax basis for retirement, health care, or other benefits.</p>	<p>\$ _____</p>
<p><b>Mandated Benefits</b></p> <p>Social Security (6.2% times the first \$106,800 of earnings)</p> <p>Medicare (1.45% times all annual earnings)</p> <p>Workers' Compensation (the rate for the position times annual earnings, adjusted by your experience rating, which can be found on your invoice or by calling your workers' comp insurance provider)</p> <p>Unemployment (if not a reimbursable employer, multiply your state rate times earnings up to the state limit)</p>	<p>\$ _____</p>
<p><b>Voluntary Benefits</b></p> <p>Based on what benefits for which the position will be eligible, determine the cost of voluntary benefits. For example, if the position is eligible for group health and a 3 percent 401(k) match, the computations would look like this:</p> <p>Health benefits (employer portion of monthly health premium times 12)</p> <p>401(k) match or discretionary (% of employer contribution times annual earnings)</p>	<p>\$ _____</p>
<p><b>Total Direct Compensation, Taxes, and Benefits</b></p> <p>(the sum of mandated and voluntary benefits and the annualized base pay)</p>	<p>\$ _____</p>

Keep in mind that additional costs are associated with most positions. As you add positions, be aware of whether you will reach the threshold to comply with additional federal or state employment laws. The additional administrative work and potential costs associated with this expansion should be considered when timing the expansion. Policies may need to be updated to reflect the new requirements.

Additional costs associated with a position can include these.

- Overhead associated with providing a workstation or tools. If it is a new position, there may be capital expenses to obtain necessary tools and supplies; for existing positions this would be the allocated portion of overhead for costs such as facilities or telephones.
- Recruiting, screening, and training. These are the direct costs associated with sourcing candidates, hiring, and orienting new hires.
- Supervisory time. Some management time must be dedicated to filling the position, training the person and to ongoing supervision.

## Resources

Employee Benefits Research Institute

<http://www.ebri.org/>

Employee Benefits Security Administration (administers ERISA)

<http://www.dol.gov/ebsa/>

*ACE Educational Assistance Policy Guide* of the American Council on Education <http://www.acenet.edu/AM/Template.cfm?Section=Search&section=PDF5&template=/CM/ContentDisplay.cfm&ContentFileID=3254>

Comparison of state unemployment laws <http://workforcesecurity.doleta.gov/unemploy/uilawcompar/2008/comparison2008.asp>

Contacts for state unemployment insurance tax information and assistance at <http://workforcesecurity.doleta.gov/unemploy/agencies.asp>

“Employment Taxes for Exempt Organizations”

<http://www.irs.gov/charities/article/0,,id=128716,00.html>

Family Medical Leave Act home page

<http://www.dol.gov/dol/esa/fmla.htm>

Home pages for the workers' compensation agencies of the 50 states and the District of Columbia

<http://www.comp.state.nc.us/ncic/pages/all50.htm>

IRS publication “15-B Employer’s Tax Guide to Fringe Benefits”

<http://www.irs.gov/pub/irs-pdf/p15b.pdf>

List of current state minimum wages and links to state departments of labor at <http://www.dol.gov/esa/minwage/america.htm>



# Chapter 7

## Onboarding and Orientation

- 7.1 Employee Files
- 7.2 New Hire Paperwork
- 7.3 Tips for Successful Onboarding and Orientation
- 7.4 Mentoring

Once you have found the best applicants and designed the best compensation and benefits system, you need to look at how you bring people into your organization and launch them successfully. Any new employees or volunteers, even if they have tremendous experience and skills, still need a solid orientation to enable them to feel welcome and to become effective in your organization.

### 7.1 Employee Files

One key aspect of starting a new employee is to set up his or her file. Organizations should have defined procedures for HR-related records. Legal concerns in this regard include these.

- Employee information must be kept protected and confidential.
- Medical information has to be treated in compliance with the Health Insurance Portability and Accountability Act, and it cannot be used in employment decisions.
- Access to employee personnel files is covered by state law.
- Employees' Form I-9 must be kept separate from personnel files because the form contains information on national origin.
- Payroll-related information, for example, wage garnishments, cannot be used in employment decisions, so it should be kept with payroll files not personnel files.

Beyond just HR, organizations need defined policies for recordkeeping and document retention, including electronic communications. See Appendix B for the recordkeeping requirements of key federal employment laws and Appendix C for a sample record retention policy.

Your auditor or an employment attorney should be consulted to help establish your recordkeeping and document retention policies. Many HR-related documents (e.g., payroll records and benefits contributions) may already be

maintained by the accounting department for your financial audit. Make sure you know who is maintaining records. In addition, make sure consistency is maintained with regard to confidentiality and retention across departments.

Personnel files should be kept in a secure, central location for each employee, separate from medical, payroll, and employment eligibility verification files. The general rule of thumb is only keep information in the personnel file that can legally be the basis for an employment-related decision.

Managers should not be given personnel files to maintain in their work areas. Such a policy may lead to a loss of control over contents and access.

A checklist is a good tool for reviewing the contents of personnel files. The files should contain:

- resume, application, references, and screening results;
- new hire paperwork, including benefit enrollments/waivers, W-4, and direct deposit forms;
- signed acknowledgements for employee handbook, position description, and other policies;
- training and orientation documentation, certifications, and licensures;
- performance reviews and documentation of disciplinary actions or coaching;
- documentation of any changes to personal or payroll information; and
- emergency contact information.

Keep the files in a secure, locked cabinet—ideally a fireproof cabinet—and maintain a log of who accesses the files and for what purpose. Remember that some documentation must be maintained for minimum periods to comply with the law (see Appendix B for the recordkeeping requirements of key federal employment laws).

## 7.2 New Hire Paperwork

An essential step to starting a new employee is completing the required paperwork. Following are some considerations.

- All paperwork can be gathered in a new employee packet and given to candidates prior to their first day of work. This gives them time to review the forms and even complete some of them.
- Candidates can be asked to bring in information they will need for the first day (e.g., identification for Form I-9 and information on their dependents for benefit enrollments).
- Completing the paperwork is essential and a good time to introduce the employee to important information about benefit and payroll practices. However, having new hires read and sign paperwork is not orientation.

**Checklists of required documents are good tools to make sure no important forms get missed.**

Several items should be included in the new hire paperwork completed in the first days of employment.

- **Form I-9 employment eligibility verification.** All employers are required to verify the identity and employment authorization of people they hire for employment in the United States by completing Form I-9 within three business days of the actual hire date. The form has been revised as recently as 2009, so employers should ensure they are using the most current version of the form.
- **Social Security verification.** While not mandated, this step prevents misfiling Social Security taxes or hiring an employee who does not have a valid number.
- **Benefits enrollment.** Most benefits require an employee to enroll during a specific timeframe of initial hire or eligibility. Benefits enrollment should be done as soon as possible with a new employee.
- **Payroll information.** Payroll personnel will require some basic information from employees to enter into the payroll system and to process direct deposits. This information should be collected on the first day.

- **State and federal W-4 withholding forms.** These forms are required to set up proper payroll withholdings.

**Employers may be able to simplify employment eligibility and gain better information by using the electronic Employment Eligibility Verification Program (E-Verify). This online system enables U.S. employers to cross-check name, date of birth, and Social Security number, as well as immigration information for noncitizens, with federal databases to verify the employment eligibility of both citizen and noncitizen new hires.**

At this point in the process, you may find an applicant who is not a U.S. citizen. Many non-citizens have established eligibility to work, have Social Security numbers, and are treated like any other employee. However, some persons do not have eligibility to work in the United States. Organizations that work with immigrant or undocumented populations may want to involve persons of the community in their work. However, employers are prohibited by law from hiring anyone without proof of eligibility to work

in the United States, and enforcement and penalties are significant. Small nonprofit organizations may find it too costly and administratively burdensome to recruit or hire persons who require sponsorship to obtain a work visa or United States Permanent Resident Card (green card).

**Your organization may be required to report new hires to the state. If you use a payroll provider to file your payroll taxes, make sure the service agency is doing this. If your organization files its own payroll taxes, make sure you know when and how you are required to report new hires.**

### 7.3 Tips for Successful Onboarding and Orientation

Onboarding is a term used by HR professionals to describe the process of getting a new employee into the organization and assimilated to the culture, norms, and expectations. The process may span the first year of employment and expands on new employee orientation.

Following are some important considerations for the onboarding process.

- Recruiting and hiring are the first steps in onboarding; make sure applicants get a clear idea of your organization.
- You should develop a plan for what information (e.g., forms, systems, procedures, and protocols) will be covered with employees throughout the year and establish times for formal checking in to assess how they are adjusting.

- The onboarding process should include discussions of the organization's informal rules and culture, the values of the leadership, expectations, and management style.
- You should have a formal onboarding process for all staff, whether paid, volunteer, or contract. The level of detail and information to be covered should be tailored to what the person will need to be successful in the position, the level of responsibility he or she will have, and the duration of his or her employment/engagement.

Getting off to a good start with new employees and making employees feel welcome and comfortable in their new work environment can significantly increase the chances that they will be happy and productive members of the organization. The following is a list of steps that should be considered as part of the new employee orientation.

**Do not shortcut orientation. The effectiveness of a new employee, the prevention of poor habits and mistakes, and the retention of that employee are all affected by the quality of orientation.**

- **Identify what information should be covered and in what order.**
  - Assign responsibility for covering material (consider whether supervisors or topic experts need coaching on how to train).
  - Establish a realistic schedule to avoid a data dump.
  - Break up orientation with periods for the new employee to apply the information and engage in meaningful tasks.
- **Set up the basics before the employee's arrival.** Set up the office, desk, phone, computer, e-mail, and permissions so he or she has everything needed to start working.
  - Do not leave it to a new employee to clean up after the prior incumbent.
  - Have all new hire paperwork ready; consider providing it to the new hire prior to the first day.
  - Assemble reading materials about the job and the organization.

- **Do not just give the employee a policy manual to read; review, discuss, and invite questions on formal policies and procedures, including:**
  - mission, structure, and history;
  - office policies and procedures and the employee handbook;
  - specific job responsibilities and reporting responsibilities;
  - rules and laws; and
  - relationships with other individuals and organizations.
- **Introduce the new employee to coworkers and arrange opportunities to hear from them about what they do and how their work intersects with that of the new employee.**
  - Consider giving the new employee a “buddy” or mentor who can answer questions and provide insights.
  - Consider taking the new employee to lunch on the first day and including him or her in any other planned social activities.
  - Review the functions and work hours of different staff.
  - Tell the new employee to whom specific questions should be addressed.
- **Be the concierge and cover the basics.**
  - Give the new employee a tour and show him or her where things are kept.
  - Provide information to the new employee on where to eat, where to park, where to mail a letter, etc.
- **Cover special circumstances.**
  - Address any unusual circumstances, regarding either the new employee or the job situation, such as geographic separation between employee and supervisor, accommodations needed by the employee, etc.

- **Celebrate the new employee's arrival.**
  - Show the employee how happy you are to have him or her as a new member of your team.
  - Consider having a welcome card, banner, or gift.
- **Check back in with the employee.**
  - Make sure communications were clear and understood.
  - Ask whether there were items not covered in the orientation that would have been helpful.
  - Provide an evaluation of the orientation.

Following are some common pitfalls in orientation to avoid.

- The orientation is rushed, postponed, or skipped.
- The orientation covers only the basics of job duties and does not provide important information about culture or behavioral norms.
- The information given is not immediately applicable or used.
- Too much information is covered in too little time, and the information is not reviewed.
- The orientation fails to engage new employees and makes them passive recipients of information.

## 7.4 Mentoring

Mentoring is a very effective way to provide support to new employees to help them navigate a new job and organization, and it is linked to better retention.<sup>6</sup> To be effective, mentoring takes planning. It is not just a matter of assigning a new employee to follow another employee around or to have lunch a few times.

Following are considerations for developing a successful mentoring program.

- Mentors are normally more experienced than their mentee; this does not necessarily mean older or in a higher position. You should consider

<sup>6</sup> Barry Sweeny, *Increasing Employee Retention or Reducing Attrition?* (Kalamazoo, Mich.: International Mentoring Association, 2003), <http://www.mentoring-association.org>.

using peer mentoring, where an employee is matched with another employee who is in a similar role. Mentors can also focus on one aspect of the job (e.g., having a technologically savvy employee mentor a less technologically savvy employee).

- Mentors need not be employees in your office. In small organizations, you may not have enough staff to assign mentors. Consider the possibility of using volunteers or other stakeholders with expertise to provide mentoring.
- Mentors should not be direct supervisors, because the supervisory relationship can impede the mentoring relationship.
- Mentoring programs need to have clear expectations and a timeline established at the start. The relationship should not be left entirely to “call me if you need anything.” At least initially, having scheduled interactions may be required to build trust and comfort between the mentor and employee.
- Mentoring can help employees learn and do their job better. However, mentoring is not on-the-job training, where the focus is on teaching a new hire how to do certain required processes or tasks.
- Mentors should want to be mentors and should be trained in their role. They are support, career guides, and sources of information and history. They are not counselors. Nor are they meant to mediate personnel issues between the employee and his or her supervisor.
- An external person should check in the mentor and mentee to make sure the program is delivering desired results.

While mentoring is discussed here in the context of helping a new employee, many organizations adopt mentoring programs as part of their ongoing staff development programs. Employee training and development are covered in Chapter 8.



## Resources

Social Security Administration

<http://www.ssa.gov>

E-Verify

<http://www.dhs.gov/E-Verify>

# Chapter 8

## Employee Management and Development

- 8.1 Employee Relations and Communications
- 8.2 Performance Management
- 8.3 Discipline Issues
- 8.4 Retention
- 8.5 Training and Development

Tools, buildings, vehicles, and equipment all require regular care and maintenance to make them last and to get the full benefit from them. The same is true for the people who do the work of your organization. They need regular care and assistance, even when things seem fine, to make them their most successful and to keep them productive over time.

### 8.1 Employee Relations and Communications

If your employees were asked the following, do you know what they would answer?

- What are the goals of the organization?
- What are the three most important things you do that support the organization's goals?
- Do you know the basis for pay raises, salaries, promotion, and other employment decisions? Are these decisions made fairly?
- Do you know who to go to with a problem? Are problems treated seriously? Are you comfortable bringing forward a problem or complaint (i.e., Do you fear reprisals?)?
- Is your personal and professional growth important to the organization?
- Do you receive adequate supervision?
- Are your efforts and contributions acknowledged?

Employee relations and communications are about employees being able to identify goals and their role and perceiving fairness and support. Answers to the previously listed questions that are aligned with the vision of leadership are good indicators of strong internal communications and positive work environments. This usually means you will have satisfied employees who will be more productive and stay longer.

Organizations take many approaches to employee relations and communications, with larger organizations often conducting staff surveys or forming committees. In a small organization, you can take simple steps to help ensure good employee relations and communications:

- communicate the organization’s vision and goals often—hold monthly staff meetings, put out a newsletter, or, if possible, meet with employees regularly and informally one-on-one;
- connect each employee’s work and individual goals to the organization’s mission during regular performance reviews;
- maintain an open-door policy and invite employees to come forward with any issues;
- take all complaints seriously and apply policies and rules consistently; and
- establish and follow fair practices for decisions about compensation, raises, and other employment benefits.

**The performance management principles discussed in this guide should be applied to all staff, whether paid, volunteer, or contract. You may have different remedies and need to speak to supervisors when it comes to independent contractors or employees of a staffing agency, but you should still apply the basic principles of providing regular feedback on performance and not tolerating negative behavior.**

## 8.2 Performance Management

Most people want to be successful in their work and to believe they have made a valuable contribution. People who choose to work in a nonprofit organization often are very motivated by the desire to make a difference.

Most people like knowing how they are doing and appreciate help to do their jobs better. Supervisors want their employees to do well and to be happy. Yet everyone seems to hate performance management, especially performance reviews. Performance reviews are often an uncomfortable experience the tangible results of which are a signed document that become a part of employees’ permanent record, “just in case we ever have to let them go.” The signed form is so important that we spend a lot of time designing it and, when performance reviews do not seem to be working, we often redesign the form.

Performance management is about helping employees make the best contribution they can and about identifying when an employee is not a good fit for a position. The documentation of performance management activities is important. More important, however, is the open feedback on how the employee is doing and where he or she needs help.

Take these steps to effective performance management:

- identify SMART [Specific, Measurable, Achievable, and Timely] goals that are connected to the organization's goals and check on progress regularly;
- do not save feedback until the formal review; when an employee does something well or does something poorly, let him or her know immediately;
- focus on specific behaviors and provide examples of the behavior you expect;
- give feedback that is focused on how to improve and let employees know you want them to succeed;
- recognize and praise employees for work well done; and
- have a regular, formal, standardized, and written review for all employees, but provide regular coaching and feedback between formal reviews.

**Sometimes employees fail to meet expectations because of problems in the job design or systems. Be sure your review includes an analysis of whether the position and expectations are realistic.**

Employee rights legislation, such as the Americans with Disability Act and Title VII of the Civil Rights Act, applies to performance appraisals. The Equal Employment Opportunity Commission issues uniform guidelines that can help you design a performance system that will avoid legal problems. The guidelines include the following recommendations:

- do not discriminate against employees in reviews;
- have evidence that the appraisal is valid (e.g., specific examples of actions);
- limit subjective judgments and use formal criteria; and
- treat all employees equitably.

Following are common pitfalls in performance reviews to avoid.

- Performance reviews do not happen or happen only once a year.
- No feedback is given between formal reviews.
- Supervisors rate all employees the same.
- Only the most recent behavior gets reviewed.
- The focus is on one good or one bad characteristic.
- The reviewer is not familiar with the employee's work.
- The reviewer is not specific and judges the person instead of actions.

### 8.3 Discipline Issues

Occasionally, employees may behave in a way that violates policies or otherwise harms your organization, its mission, or the vulnerable population you serve. Whether the behavior is inadvertent or intentional, supervisors must respond fairly and consistently. Moreover, they should always err on the side of protecting the youth in your organization's care. Failure to consistently enforce policies and standards of conduct, even for small infractions, can erode morale, negatively affect the organization, and potentially place youth at risk.

**Make staff familiar with the warning signs of potential child abuse or molestation. Ensure that your policies address potentially risky activities, such as staff being alone with children in bathrooms, and that you enforce these policies.**

**All staff must know your state laws and procedures regarding mandated reporting of suspected child abuse and neglect. You may be required by law to report some employee conduct to law enforcement or child protective authorities, in addition to any employment-related action you may take.**

**Employers have a duty to provide a safe workplace. If ever you face a situation where an employee becomes aggressive or violent in the workplace, you should seek the assistance of the police. You should have clear guidelines for staff on when it is appropriate, or even expected, that they call the police for assistance.**

Following are tips for handling discipline issues.

- **Prevention.** Your organization should have clear policies and communicate expectations to all employees.
- **Consequences.** You do not have to engage in debate or get emotional when employees make a mistake or intentionally violate a policy. Inform them of the infraction, remind them of the consequence, and enforce the consequence.
- **Fairness and consistency.** You should apply the policies fairly and consistently to all employees. You can retain flexibility to make exceptions, but perceived favoritism in the application of policies will create problems, including discrimination claims.
- **Empathy.** Showing empathy, listening, and understanding why employees have acted in an inappropriate way is one way to avoid a repeat of the behavior. It does not mean they avoid consequences, but it does communicate concern.

**Having policies you do not follow can create legal risk as well as internal morale issues. If you do not intend to enforce a policy, then change it.**

Your employee handbook should contain policies in key areas to help deal with discipline:

- Employee conduct
- Discipline procedures and consequences
- Violations that can result in immediate termination
- Reporting of child abuse and neglect
- Reporting of harassment
- Retaliation
- Complaint handling

Your organization's discipline policy should identify steps in the discipline process. Typical steps include the following.

- **Verbal warning or coaching:** usually this is the response to a first or minor offense. The supervisor notifies an employee of a violation or problem and the consequences for failing to improve or repeating the conduct. (Even though the warning is verbal, the supervisor should still document it. The difference from a "written warning" is that the employee will not sign it or be given a copy.)
- **Written warning:** usually this is in response to a second or more serious offense. The supervisor documents the specific violation or behavior and the consequences for repeat offenses or failure to improve and provides a copy to the employee.
- **Performance improvement plan:** usually this is used in response to repeated infractions or failure to meet performance expectations. The plan documents the specific behavior, with examples, and identifies the expectations for behavior, a timeline for improvement, and consequences for failure to comply.
- **Suspension without pay:** usually this is used in response to a serious violation. Be sure to have legal counsel review your organization's policies covering how a suspension is administered. It is a violation to make certain deductions from salaried, exempt employees (e.g., you cannot deduct a partial day's pay from a salaried employee for disciplinary reasons). A suspension is often used to send a serious message to employees regarding their behavior, or to remove them from the workplace if they present a potential danger to themselves or others.
- **Final warning:** usually this is given after multiple infractions. The warning documents specific problems, with examples of behavior, and informs employees that the next offense will result in termination.

**Make sure that discipline and conduct policies do not conflict with your at-will employment status. The policies should contain appropriate disclaimers that allow the organization to change the steps in the discipline procedure or to skip the steps. Disclaimers should also state that the organization policy does not cover all possible behaviors that could lead to disciplinary action or termination.**

**Documentation of all employment-related activities is vital, especially in the area of performance management and discipline.**

Employees should always be asked to sign the documentation of disciplinary action, though they can refuse and the employer should note that on the form.

Avoid taking disciplinary action before you have investigated the situation. Depending on the situation, you should consider interviewing witnesses and gaining a complete understanding prior to determining what, if any,

**If you receive a notification of a lawsuit, anticipate legal action being taken, or anticipate a complaint being filed with a regulatory body by a current or former employee, you should contact your insurance provider and seek legal counsel as soon as possible. Any employment-related action against an employee making a complaint could be seen as illegal retaliation and would make your situation worse.**

disciplinary action is warranted. If you have safety concerns (e.g., allegations of improper conduct with a child), you should suspend or reassign the employee while you conduct the investigation.

Some violations of policy or behavior are so egregious as to warrant immediate termination. Ways to handle termination are discussed in Chapter 9.

## 8.4 Retention

A 2008 [OpportunityKnocks.org](http://OpportunityKnocks.org) study found that the average turnover rate for nonprofit organizations participating in the survey was 21 percent and that turnover was highest in human services and youth development organizations.<sup>7</sup>

Turnover, especially in direct care positions that deal with youth, is high across the industry. The costs of turnover, both in real dollars and in negative effects on program services, are also high. Typical costs associated with a turnover include:

- lost productivity and organizational knowledge;
- lost relationships and continuity with program participants (two important factors in staff's ability to influence youth);
- actual costs for advertising, recruiting, screening, and hiring, including staff and supervisory time spent on the process;
- effects on other staff who have to cover for the vacant position; and
- training and orientation costs, including time of the staff conducting training.

<sup>7</sup> [OpportunityKnocks.org](http://OpportunityKnocks.org), "Nonprofit Retention and Vacancy Report" (Atlanta, Ga.: [OpportunityKnocks.org](http://OpportunityKnocks.org), 2008).



Most estimates suggest it takes new employees about a year to become fully effective in their position, so the lost productivity extends beyond the actual vacancy.

Why do employees leave? Major surveys of all industries consistently cite “poor supervision” as among the top reasons employees leave their jobs. In contrast, a 2008 OpportunityKnocks survey of employees leaving nonprofit organizations most commonly cited “a competitive offer,” though conflict with supervisor was among the top 10 reasons.<sup>8</sup>

Several national organizations have researched or are working on the issue of high turnover in nonprofit organizations, especially youth-serving organizations. Among them are the Next Generation Youth Work Coalition, the Child Welfare League of America (through its “empty chairs” initiative), CompassPoint Nonprofit Services, and [OpportunityKnocks.org](#). All have published useful reports and recommendations on how to address the issue.

The various studies suggest that organizations can do a lot to retain staff. Among the steps you should consider are these.

- **Make good hiring decisions.** Committing to a good hiring process is one of the best ways to improve retention. Take the time to identify the key success factors for a new employee, including not only the technical skills and experience to do the job, but also the personality, motivation, and intangible characteristics needed. Identify success factors (e.g., background and psychological testing) and invest in a search process to find the right person.
- **Communicate expectations and values.** Get employees engaged in setting expectations and identifying organization values.
- **Evaluate your “total rewards.”** Seek employee input to identify strategies that are most meaningful. Provide flexibility where you can to meet individual employee needs.

**All but gone are the times when an employee would go to work at one company and make a career. Some estimates indicate the current generation of workers will have as many as nine careers, not just jobs, over their working lives. You have to assume your employees will not be with you forever and plan for how to get the best out of them while you have them.**

**Training and support are important elements of retention and performance.**

<sup>8</sup> Ibid.

- **Growth and development.** Where you cannot provide higher wages to compete, find ways to provide meaningful opportunities for professional growth or rewards, such as letting an employee take on a project outside their normal work responsibilities.
- **Invest in supervisory training.** Supervisors have the most direct effect on an employee's work experience and decision to stay or leave.
- **Recognize and reward employees.** Praise and small awards may not make a person decide to stay. However, the lack of recognition and acknowledgement is a dissatisfier that would contribute to a decision to leave.
- **Review positions, roles, and staffing structure.** Make sure responsibilities and expectations are reasonable and attainable and enable employees to be successful.
- **Have succession plans for top positions.** Plan for transitions and give employees a sense of what a career could be with your organization.
- **Identify your retention target.** A retention rate of 100 percent is not realistic, and it could be bad for an organization. (If nobody ever leaves, your organization could grow stagnant.) Measure your current turnover rate and identify your acceptable target for retention. Having a goal and communicating it will help focus your efforts and decisions on what actions to take.

**Not all problems are training problems. A bad hire, a lack of resources, or a poorly structured position will not get better by training the person. Failure to perform because of a lack of knowledge is a training problem. A desire to grow professionally and take on new duties is another example of where training could help.**

## 8.5 Training and Development

Good training can save organizations money and improve program outcomes, because poorly trained employees:

- make more mistakes, some of which can be costly;
- take longer to do their work and decrease organization effectiveness;

- get frustrated and eventually quit because work is harder than it should be and they do not feel successful;
- negatively impact coworkers affected by poor performance; and
- will, at best, be ineffectual and, at worst, cause harm to program participants.

Training programs can also support staff retention by providing pathways to career development. (See, also, Ways to Obtain Lower-Cost Training.)

Following are strategies for staff training.

- Analyze your positions and identify the tasks and the knowledge, skills, and abilities required to successfully perform the tasks.
- Assess your employees' current knowledge, skills, and abilities to identify gaps between current levels and required levels for success. Establish plans for closing the gaps.
- Determine whether training can be developed and provided in house, or whether external training is required. (If you do not have staff with experience in training or adult education, you should consider seeking help to design your training program.)
- Assign responsibility for training and confirm it is done.
- Plan and deliver the training.
- Evaluate the effect of the training.

**If your organization is licensed or otherwise regulated, you may be required to provide a minimum number of staff training hours, which could include courses required by the licensing agency.**

At an organizational level, you should review your goals and planned growth. Determine what your staff will need to know and be able to do to run your organization in the future and realize the goals. Through this analysis, you may identify gaps in current expertise and strategies to fill those gaps, including professional development and training.

### Ways to Obtain Lower-Cost Training

Computer-based training is a low-cost alternative to meet some training needs. Several reputable content providers can provide affordable training to supplement your internal efforts. Some associations, such as the Child Welfare League of America, have selected providers and arranged for discounted pricing for member agencies.

Many other organizations that work with youth collaborate to train staff jointly. Joining such a consortium would enable your organization to access high-quality training at a lower cost.

State agencies often provide free training programs to small businesses or nonprofit organizations. These opportunities can help organizations that do not have internal capacity or budgets to conduct much training.

Graduate students in education programs often need projects for courses or for experience, and they could help design and deliver training for free. Graduate students in content areas may also need projects that could include training for your staff.

Training plans should also include training that is not necessarily job related but instead focuses on personal and professional development. For example, some organizations that hire low-skilled workers provide training programs on topics such as attaining life skills or managing a budget, which are not work related, but help their employees lead happier lives.

## Resources

The BEST Training Institute is the professional development component of the BEST Initiative. The institute helps meet the youth-work field's need for recognition of and training in best practices based on positive, healthy outcomes for young people. Varied training opportunities—from half-day trainings to the 28-hour certificate program—are available to youth workers with varying levels of experience and work-related responsibility.

[http://youthworkcentral.org/best\\_training\\_institute.html](http://youthworkcentral.org/best_training_institute.html)

The National Resource Center for Youth Services at the University of Oklahoma's College of Continuing Education has been resourcing the youth services community for more than 25 years, providing training and technical assistance to programs in Oklahoma and nationally.

<http://www.nrcys.ou.edu/training.shtml>

Praesidium is a provider of risk management products and training, including training to prevent sex abuse.

<http://www.praesidiuminc.com/>

The Residential Child Care Project (RCCP) was funded in 1982 by the National Center on Child Abuse and Neglect in Washington, D.C., to prevent the abuse and neglect of children who live in treatment, educational, and correctional institutions. RCCP's national and international leadership role in pioneering effective crisis prevention and management systems stems from the interrelationships of its three primary activities: RESEARCH leads to improved OUTREACH programs, which are carefully evaluated. EVALUATION contributes to improvement of OUTREACH efforts and suggests new avenues for RESEARCH.

<http://rccp.cornell.edu/>

# Chapter 9

## Employment Termination

9.1 Legal Issues

9.2 Termination Management

9.3 Exit Interviews

Involuntary terminations are difficult, but they are always better for the organization than allowing a poor performer to continue working. Do not put off terminating employment for a poor performer who has not responded to coaching, discipline, or feedback. This chapter discusses the steps you must take to minimize the potential risks associated with ending employment.

### 9.1 Legal Issues

Making good hires, implementing strong performance management practices, and developing employees are your goals. However, occasionally you will have an employee who needs to be let go. Common reasons that employees are terminated involuntarily include:

- organization-related reasons, such as budgetary cutbacks, loss of funding, or restructuring or closure of a program;
- poor performance;
- violation of organization policy; and
- criminal behavior.

Each type of involuntary termination carries different risks. A person let go because of lost funding may be upset at the loss of his or her job but will not generally have ill will toward the supervisor or organization. In contrast, a person terminated for performance issues is likely to be angry at the supervisor and the organization, and anger can motivate negative actions.

The involuntary termination of an employee can create liability for an employer. Among the potential risks associated with termination are:

- lawsuits claiming wrongful termination based on discrimination or other unlawful reasons;
- expenses related to unemployment claims;
- potential damage caused by disgruntled former employees, including damage to an organization's reputation in the community; and

- claims from failure to correctly provide final pay or payout of accrued benefits such as vacation or paid time off.

The costs for any of these outcomes, both in terms of dollars and staff time, can be significant. Use these strategies to help minimize the risks:

- clearly document all employment-related actions;
- establish and consistently follow policies related to employee conduct;
- deal with performance and conduct issues as soon as they occur and do so honestly and consistently;
- train supervisors on discrimination and appropriate supervisory practices;
- seek legal counsel prior to a termination, especially one involving performance issues or members of a protected class; and
- know your state laws regarding timing of final pay and requirements to pay accrued benefits.

## 9.2 Termination Management

One of the best ways to manage termination is to implement strong performance management practices that include clear expectations for conduct and performance and regular and honest communication regarding performance. These practices will not eliminate the need for terminations, but they will help identify problems early and minimize many of the risks associated with terminations.

In the case of a serious violation of organization policy or criminal activity, a decision to terminate may need to be made immediately, with no option for intermediate disciplinary action. However, prior to making the final determination, the employee should be suspended and an investigation should be conducted to document and confirm alleged behaviors.

**Sometimes you have to take the advice of the Nike slogan and “Just Do It.” Nonprofit organizations often accept poor performance because they know employees are not paid well, or are not paid at all in the case of volunteers; because employees are nice and mean well; or because as a caring organization they do not want to hurt employees. It is far more harmful to the organization to tolerate poor performance or violations of policy than it is to terminate an employee or a volunteer. Many examples can be cited of organizations that allowed poor performers to hang on, only to pay significant costs when eventually these employees were injured, caused some harm to another, or claimed wrongful termination because they were never told their performance was an issue.**

**Always address poor performance and problem behaviors. However, try to avoid firing someone on the spot. Take time to investigate.**

If your organization is an at-will employer, you can let an employee go for any reason or no reason at all. To minimize risks, however, make sure the organization has clear, well-documented reasons for terminating employment. Ask these

questions when making a decision to terminate.

- Have you communicated and documented policies and expectations to this employee?
- With the exception of criminal behavior or a serious violation of policy, have you followed and documented steps of a progressive discipline procedure?
- Is it clear the problem is with the employee and not with the design of the position, the expectations, or the resources available?
- Have you evaluated the supervision provided and determined that the issue is not a problem of poor supervision?
- Would you have or have you made the same decision with any other employee given the same circumstances?
- Has the employee recently filed for workers' compensation or medical leave or made a complaint for harassment or other illegal activity? If so, the termination may appear to be retaliatory and legal advice should be sought.

Once a decision to terminate is reached, several issues should be considered with regard to the actual termination.

- **Allowing resignation versus terminating**
  - Allowing an employee to resign is perceived as an option that gives the employee more dignity and avoids a blemish on his or her record. An employee who voluntarily resigns will not usually be eligible to receive unemployment benefits or to bring suit for wrongful termination.
  - When an organization provides the option to resign or be terminated, the employee may still be eligible for unemployment benefits because it is not really a voluntary resignation. When an employee



is given the option to resign, generally some form of severance pay is provided and a written separation agreement is used to confirm that the employee will resign and will not seek legal action against the employer, in return for the severance package. The agreement should be drafted by an attorney, because it has to comply with federal and state laws (e.g., workers above age 40 have to be given time to review and reject the agreement).

- An employee who resigns may still bring a claim against the employer for unemployment on the basis of wrongful termination, claiming what is called a “constructive discharge.” A constructive discharge is a situation where the employee felt he or she had to resign because of the employer’s conduct.
- In a situation where an employee has violated a policy or the law, the organization should consider carefully the effect on other employees, the potential for claims of negligence, and the reputation of the organization in allowing such an employee to resign.

- **Pushing for immediate exit versus allowing more time**

- Most organizations do not provide termination notice periods to employees being terminated for cause (i.e., misconduct or policy violations), while a notice period for a mass layoff could be required by law.
- Your organization’s policies should contain a defined notice period for voluntary resignations and terminations for reasons other than cause. Furthermore, you should allow an employee to work for the period or to be paid the equivalent amount but to end work immediately.
- If the health or safety of employees or the organization is threatened, then require the employee to leave immediately.
- Factors to consider in deciding whether an employee should leave immediately or will be allowed to work for the notice period include:
  - ◆ the effect on fellow employees;
  - ◆ the effect on program participants;

- ♦ the terminating employee's ability to make a positive contribution after the termination decision has been made;
  - ♦ the employee's length of service and performance history;
  - ♦ whether the employee could and would do any harm to the organization if he or she remains in the office between the termination notice and actual termination date; and
  - ♦ the expectations for conduct and communication about the termination to coworkers and service recipients and the consequence for failure to comply (e.g., immediate exit).
- If an immediate exit is the option you choose, you should decide whether the employee will be allowed to return to his or her work space to collect personal belongings, or will have to exit immediately and have personal effects sent to him or her. If the employee is allowed to collect personal effects, consider whether supervision is required while he or she is doing so to prevent malicious behavior.

- **Communicating the termination to the employee**

- Write down all the information you need to convey prior to the meeting and plan to stick to your script. Communicate clearly that the decision has been made, the reason, the exit plan, and the employee's rights. Answer questions regarding post-employment issues.
- Showing concern and empathy is fine; no matter what the employee did that resulted in the loss of his or her job, it still is hard to be terminated. However, do not engage in debate, second guessing, or discussion of the reasons.
- If the meeting gets emotional or heated, end it.
- If you have the leeway, give careful consideration to the timing of when you inform the employee to minimize the emotional impact and possible humiliation. For example, termination at the end of a workday would enable the employee to exit without being observed by others, though he or she may be mad that you made him or her work the whole day. Termination right before a scheduled vacation or major holiday could give the employee time to deal with the termina-

tion, but it could also appear mean-spirited and anger the employee. Termination during or right before a scheduled event with the youth you serve could be embarrassing for the employee and disruptive to the participants.

- Notify the employee in person, if possible, and provide a written notice. Also document the effective date; final pay, including any payment for accrued paid time off or vacation time; severance pay, if provided; and continuation of benefits, if applicable. Some states require written notice and mandate that final pay for all hours worked be given at the time of termination, so be sure you check your state laws.
- Have an appropriate witness to the termination meeting (e.g., a supervisor or another senior staff member), but choose a sufficiently private location to avoid notifying the employee in front of clients or coworkers.
- If the employee provides direct services to the youth you serve, determine in advance and communicate whether he or she will be allowed to say good-bye and what the rules are for future contact.

- **Communicating to other staff members**

- In a small organization, other staff will be aware of a termination. To minimize rumors, inform staff of the basic facts (e.g., effective date, who will handle the person's responsibilities, and whether the position will be filled), but avoid comments about the former employee, especially disparaging comments.
- To minimize claims by the former employee, consider allowing him or her to review any communication about his or her departure.
- Recognize that terminations may have an emotional effect on other staff.

- **Communicating to program participants**

- Often employees have developed relationships with program participants. When a staff person is involuntarily terminated, you must consider how to communicate this to the youth and parents involved in the program.

- You should determine whether and how the former employee will be allowed to make a personal farewell and whether he or she will be allowed to have continued contact with program participants.
- In a case where a staff person is terminated for suspected or actual improper conduct with regard to a child, in addition to complying with mandated reporting obligations, you will need to determine what and how to communicate to program participants about the former employee. While serious concerns and liability issues may arise regarding engaging in a witch hunt or damaging the reputation of a former employee, you must weigh these against the moral and legal obligation to protect the children in your program from harm.
- **Giving employment references**
  - Employers have a legal duty to warn future employers if they know about violent or dangerous behaviors of a former employee. You should carefully review your reference policies to ensure you do not face liability for negligence in providing references.
  - You should have a written policy covering employment references (e.g., what will be shared and whether the request must be in writing) and, ideally, a single point person approved to handle all reference requests.
  - Former employees should be told what information you will provide for references and have the ability to provide written permission to release additional information.
  - While there is potential liability in providing references, you could also face liability for failing to provide certain information (e.g., known misconduct or violent behavior). Your best approach is to be honest in any information you share.
  - Services are available to employers, often at zero cost to the employer, that will manage basic employment references. The best example is The Work Number at [www.theworknumber.com](http://www.theworknumber.com).
- **Attending to final details**
  - Change computer and alarm passwords and stop access to all proprietary information, systems, or accounts immediately upon

notifying the employee of termination of employment to prevent any unauthorized activity.

- Make sure you verify the following before the employee leaves.
  - ◆ Status of job responsibilities (e.g., scheduled appointments or deadlines).
  - ◆ Return of all employer property, including keys, credit cards, telephone cards, and files.
  - ◆ Where to find the employee if problems surface later (e.g., expenses charged to the organization credit card).
  - ◆ Whether final payment has to be made on the last day worked or can wait until the next pay date; state laws differ on this.
  - ◆ Forwarding address for items such as the last paycheck.
  - ◆ Option to sign up for an extension of benefits, if applicable. (See Appendix A for details on COBRA, the Consolidated Omnibus Budget Reconciliation Act, which in most instances allows employees to extend health insurance benefits after termination of employment.)

- **Documenting the termination decision**

- Write down performance issues, steps taken, employee notification, etc.
- Ask whether the employee has experienced any discrimination and document his or her answer. If the answer is “no,” this is a stronger defense against a later claim.

You may experience an employee who appears to want be fired, perhaps to ensure he or she receives unemployment benefits. Common signals are repeated minor violations of policy, a decline in performance, or behavior challenging supervisors. Or, an employee may act in a manner that suggests he or she expects to be terminated and is preparing for a claim. Signals of this include asking to see his or her personnel file, asking about disciplinary actions against other employees, or asking about organization policies on termination. Your best course of action is to continue to consistently enforce your policies

and to proceed with your disciplinary or termination actions. You should also consult with an attorney when you anticipate an employee is setting up an employment claim.

## 9.3 Exit Interviews

Not all organizations conduct formal exit interviews. Those that do may conduct an actual interview or provide a written questionnaire for the former employee to complete. You should consider the potential benefits of conducting an exit interview with departing staff. Although some employees will not be completely forthcoming about why they are leaving, and those who are involuntarily separated may not want to participate in an exit interview, the information gathered can still inform your policies. Specifically, exit interviews provide an opportunity to:

- communicate and confirm understanding of post-employment policies, including employment references and extension of benefits;
- learn from the employee's experience and, perhaps, make changes to improve retention;

**Exit interviews are usually for employees who leave in good standing, but they can also be useful for employees who leave involuntarily. In the case of involuntary separation, an exit interview may be especially helpful to document reasons for the employee's departure and to diffuse his or her anger.**

- confirm receipt of all employer materials and information regarding status of work;
- review the personnel file;
- signal concern to all employees; and
- enable disgruntled employees to vent frustration in a positive forum, and other employees to leave on a good note, if possible.

## Resources

Nolo

<http://www.nolo.com/>

Nonprofit Risk Management Center

<http://nonprofitrisk.org/>

The Work Number

<http://www.theworknumber.com/>

# Chapter 10

## Common HR Management Errors

### 10.1 Common Errors

#### 10.2 Considerations to Minimize Errors

This final chapter explores some common errors that organizations make in managing staff and volunteers. Although the steps and practices to avoid these errors have been covered earlier in the guide, they are worth repeating.

### 10.1 Common Errors

Following are common errors in managing human resources.

- **Recordkeeping and reporting**

If it is not properly documented, it never happened. Organizations often do everything right with employees, but they get into trouble because they cannot prove “it” because of a lack of documentation or because they did not file the correct report by a mandated deadline. Hold supervisors accountable to document employment-related actions. Identify deadlines and reporting requirements and make sure reports are submitted.

- **Poor delegation and support of HR functions**

As discussed in Chapter 1, many small nonprofit organizations place responsibility for HR functions with supervisors or employees who are not trained in HR or who already have a full workload. This can result in costly mistakes, unnecessary expenses, failure to identify and retain the best staff, or failure to get the most out of your investment in human capital. Organizations should be intentional in assigning responsibility for key HR practices to employees who have training, have time, and are held accountable for these functions.

- **Policy errors**

These errors include not having policies, not keeping policies current, not communicating policies, or not applying policies consistently. Such errors can create liability and a disgruntled workforce. Organizations must regularly review their policies. If the policies are not current or accurate,

they should be updated. This effort may cost money and may take time away from other priorities, but it is worth the investment. Once it is done, applying the policies and maintaining policies is a relatively easy task, and you are likely to spend far less time on HR issues.

- **Involuntary termination**

Involuntary terminations can be highly emotional and, for this reason, they can lead to problems. Employers that have failed to communicate expectations with employees throughout their employment, or failed to be consistent in the application of discipline, often face the risk of claims of wrongful termination. They may also face high unemployment insurance claims.

- **Contracts and at-will employment**

At-will employment means that either the employee or the employer may terminate employment for good cause, bad cause, or no cause at all with or without notice to the other party. All but two states (Arizona and Montana) recognize at-will employment as public policy and, even in those states, the employer has a right to terminate employment.<sup>9</sup>

However, just because it is legal does not mean it is right or good practice to let an employee go for no reason. Moreover, termination can result in costly allegations, lawsuits, or unemployment claims.

Sometimes when a discharge seems particularly unfair, but no specific promise has been broken or public policy has been violated, the employee will argue that the employer simply did not deal fairly or in good faith when it discharged the employee. Courts have been reluctant to recognize a covenant of good faith and fair dealing in the employment situation, fearing that once available, the covenant would be too broadly applied. However, under particularly egregious circumstances, the covenant may be raised and the results could be financially disastrous.

Adopting an at-will employment policy provides important legal flexibility when it comes to making decisions to terminate employment. Follow these steps to preserve your status as an at-will employer.<sup>10</sup>

<sup>9</sup> Hauge and Herman.

<sup>10</sup> "Checklist: At-Will Employees" at [http://www.hrtools.com/resources/checklists/checklist\\_at\\_will\\_employees.aspx](http://www.hrtools.com/resources/checklists/checklist_at_will_employees.aspx), with additions.



- Train supervisors to understand and to avoid implied contracts (i.e., verbal or written statements that “imply” a contract of employment, or permanent employment, or limited reasons that an employee could be terminated). Ensure supervisory staff know your policies and do not make any promises.
- Adopt an at-will policy and communicate it to employees in offer letters, handbooks, and personnel policies.
- Use disclaimers, if needed, and place them prominently in the handbook or on the cover of the document so employees know your intentions. Have your policies and employee communications reviewed to identify any possible wording that would be taken as an implied contract or otherwise call into question your intent to act as an at-will employer.
- Do not fire an employee for a reason that would violate some basic principle of law or moral or social justice. Most public policy exceptions are based on state law (e.g., state workers’ compensation law). If an employer fires an employee for filing a workers’ compensation claim—a right the employee is given by law—that firing would violate the state’s policy of providing workers’ compensation benefits to individuals who are injured on the job.
- Do not distribute an employee handout that says you will only discharge for just cause and then fire an employee on the basis of rumor.
- Caution those who interview applicants against making statements promising job security or disciplinary measures to be followed before discharge.
- Check your employment application for language that could be interpreted to mean that your handbook is a contract of employment or that just cause is required before an employee may be terminated.
- Try to be fair. Treat employees as human beings and as you would like to be treated. An employer that maliciously discharges an employee to avoid paying commissions or bonuses is primed for a lawsuit.

- **Misclassifications of employees**

Directors of nonprofit organizations need to understand when and what kind of employment relationship exists between their organization and any person providing services. Properly classifying the employment relationship helps manage expectations and ensures that the appropriate taxes and compensation, insurance coverage, and benefits can be applied. Failure to correctly classify an employee may create liability for back wages, taxes, and fines.

When in doubt about hiring a person or entering into a contract, organizations can always obtain guidance from their state department of labor, the U.S. Department of Labor, or the Internal Revenue Service.

- **Discriminatory practices**

A discriminatory practice does not have to be intentional to be wrong. Sometimes organizations apply practices or policies that have the unintended consequence of discriminating against members of one or more protected classes. This is often the result of poor planning or a failure to monitor the effect of practices.

Refer to EEOC guidelines on best practices to avoid discriminatory practices.

- **Retaliation**

Taking action against applicants, employees, or former employees in retaliation for their filing a complaint or grievance not only violates the law, but also damages the reputation and standing of the organization. It may also discourage employees from coming forward in the future to report problems.

Organizations must ensure that all employees feel comfortable about making good-faith reports of problems. In addition, employees must not face retaliation for doing so.

- **Performance problems**

Many supervisors do not deal with poor performance or behavior in the workplace, often out of fear of conflict. Not dealing with performance problems, including discipline issues, can have a significant negative

effect on your employees. It can also create liability when an accident or some harm occurs that could have or should have been prevented by dealing with an employee's failure to meet expectations.

One way to think about the downside of not addressing problems is to use the concept of satisfiers and dissatisfiers from the Kano Model, a theory of product development and customer satisfaction developed in the 1980s by Professor Noriaki Kano.<sup>11</sup>

According to the model, at some point, adding more satisfiers does not necessarily increase satisfaction. Moreover, addressing a dissatisfier does not necessarily increase satisfaction. Not addressing a dissatisfier can exponentially decrease satisfaction.

Adding more benefits, higher pay, or rewards may help retain employees and keep them performing well, but eventually these have diminishing returns. Taking care of things that dissatisfy employees may not necessarily make them happier or stay, but it is certain that not taking care of things that make them unhappy will contribute to discontent and voluntary terminations.

- **Handling employment-related legal actions or complaints**

Many organizations fail to protect themselves in the face of anticipated or actual legal actions. To minimize the exposure and protect the organization after a liability has been created (e.g., a claim of illegal activity, a difficult termination, or accusations of discrimination), you should take these steps.

**Notify your insurance carrier.** Not only will the insurance carrier want to establish a reserve, it may provide legal counsel or assist in the investigation as part of its loss prevention efforts.

**Obtain or notify legal counsel.** Deciding when to involve or consult with counsel is a serious matter. Many organizations prefer to wait and try to resolve matters without counsel, partly out of a perception that engaging counsel may escalate a situation or undermine the organization's culture of care. However, in terms of risk management, seeking expert advice earlier rather than later can help resolve

<sup>11</sup> J. D. Meier's blog at <http://blogs.msdn.com/jmeier/archive/2007/12/31/kano-satisfiers-and-dissatisfiers.aspx>, with additions.

issues with minimal exposure to an organization. Your attorney not only can advise you on appropriate and legal strategies, but he or she can also conduct internal investigations to extend attorney-client privilege protection to the investigation.

**Collect and preserve documentation.** Create an incident file and pull together all relevant documentation, including personnel files for the involved employees, related organization files or policies, documentation of how similar situations were handled, and e-mails or other correspondence related to the incident. Do not put the materials in the employee's file, because employees have a right to access their personnel file.

**Have and follow a communications plan.** Legal action may lead to public scrutiny. Organizations should make sure they have and follow a media communications plan for any type of crisis or legal action, and they should also follow the plan in employment disputes.

**Avoid actual or perceived retaliation.** You should carefully consider any employment-related action against the person making the complaint, because the action could appear to be illegal retaliation for making the complaint. Even if the complaint were found to be false or groundless, you could still face liability for taking retaliatory action. You may have grounds and the right to at least suspend the person, but you should not take any action without expert guidance.

- **Volunteer management**

A study by the Corporation for National and Community Service found that one in three volunteers who volunteer in one year do not volunteer again the following year at any nonprofit organization.<sup>12</sup> Five reasons why volunteers are not returning and, therefore, five problems you should avoid in your volunteer program identified in the article "The New Volunteer Workforce" are these.<sup>13</sup>

**Not matching volunteers' skills with assignments.** Volunteers with valuable and specialized skills are often dispatched to do manual labor rather than tasks that use their professional talents. The prime

<sup>12</sup> David Eisner, Robert T. Grimm Jr., Shannon Maynard, and Susannah Washburn, "The New Volunteer Workforce," *Stanford Social Innovation Review* (winter 2009), [http://www.ssireview.org/site/printer/the\\_new\\_volunteer\\_workforce/](http://www.ssireview.org/site/printer/the_new_volunteer_workforce/).

<sup>13</sup> Ibid.

goals of corporate volunteer programs, for example, are building teams and increasing morale, which are most easily accomplished by groups of people doing manual labor. For example, every spring, in cities across the nation, hundreds of professionals turn out to paint walls and plant flowers at local schools. Although this has its time and place, most community organizations really need an ongoing involvement that taps volunteers' professional skills rather than a one-time project that uses their manual labor. Volunteers often do not get much out of the experience, either. Many of these volunteers get an empty feeling when they know that the job they have been given is make-work or a photo opportunity.

**Failing to recognize volunteers' contributions.** Nonprofit organizations need to recognize volunteers, both through an organization culture that values them and through specific appreciation ceremonies and events. In their annual reports, most nonprofit organizations list all individual donors categorized by the amount of money they have donated. Very few of them, however, do the same for people who donate their time. Naming individual volunteers with the number of hours they have contributed (and perhaps the dollar value) is one way to demonstrate a culture that values volunteers. The Capital Area Food Bank of Texas does this and also profiles individual volunteers in its annual report.

**Not measuring the value of volunteers.** Most nonprofit organizations do not measure the dollar value of the time volunteers contribute to their organization. This reflects the lack of seriousness with which many organizations view volunteers and tends to compound the problem. If nonprofit leaders had hard data demonstrating the value of volunteers, as does the March of Dimes, they would be more likely to invest more time and money in developing volunteer talent.

**Failing to train and invest in volunteers and staff.** Volunteers need training to understand the organizations with which they are working, and employees need to be trained to work with volunteers. Nonprofit organizations rarely invest substantial time or money in volunteer recruiters and managers. For example, a youth service

organization in Florida reported that at one time it had a busy receptionist managing several hundred volunteers. Unfortunately, the receptionist model of volunteer management is all too common. Nationally, one-third of paid nonprofit staff who manage volunteers have never had “any formal training in volunteer administration, such as coursework, workshops, or attendance at conferences that focus on volunteer management.”

**Failing to provide strong leadership.** Most nonprofit leaders do not take the time to develop or support volunteer talent adequately, which results in a poor or bland experience that leads to an unmotivated volunteer who has little reason to return. Most nonprofit leaders do not place a high value on volunteer talent. If they did, they would dedicate more resources to the task—not assign it to a receptionist. Told about the journal article, the chief executive officer of a large national youth service organization said, “I think you’re on to something; 90 percent of our labor is performed by volunteers, yet our strategic plan makes no mention of them.”

## 10.2 Considerations to Minimize Errors

To minimize errors in HR management, take the following steps.

- 1 Review the goals of your organization and develop a staffing plan to support those goals.
- 2 Find a competent, local resource who will take time to learn your organization and to advise you on practices that best support and protect your mission.
- 3 Conduct an HR audit with expert help to identify the areas that need immediate attention.
- 4 Consider nontraditional approaches to staffing, including the use of volunteers or contractors to deliver services.
- 5 Get expert help, solicit stakeholder involvement, and develop and maintain current written policies.

- 6 Communicate policies and goals to employees and document their receipt and understanding of those policies and goals.
- 7 Implement performance management systems that include regular communication with all staff.
- 8 Evaluate compensation and benefits to determine whether they are fair and whether they support your staffing plan.
- 9 Focus on making good hires by implementing strong application and screening procedures.
- 10 Train all supervisors in performance management and HR compliance.

# Appendix A: Key Federal Employment Laws

Anti-Discrimination Laws

Laws Effecting Compensation

Laws Effecting Benefits

Background Screening and Privacy

Laws Applying to Government Contractors

Other Major Laws

The table provides a list of major federal laws, the key provisions of each law and penalties related to the law. This table is a summary and not a complete reference or legal guide. If a particular law applies to your agency, you are advised to seek counsel in establishing policies and procedures to comply with the law.

(The following summaries are derived from SHRM, the Federal DOL, Taking the High Road, Employer Services Group Compliance Schedule, and Human Resources Kit for Dummies)

The laws are grouped as follows:

- Anti-Discrimination Laws
- Laws Effecting Compensation
- Laws Effecting Benefits
- Employee Screening and Privacy
- Health and Safety
- Laws Applying to Government Contractors
- Other Major Laws



## Anti-Discrimination Laws

Law and Application	Key Provisions	Penalties
<p>Title VII of the Civil Rights Act (1964)</p> <p>Applies to employers with 15 or more employees</p>	<p>Establishes the protected classes of race, color, national origin, religion, and gender. Prohibits discrimination or segregation based on the protected classes in all terms and conditions of employment (including hiring, training and advancement). Prohibits sexual harassment or harassment based on any of the protected classes. Provides exceptions for work related requirements, bona fide occupational qualifications and seniority systems. The act created the Equal Employment Opportunities Commission, which since 1964 has grown to become the lead federal enforcement agency in the area of workplace discrimination.</p>	<p>For intentional discrimination, employees may seek a jury trial, with compensatory and punitive damages up to the maximum limitations established by the Civil Rights Act of 1991 according to the employer's number of employees: 15-100 employees, a maximum of \$50,000; for 101-200 employees, a maximum of \$100,000; for 201-500 employees, a maximum of \$200,000; and for over 500 employees, a maximum of \$300,000. Remedies of back pay, reinstatement, and retroactive seniority are available for all types of discrimination, whether intentional or disparate impact.</p>
<p>Equal Employment Opportunity Act (1972)</p>	<p>Expanded Title VII to apply to most employers in the US, and expanded the authority of the Equal Employment Opportunity Commission to administer and enforce the Act by providing litigation authority.</p>	<p>See penalties under "Title VII" above.</p>
<p>Civil Rights Act of 1991</p>	<p>Codified the "adverse impact" theory. Established that victims of intentional discrimination had a right to a jury trial when seeking punitive and compensatory damages.</p>	<p>See penalties for "Title VII" above.</p>
<p>Pregnancy Discrimination Act (1978)</p> <p>Applies to employers with 15 or more employees who work 20 or more weeks a year.</p>	<p>Amends Title VII to prohibit discrimination on the basis of pregnancy, childbirth or related conditions. Pregnancy must be treated as a medical condition. Pregnant employees or applicants still must meet objective standards for performance.</p>	<p>See penalties for "Title VII" above.</p>
<p>Americans with Disabilities Act (1990 - revised 2008)</p> <p>Applies to employers with 15 or more employees.</p>	<p>Prohibits discrimination against a qualified individual with a disability because of the disability. Defines disability as a physical or mental impairment that substantially limits one or more major life activities (i.e., mobility, toileting/personal hygiene, bathing/dressing) Defines the concept of essential functions of a job and reasonable accommodation to perform those functions in hiring persons with disabilities.</p>	<p>The Act is enforced by the Equal Employment Opportunity Commission, and the penalties are the same as for violations of Title VII of the Civil Rights Act, with maximum amounts for intentional discrimination mandated by the Civil Rights Act of 1991.</p>
<p>Age Discrimination in Employment Act – ADEA (1967)</p> <p>Older Workers Benefits Protection Act – OWBPA (1991)</p> <p>Applies to employers with 20 or more employees</p>	<p>Prohibits discrimination against person over 40 years of age. An amendment also removed mandatory retirement at age 70, except of "bona fide executives". Allows age discrimination when age is a bona fide occupational qualification. The OWBPA made it illegal to discriminate on the basis of age in the provision of benefits like health insurance and retirement. A provision on the OWBPA gives employees over 40 time to consider, and time to change their mind, a company's separation agreement that includes a promise not to sue for age discrimination.</p>	<p>Employees may be awarded back pay, reinstatement, retroactive seniority, and attorney's fees. Liquidated damages equal to the amount of back pay may be awarded if the violation is willful.</p>

## Anti-Discrimination Laws *(continued)*

Law and Application	Key Provisions	Penalties
<p>Uniformed Services Employment and Reemployment Rights Act – USERRA (1994)</p> <p>Applies to all members of the military and coast guard.</p>	<p>USERRA very broadly prohibits employers from discriminating against individuals because of past, present, or future membership in a uniformed service (including periods of voluntary training and service). The Act: (1) prohibits discrimination in employment, job retention and advancement; (2) requires employers to provide retraining opportunities; (3) requires health care and pension benefits to continue during leave; (4) allows an employee to take military leave up to five years; (5) provides additional protection for disabled veterans; (6) requires employees to provide notice of their need for leave; and (7) requires service members to notify their employers of their intention to return to work. Individuals reemployed after a period of military service are generally required to be allowed to return to work to all the benefits and seniority they would have had if they had remained continuously employed.</p>	<p>Back pay and benefits and liquidated damages (if conduct was willful).</p>
<p>Lilly Ledbetter Fair Pay Act of 2009</p>	<p>The Act amends title VII of the Civil Rights Act of 1964 and the Age Discrimination in Employment Act of 1967, and to modify the operation of the Americans with Disabilities Act of 1990 and the Rehabilitation Act of 1973, to clarify that a discriminatory compensation decision or other practice that is unlawful under such Acts occurs each time compensation is paid pursuant to the discriminatory compensation decision or other practice, and for other purposes.</p>	<p>Penalties are as given for amended acts – but does extend the time frame for when a person can make a claim.</p>
<p>Uniform Guidelines on Employee Selection (1978)</p>	<p>Covers all aspects of selection, hiring and performance appraisals. This document assists employers in avoiding discrimination in their processes, particularly adverse impact.</p>	<p>N/A</p>

## Laws Effecting Compensation

Law and Application	Key Provisions	Penalties
<p>Fair Labor Standards Act (FLSA) (1938)</p> <p>Revised in 2004</p> <p>Applies to most workers in the private sector and in federal, state, and local governments</p>	<p>Establishes federal minimum wage, overtime pay, recordkeeping, and child labor standards affecting full-time and part-time workers in the private sector and in federal, state, and local governments. It requires employers to pay covered employees who are not otherwise exempt at least the federal minimum wage and overtime pay of one-and-one-half-times the regular rate of pay. For nonagricultural operations, it restricts the hours that children under age 16 can work and forbids the employment of children under age 18 in certain jobs deemed too dangerous. For agricultural operations, it prohibits the employment of children under age 16 during school hours</p>	<p>The Fair Labor Standards Act is administered by the Department of Labor. Employers who willfully or repeatedly violate the Act may be penalized up to \$10,000 per violation. Second convictions can impose \$10,000 and/or imprisonment up to 6 months. Employers are liable for back pay and overtime for two years, unless the violation is found to be willful, in which case the back pay and overtime liability extends to 3 years.</p>

## Laws Effecting Compensation *(continued)*

Law and Application	Key Provisions	Penalties
	and in certain jobs deemed too dangerous. The Act is administered by the Employment Standards Administration's Wage and Hour Division within the U.S. Department of Labor.	
<p>Equal Pay Act (1963)</p> <p>Employers with 2 or more employees.</p>	Prohibits paying a man and a woman different rates for pay for the same or similar jobs, unless there is a reasonable factor other than gender for doing so.	Back pay for up to two years, or three years if the violation was willful, and liquidated damages in an amount equal to back pay.
<p>Federal Unemployment Tax Act – FUTA (1939)</p> <p>Applies to employers that pay at least \$1,500 in wages in any calendar quarter or who have at least one employee on any given day in each of twenty different calendar weeks.</p> <p>Nonprofit organizations have the option to opt out of paying unemployment taxes and becoming a reimbursable employer.</p>	<p>FUTA was established as part of the Social Security Act to provide a subsistence income to persons between periods of employment. It is administered at the state level, and the laws vary by state. With few exceptions, employers pay both federal and state unemployment taxes. Benefits are paid to unemployed persons based on a percentage of earnings prior to becoming unemployed, up to a maximum limit, and upon meeting eligibility criteria. The percentage, limit and eligibility criteria vary by state. Generally a person must be out of work for no fault of their own, not have refused suitable work and be available for and seeking employment.</p>	Failure to pay or pay on time will result in both late fees and fines.
Consumer Credit Protection Act (1968)	Sets limits on garnishments from employee wages, and prohibits termination on the basis of a single indebtedness.	Fine of up to \$1,000, 1 year imprisonment or both.
16th Amendment to the Constitution (1913) and Internal Revenue Code	<p>These provide the legal basis for Federal Income Tax Withholding.</p> <p>The 16th Amendment gave Congress the authority to enact an income tax. The IRS was organized to carry out the responsibilities of the Secretary of the Treasury under section 7801 of the Internal Revenue Code. The secretary has full authority to administer and enforce the internal revenue laws and has the power to create an agency to enforce these laws.</p>	See FICA and FUTA.
<p>Social Security Act (1935)</p> <p>Federal Insurance Contributions Act – FICA</p> <p>All employers</p>	<p>The 1935 Act has been amended several times, including the additions of Supplemental Security Income, provisions for disability and the Medicare program in 1961.</p> <p>Provides retirement, disability, death and survivors benefits based on earnings and contributions to Social Security.</p> <p>For employers, the act established the taxes (known as FICA taxes) that mandate employer payments and withholdings from employee wages for Social Security and Medicare benefits.</p> <p>The Social Security Administration (which became an independent Government Agency in 1995) administers the benefits, and the FICA regulations appear in the Internal Revenue Codes.</p>	Failure to pay or pay on time will result in both late fees and fines.

## Laws Effecting Benefits

Law and Application	Key Provisions	Penalties
<p>Family Medical Leave Act - FMLA (1993) (Revisions made in 2009 that change benefits for Military families not reflected in this summary)</p> <p>Applies to private employers with 50 or more employees (full and/or part-time) working within 75 miles of one another.</p> <p>Employee must have worked at 1,250 hours and have been employed for 1 year to be eligible.</p>	<p>Requires employers to provide an unpaid leave of absence for the serious health condition of the employee or an immediate family member (spouse, child or parent), or to care for a newborn child, adopted child or child placed in foster care.</p> <p>The leave may be up to a total of 12 weeks, but can be taken as an intermittent leave.</p> <p>An employee on FMLA leave is provided job protection in that they can return to the same or a substantially similar position.</p> <p>An employee on FMLA leave is also guaranteed maintenance of health insurance and other benefits.</p> <p>There are exceptions to the FMLA requirements for situations of loss of funding or for key employees.</p> <p>Both employers and employees have requirements under FMLA to provide notice regarding leave. Employers may require coordination of accrued paid leave with FMLA, but must have written policies.</p>	<p>Employees may recover back pay and benefits with interest, as well as reinstatement and/or promotion. Attorney's fees and costs may also be awarded.</p>
<p>Consolidated Omnibus Budget Reconciliation Act – COBRA (1985)</p> <p>(Changes made under 2009 Recovery and Stimulus Act not reflected in this summary)</p> <p>Applies to employers who provide health benefits and employ 20 or more employees</p>	<p>Requires that covered employers allow for the continuation of employee health benefits for any employee or covered dependent who would lose coverage due to termination, divorce, death of the employee, loss of eligibility due to reduction in work hours, or loss of eligibility for a dependent child (i.e., too old to qualify as a dependent). There is an exception for loss of employment due to gross misconduct.</p> <p>The employee is responsible for paying 100% of the premium for the continuation.</p> <p>Length of continuation generally ranges from 18 to 36 months depending on the reason for loss of coverage. Coverage normally ends when the employee is eligible for coverage under another plan, gains Medicare, or the employee voluntarily terminates or stops paying the premium.</p>	<p>Under ERISA, for failure to provide notice -- \$100 per day per violation until notice is provided, to employees or beneficiaries.</p> <p>Under the Internal Revenue Code, excise tax of \$100 per day per violation for each qualified beneficiary during the non-compliance period. A qualified beneficiary who did not receive coverage can bring a lawsuit against the employer.</p>
<p>The Employee Retirement Income Security Act of 1974- ERISA</p>	<p>ERISA sets requirements for the provision and administration of employee benefit plans. Employee benefit plans include health care benefits, profit sharing, and pension plans for example. ERISA requires companies that meet certain criteria to file a Form 5500 annually with the Internal Revenue Service that discloses basic information about each benefit plan, such as plan expenses, income, assets, and liabilities [IRS has suspended requirement to file Schedule F (Form 5500) for all plan years the form has not been filed. Schedule F (Form 5500) applies to adoption assistance programs, cafeteria plans, and educational assistance programs. See <a href="http://www.irs.gov/news/nandf.html">http://www.irs.gov/news/nandf.html</a> (select IR-2002-043) for more information] ERISA also requires employers to submit a Summary Annual Report annually to plan participants and beneficiaries.</p>	<p>The IRS and the Department of Labor jointly enforce ERISA requirements. Willful violations result in criminal and civil penalties.</p>

## Laws Effecting Benefits *(continued)*

Law and Application	Key Provisions	Penalties
Health Information Portability and Accountability Act – HIPAA (1996)	The Act makes health insurance more “portable” from one employer to another. The law mandates procedures for both new hires and for existing employees who are leaving the company. Employees who are new to a company can use evidence of previous health care coverage that is provided by their former employer to reduce or eliminate the new employer’s preexisting condition requirements. Employees who are leaving a company must be provided a certificate of prior creditable health care coverage to use for this purpose. The law includes other provisions regarding restrictions on preexisting conditions, special enrollment rights and protections against discrimination. The act also covers the confidential treatment of employee health information.	\$100 per day for each affected employee. Enforcement actions against non-complying plans may be brought both by participants and by the Department of Labor.

## Background Screening and Privacy

Law and Application	Key Provisions	Penalties
Health Information Portability and Accountability Act (HIPAA)	In addition to provision regarding the portability of health care covered in the prior section, the Act also covers the privacy of health information.	See HIPAA above.
Employee Polygraph Protection Act (1988)	Provides protection to current and prospective employees in the use of polygraph testing.	Aggrieved candidates for employment may obtain employment; aggrieved employees may be awarded reinstatement, promotion, back pay, and benefits. The action must be brought within 3 years of the alleged violation.
Fair Credit Reporting Act (1970)	Requires full disclosure of consumer reports, which includes credit reports, criminal background checks, motor vehicle reports, employment verification and reference checks conducted by consumer reporting agencies. Requires authorization to obtain report, notice before adverse action, and procedures for adverse action.	Actual damages, punitive damages, attorneys’ fees.
Fair and Accurate Credit Transactions Act (2003)	Amends the FCRA notification requirements to allow third party investigations of workplace misconduct.	See FCRA above.

## Health and Safety

Law and Application	Key Provisions	Penalties
<p>Occupational Safety and Health Act – OSHA (1970)</p> <p>All private and government employers, either through Federal OSHA or OSHA approved state plans, have the duty to provide a safe workplace.</p> <p>All employers must report fatalities and catastrophes. Employers with 10 or fewer employees during all of the last calendar year, or classified in a specific low-hazard retail, service, finance, insurance, or real estate industry, do not have to keep injury and illness records unless the Bureau of Labor Statistics or OSHA informs them they must do so.</p> <p>The following SIC codes are exempt: 832 Individual and Family Services 835 Child Day Care Centers 839 Social Services, Not Elsewhere Classified</p>	<p>OSHA has general safety standards for almost all employers and specific standards for certain industries. It has workplace inspectors who have the right to, with a search warrant, inspect the conditions in almost any business in the United States. OSHA has the right to respond to employee complaints of unsafe conditions and in fact, the highest priority for OSHA inspections are those situations that pose an imminent threat to the health and safety of workers. The Occupational Safety and Health Administration (OSHA) was created to administer and enforce the law.</p>	<p>OSHA penalties can include fines up to \$250,000 or \$500,000 for willful violations that result in employee death, and imprisonment. Penalties vary depending upon the type of violation, severity and employers cooperation with OSHA.</p>

## Laws Applying to Government Contractors

Law and Application	Key Provisions	Penalties
<p>Vietnam Era Veterans' Readjustment Assistance Act (VEVRAA)</p> <p>Federal contractors and subcontractors with contracts at least in the amount of \$25,000</p>	<p>Employers are to take affirmative action to hire and promote qualified disabled and Vietnam Era Veterans.</p> <p>VEVRAA is investigated and enforced by <a href="#">U.S. DoL - Federal Contract Compliance Programs (OFCCP)</a>.</p>	<p>If an employer discriminates against a veteran under the VEVRAA, the employer can face heavy sanctions and penalties in the forms of:</p> <ul style="list-style-type: none"> <li>- Withholding Contract Payment</li> <li>- Contract Termination</li> <li>- Debarment from Future Contracts</li> <li>- Along with other penalties specified in <a href="#">Executive Order 11246</a></li> </ul>
<p>The Walsh-Healey Public Contracts Act</p> <p>Federal government or D.C. contractors with contracts over \$10,000 post</p>	<p>The act establishes minimum wage, maximum hours, and safety and health standards for work on such contracts, and prohibits the employment on contract work of convict labor (unless certain conditions are met) and children under 16 years of age. The employment of homeworkers (except homeworkers with disabilities employed under the provisions of Regulations, 29 CFR Part 525) on a covered contract is not permitted.</p> <p>In addition to its coverage of prime contractors, the act under certain circumstances applies to secondary contractors performing work under contracts awarded by the Government prime contractor.</p> <p>All provisions of the act except the safety and health requirements are administered by the Wage and Hour Division. Sets minimum wage, overtime and other standards.</p>	<p>Contractors and subcontractors who violate the Act may be subject to a variety of penalties. The underpayment of wages and overtime pay may result in the withholding of contract payments in amounts sufficient to reimburse the underpayment. The penalty for employing underage minors or convicts is \$10 per day per person, for which contract payments may also be withheld. The Department of Labor may also bring legal action to collect wage underpayment and fines for illegally employing minors and convicts. Willful violations may subject the employer to cancellation of the current contract and debarment from future Federal contracts for a three-year period.</p>

## Laws Applying to Government Contractors *(continued)*

Law and Application	Key Provisions	Penalties
<p>The Rehabilitation Act of 1973, Section 503</p> <p>Employers with Federal contracts or subcontracts worth more than \$2,500</p>	<p>Protects handicapped people (a person with a physical or mental impairment that critically constrains activity) from discrimination.</p> <p>For employers with 50 or more employees, or contracts in excess of \$50,000 to have written affirmative action plans in place.</p> <p>OFCCP investigates for violations of Section 503 either through compliance evaluations or in response to complaints.</p>	<p>If the Board finds that a violation of Section 503 has occurred, it may order the contractor or subcontractor to provide appropriate relief, which may include back pay and benefits, and restoration of employment status, for the victim(s) of discrimination. Depending on the circumstances, violations also may result in cancellation, suspension, or termination of contracts, withholding of progress payments, and debarment.</p>
<p>Government Service Contracts Act</p> <p>Federal government or D.C. contractors with service contract of \$2,500 or more post</p>	<p>The Service Contract Act applies to every contract entered into by the United States or the District of Columbia, the principal purpose of which is to furnish services in the United States through the use of service employees. Contractors and subcontractors performing on such Federal contracts must observe minimum wage and safety and health standards, and must maintain certain records, unless a specific exemption applies.</p>	<p>Monetary Penalties for Violation</p> <ul style="list-style-type: none"> <li>• Back Pay Liability</li> <li>• Withholding of Contract Funds</li> <li>• Judicial Review</li> <li>• Private Right of Action for Retaliatory Discharge</li> <li>• Priority of Unpaid Workers to Contract Funds</li> <li>• Statute of Limitations</li> <li>• Contract Cancellation</li> </ul> <p>Three Year Debarment Penalty</p>

## Other Major Laws

Law and Application	Key Provisions	Penalties
<p>Whistleblower Protection Provisions of Sarbanes-Oxley Act – SOX (2002)</p>	<p>There is a patchwork of laws that provide various protections for Whistleblowers. The Whistleblower protection provisions contained in SOX prohibits public companies from discriminating against whistleblowing employees, and gives whistleblowers a private right of legal action. Employees are protected if they reasonably believe a violation of federal securities law, rules or regulations of the Securities and Exchange Commission, or any provision of federal law relating to fraud against shareholders has been committed. To be protected under the Act, an employee must report the violation to a federal agency; a member of Congress; any person with supervisory authority over the employee; or any person working for the company who has the authority to investigate, discover, or terminate misconduct. The provision has been applied to nonprofit organizations as well as publicly traded organizations.</p>	<p>Individuals who retaliate against whistleblowers are subject to criminal penalties including fines and imprisonment of up to ten years.</p>

## Other Major Laws *(continued)*

Law and Application	Key Provisions	Penalties
<p>Immigration Reform and Control Act – IRCA (1986, 1990, 1996 )</p> <p>Applies to all employers.</p>	<p>Governs the responsibility of employers to verify the eligibility of new employees to work in the US by completing the I-9 form. The I-9 Form should be maintained in a separate file from the employee’s personnel file because it contains information on age and national origin.</p>	<p>Civil fines of \$100 to \$10,000 per violation for recordkeeping and employment violations. Back pay/front pay and attorneys’s fees for discriminatory actions. Criminal penalties may be imposed for repeated violations</p>
<p>Immigration and Nationality Act - INA (1952)</p> <p>Any employer employing a foreign worker.</p>	<p>The Act sets forth the conditions for the temporary and permanent employment of aliens in the United States and includes provisions that address employment eligibility and employment verification. Under the INA, employers must verify the identity and employment authorization of all employees, including foreign workers. The requirements for employing a foreign worker are variously controlled by the Employment Standards Administration of the Department of Labor, the Department of Homeland Security, Immigration and Naturalization Service, and the Department of Justice.</p>	<p>Civil fines up to \$16,000.</p>
<p>Worker Adjustment and Retraining Notification Act (WARN)</p>	<p>The Worker Adjustment and Retraining Notification Act (WARN) requires employers with 100 or more full-time employees to provide 60 days written advance notification of plant closings and mass layoffs to employees, bargaining unit(s), and state and local government officials.</p>	<p>Employers are liable for back pay and lost benefits, including medical expenses which would have otherwise been paid, for up to 60 days, as well as attorneys’ fees. Class action suits are specifically allowed but punitive damages will not be awarded.</p>



## Appendix B: Recordkeeping Requirements of Key Federal Employment Laws

Several laws contain explicit or implicit recordkeeping requirements. These laws include the Americans with Disabilities Act (ADA), the Age Discrimination in Employment Act (ADEA), the Equal Pay Act, Executive Order 11246, the Family and Medical Leave Act (FMLA), the Fair Labor Standards Act (FLSA), the Rehabilitation Act, Title VII of the Civil Rights Act of 1964, the Immigration Reform and Control Act (IRCA), the Occupational Safety and Health Act (OSHA), the Employee Retirement Income Security Act (ERISA), and the Vietnam Era Veterans' Readjustment Assistance Act (VEVRAA). The list below includes the types of records required to be retained, the period those records must be retained, and the law requiring retention of the records. Sometimes more than one law requires a particular record to be maintained. In these instances, the law with the longest recordkeeping requirement is listed. Note that any records that are part of a lawsuit must be retained at least until the lawsuit is resolved.

### Type of Record; Length of Time to Retain; Applicable Law

- Job order submitted to a state agency; one year; ADEA.
- Job advertisements and internal job postings; one year; ADEA, FLSA, and ADA.
- Employment applications; three years; FLSA.
- Biographical data (name, address, date of birth, gender, etc.); three years; FLSA.
- Applicant flow information; one year\*; ADA, ADEA, and Civil Rights Act.
- Medical records; one year\*\*; ADA, ADEA, and Civil Rights Act.
- Offer and hiring records; one year\*; ADA, Executive Order 11246, Civil Rights Act, and VEVRAA.

- Promotions, demotions, and transfers; one year\*; ADA, ADEA, and Civil Rights Act.
- Qualified plan (welfare or retirement) records; six years; ERISA.
- Layoffs; one year; ADA, ADEA, and Civil Rights Act.
- Payroll records; three years; ADEA, Equal Pay Act, FMLA, and FLSA.
- Time cards; three years; ADEA and FLSA.
- Employment Eligibility Verification forms (Form I-9); latter of three years after hire or one year after termination; IRCA.
- Employment contracts; three years; Equal Pay Act and FLSA.
- Employee pay and benefit plans; three years; FMLA.
- Records and logs of occupational injuries; five years; OSHA.
- Employee exposure to toxic substances; 30 years after termination; OSHA.
- Employee terminations; one year; ADA, ADEA, Executive Order 11246, and Civil Rights Act.
- Record of employee disputes; three years; FMLA.
- Employer Information reports (EEO-1) and VETS-100 reports; one year; ADA, Executive Order 11246, Civil Rights Act, and VEVRAA.
- Employee leaves of absence granted under the Family and Medical Leave Act; three years; FMLA.

Notes: \*If, while completing the Affirmative Action Plan, an “adverse impact” is discovered, then the records must be maintained until two years after the adverse impact is eliminated.

\*\*Medical records related to a leave granted under the Family and Medical Leave Act must be maintained for three years.

Any records that are a part of a lawsuit must be retained at least until the lawsuit is resolved.

# Appendix C: Sample Record Retention Policy

## Records to Retain and Recommended Number of Years to Retain Them

(Note: the recommended time to retain a record may sometimes exceed the minimum legal requirements.)

Record	Years	Notes
<b>Hiring Records*</b> job applications, resumes records relating to refusal to hire advertisements about openings, promotions, or training opportunities *Federal contractors should keep these records for at least two years.	One year.	Keep equal employment opportunity information separate.
<b>Basic Employee Information</b> Form I-9 for all work permits for minors	Three years after hire or one year after termination, whichever is later.	Keep I-9 forms separate.
<b>Payroll Records</b> name, address, Social Security Number, date of birth, job classification, occupation, daily schedules, pay rate, weekly compensation, amounts and dates of payments, daily and weekly hours, overtime hours and pay, annuity and pension payments, benefits, deductions, and additions	Four years.	
<b>Tax Records</b>	Four years.	
<b>Employment Actions</b> hires, separations, rehires, promotions, demotions, transfers, layoffs, recalls, training opportunities, and employment test results	One year from date of action.	
<b>Health, Medical, and Safety Data</b> Job-related illnesses and injuries Requests for accommodation of disability Medical exams Toxic substance exposure records Blood-borne pathogen exposure records	Varies. Five years. One year. 30 years. 30 years. 30 years.	Keep separate.

## Appendix D: State Departments of Labor

AL	AK	AR	AZ	CA	CT	CO	DC	DE	FL	GA	GU	HI	IA
ID	IL	IN	KS	KY	LA	MA	MD	ME	MI	MN	MO	MS	MT
NE	NC	ND	NH	NJ	NM	NV	NY	OH	OK	OR	PA	PR	RI
SC	SD	TN	TX	UT	VA	VI	VT	WA	WV	WY			

Following is a list of states and their labor department contact information.

The information is from [http://www.dol.gov/esa/contacts/state\\_of.htm](http://www.dol.gov/esa/contacts/state_of.htm).

State	Name and Title of Department Head and Mailing Address of State Labor Department	State Labor Department Contact Number	State Labor Department Website Address
ALABAMA	Jim Bennett Commissioner Alabama Department of Labor PO Box 303500 Montgomery, AL 36130-3500	(334) 242-3460	<a href="http://www.Alalabor.state.al.us/">http://www.Alalabor.state.al.us/</a>
ALASKA	Clark Bishop Commissioner Department of Labor and Workforce Development P.O. Box 11149 Juneau, AK 99822-2249	(907) 465-2700	<a href="http://www.labor.state.AK.us/">http://www.labor.state.AK.us/</a>
ARIZONA	Brian C. Delfs Director Arizona Industrial Commission 800 West Washington Street Phoenix, AZ 85007	(602) 542-4515	<a href="http://www.ica.state.AZ.us/">http://www.ica.state.AZ.us/</a>
ARKANSAS	James Salkeld Director Department of Labor 10421 West Markham Little Rock, AR 72205	(501) 682-4500	<a href="http://www.Arkansas.gov/labor">http://www.Arkansas.gov/labor</a> <a href="http://www.asklabor@Arkansas.gov">http://www.asklabor@Arkansas.gov</a>
CALIFORNIA	Victoria Bradshaw Director Labor and Workforce Development Agency 445 Golden Gate Avenue, 10th Floor San Francisco, CA 94102	(415) 703-5050	<a href="http://www.dir.CA.gov/dlse">http://www.dir.CA.gov/dlse</a> <a href="http://www.labor.CA.gov">http://www.labor.CA.gov</a>
COLORADO	Donald J. Mares Executive Director Department of Labor and Employment 633 17th Street, 2nd Floor Denver, CO 80202-3660	(888) 390-7936	<a href="http://www.COworkforce.com">http://www.COworkforce.com</a>
CONNECTICUT	Patricia H. Mayfield Commissioner Department of Labor 200 Folly Brook Boulevard Wethersfield, CT 06109-1114	(860) 263-6000	<a href="http://www.CT.gov/dol">http://www.CT.gov/dol</a>
DELAWARE	Thomas B. Sharp Secretary of Labor 4425 North Market Street, 4th Floor Wilmington, DE 19802	(302) 451-3423	<a href="http://www.Delawareworks.com/">http://www.Delawareworks.com/</a>

State	Name and Title of Department Head and Mailing Address of State Labor Department	State Labor Department Contact Number	State Labor Department Website Address
DISTRICT OF COLUMBIA	Summer Spencer Director Employment Services Department 614 New York Avenue NE, Suite 300 Washington, DC 20002	(202) 671-1900	<a href="http://www.DOES.DC.gov">http://www.DOES.DC.gov</a>
FLORIDA	Monesia T. Brown Director Agency for Workforce Innovation The Caldwell Building 107 East Madison Street, Suite 100 Tallahassee, FL 32399-4120	(800) 342-3450	<a href="http://www.Floridajobs.org/">http://www.Floridajobs.org/</a>
GEORGIA	Michael Thurmond Commissioner Department of Labor Sussex Place, Room 600 148 Andrew Young International Boulevard NE Atlanta, GA 30303	(404) 656-3011	<a href="http://www.commissioner@dol.state.GA.us">http://www.commissioner@dol.state.GA.us</a> <a href="http://www.dol.state.GA.us/">http://www.dol.state.GA.us/</a>
HAWAII	Director Department of Labor and Industrial Relations 830 Punchbowl Street Honolulu, HI 96813	(808) 586-8842	<a href="http://www.Hawaii.gov/labor/">http://www.Hawaii.gov/labor/</a>
IDAHO	Robert B. Madsen Director Department of Labor 317 West Main Street Boise, ID 83735-0001	(208) 332-3579 (800) 843-3193	<a href="http://www.labor.idaho.gov">http://www.labor.idaho.gov</a>
ILLINOIS	Catherine M. Shannon Director Department of Labor 160 North LaSalle Street 13th Floor, Suite C-1300 Chicago, IL 60601	(312) 793-2800	<a href="http://www.state.IL.us/agency/idol">http://www.state.IL.us/agency/idol</a>
INDIANA	Lori Torres Department of Labor IndianaGovernmentCenter South 402 West Washington Street Room W195 Indianapolis, IN 46204	(317) 232-2655	<a href="http://www.IN.gov/labor">http://www.IN.gov/labor</a>
IOWA	David Neil Labor Commissioner Iowa Workforce Development 1000 East Grand Avenue Des Moines, IA 50319-0209	(515) 242-5870	<a href="http://www.iowaworkforce.org/labor">http://www.iowaworkforce.org/labor</a>
KANSAS	Jim Garner Secretary Department of Labor 401 Southwest Topeka Boulevard Topeka, KS 66603-3182	(785) 296-5000	<a href="http://www.dol.KS.gov">http://www.dol.KS.gov</a>
KENTUCKY	Philip Anderson Commissioner Department of Labor 1047 U.S. Highway 127 South, Suite 4 Frankfort, KY 40601-4381	(502) 564-3070	<a href="http://www.labor.KY.gov/">http://www.labor.KY.gov/</a>

State	Name and Title of Department Head and Mailing Address of State Labor Department	State Labor Department Contact Number	State Labor Department Website Address
LOUISIANA	John Warner Smith Secretary Department of Labor PO Box 94094 Baton Rouge, LA 70804-9094	(225) 342-3011	<a href="http://www.LAworks.net/">http://www.LAworks.net/</a>
MAINE	Laura Fortman Commissioner Department of Labor 45 Commerce Street Augusta, ME 04330	(207) 623-7900	<a href="http://www.state.ME.us/labor">http://www.state.ME.us/labor</a>
MARYLAND	Tom Perez Secretary Department of Labor and Industry 500 North Calvert Street, Suite 401 Baltimore, MD 21202	(410) 767-2357	<a href="http://www.dlir.state.MD.us/">http://www.dlir.state.MD.us/</a>
MASSACHUSETTS	Greg Noel Secretary Department of Labor and Work Force Development One Ashburton Place, Room 2112 Boston, MA 02108	(617) 626-7100	<a href="http://www.Mass.gov/eolwd">http://www.Mass.gov/eolwd</a> <a href="http://www.state.ma.us/">http://www.state.ma.us/</a>
MICHIGAN	Keith Cooley Director Department of Labor and Economic Growth PO Box 30004 Lansing, MI 48909	(517) 335-0400	<a href="http://www.Michigan.gov/cis">http://www.Michigan.gov/cis</a>
MINNESOTA	Steven A. Sviggum Commissioner Department of Labor and Industry 443 Lafayette Road North St. Paul, MN 55155	(651) 284-5070	<a href="http://www.doli.state.MN.us/">http://www.doli.state.MN.us/</a>
MISSISSIPPI	Tommye Dale Favre Executive Director Department of Employment Security PO Box 1699 Jackson, MS 39215-1699	(601) 321-6000	<a href="http://www.mdes.MS.gov/">http://www.mdes.MS.gov/</a>
MISSOURI	Todd Smith Director Labor and Industrial Relations PO Box 599 3315 West Truman Boulevard Jefferson City, MO 65102-0599	(573) 751-7500	<a href="http://www.dolir.MO.gov/lirc">http://www.dolir.MO.gov/lirc</a>
MONTANA	Keith Kelly Commissioner Department of Labor and Industry PO Box 1728 Helena, MT 59624-1728	(406) 444-5600	<a href="http://www.dli.MT.gov/">http://www.dli.MT.gov/</a>
NEBRASKA	Fernando Lecuona III Commissioner Department of Labor 550 South 16th Street Box 94600 Lincoln, NE 68509-4600	(402) 471-9000	<a href="http://www.Nebraskaworkforce.com/">http://www.Nebraskaworkforce.com/</a>

State	Name and Title of Department Head and Mailing Address of State Labor Department	State Labor Department Contact Number	State Labor Department Website Address
NEVADA	Michael Tanchek Commissioner Department of Business and Industry 555 East Washington Avenue, Suite 4100 Las Vegas, NV 89101-1050	(702) 486-2650	<a href="http://www.laborcommissioner.com/">http://www.laborcommissioner.com/</a> <a href="http://www.NV.gov">http://www.NV.gov</a>
NEW HAMPSHIRE	George N. Copadis Commissioner Department of Labor State Office Park South 95 Pleasant Street Concord, NH 03301	(603) 271-3176	<a href="http://www.labor.state.NH.us/">http://www.labor.state.NH.us/</a>
NEW JERSEY	David Socolow Commissioner Department of Labor John Fitch Plaza 13th Floor, Suite D PO Box 110 Trenton, NJ 08625-0110	(609) 777-3200	<a href="http://lwd.dol.state.nj.us/labor/index.shtml">http://lwd.dol.state.nj.us/labor/index.shtml</a>
NEW MEXICO	Betty D. Sparrow Secretary Department of Labor PO Box 1928 401 Broadway NE Albuquerque, NM 87103-1928	(505) 841-8450	<a href="http://www.dol.state.NM.us/">http://www.dol.state.NM.us/</a>
NEW YORK	M. Patricia Smith Commissioner Department of Labor State Office Building, Number 12, W.A. Harriman Campus Albany, NY 12240	(212) 775-3880	<a href="http://www.labor.state.NY.us/">http://www.labor.state.NY.us/</a>
NORTH CAROLINA	Cherie K. Berry Commissioner Department of Labor 4 West Edenton Street Raleigh, NC 27601-1092	(919) 733-7166	<a href="http://www.nclabor.com/">http://www.nclabor.com/</a>
NORTH DAKOTA	Lisa Fair McEvers Commissioner Department of Labor State Capitol Building 600 East Boulevard, Department 406 Bismark, ND 58505-0340	(701) 328-2660	<a href="http://www.nd.gov/labor/">http://www.nd.gov/labor/</a>
OHIO	Kimberly A. Zurz Director Department of Commerce 77 South High Street, 22nd Floor Columbus, OH 43215	(614) 644-2239	<a href="http://www.com.state.OH.us/">http://www.com.state.OH.us/</a>
OKLAHOMA	Lloyd Fields Commissioner Department of Labor 4001 North Lincoln Boulevard Oklahoma City, OK 73105-5212	(405) 528-1500	<a href="http://www.state.OK.us/~okdol">http://www.state.OK.us/~okdol</a>

State	Name and Title of Department Head and Mailing Address of State Labor Department	State Labor Department Contact Number	State Labor Department Website Address
OREGON	Dan Gardner Commissioner Bureau of Labor and Industries 800 NE Oregon Street, Number 32 Portland, OR 97232	(971) 673-0761	<a href="http://www.Oregon.gov/boli">http://www.Oregon.gov/boli</a>
PENNSYLVANIA	Stephen M. Schmerin Secretary Department of Labor and Industry 1700 Labor and Industry Building 7th and Forster Streets Harrisburg, PA 17120	(717) 787-5279	<a href="http://www.dli.state.PA.us">http://www.dli.state.PA.us</a>
RHODE ISLAND	Adelita S. Orefice Director Department of Labor and Training 1511 Pontiac Avenue Cranston, RI 02920	(401) 462-8000	<a href="http://www.dlt.state.RI.us">http://www.dlt.state.RI.us</a>
SOUTH CAROLINA	Adrienne R. Youmans Director Department of Labor, Licensing and Regulations PO Box 11329 Columbia, SC 29211-1329	(803) 896-4300	<a href="http://www.llr.state.SC.us">http://www.llr.state.SC.us</a>
SOUTH DAKOTA	Pamela S. Roberts Secretary Department of Labor 700 Governors Drive Pierre, SD 57501-2291	(605) 773-3682	<a href="http://www.state.SD.us">http://www.state.SD.us</a>
TENNESSEE	James G. Neeley Commissioner Department of Labor and Workforce Development Andrew Johnson Tower 710 James Robertson Parkway Nashville, TN 37243-0655	(615) 741-6642	<a href="http://www.state.TN.us/labor-wfd">http://www.state.TN.us/labor-wfd</a>
TEXAS	Ronald Congleton Labor Commissioner Texas Workforce Commission 101 East 15th Street Austin, TX 78778	(512) 475-2670	<a href="http://www.twc.state.TX.us">http://www.twc.state.TX.us</a>
UTAH	Sherrie Hayashi Commissioner Utah Labor Commission PO Box 146610 Salt Lake City, UT 84114-6610	(801) 530-6800	<a href="http://www.Laborcommission.Utah.gov">http://www.Laborcommission.Utah.gov</a>
VERMONT	Patricia Moulton Powden Commissioner Department of Labor 5 Green Mountain Drive PO Box 488 Montpelier, VT 05601-0488	(802) 828-4000	<a href="http://www.labor.verMont.gov/">http://www.labor.verMont.gov/</a>
VIRGINIA	C. Ray Davenport Commissioner Department of Labor and Industry Powers-Taylor Building 13 South 13th Street Richmond, VA 23219	(804) 371-2327	<a href="http://www.doli.Virginia.gov/">http://www.doli.Virginia.gov/</a>



State	Name and Title of Department Head and Mailing Address of State Labor Department	State Labor Department Contact Number	State Labor Department Website Address
WASHINGTON	Judy Schurke Acting Director Department of Labor and Industries PO Box 44001 Olympia, WA 98504-4001	(360) 902-4200	<a href="http://www.lni.wa.gov/">http://www.lni.wa.gov/</a>
WEST VIRGINIA	David Mullens Commissioner Division of Labor State Capitol Complex Building Number 6, 1900 Kanawha Boulevard Charleston, WV 25305	(304) 558-7890	<a href="http://www.labor.state.wv.us/">http://www.labor.state.wv.us/</a>
WISCONSIN	Roberta Gassman Secretary Department of Workforce Development 201 East Washington Avenue, Number A400 PO Box 7946 Madison, WI 53707-7946	(608) 266-6861	<a href="http://www.dwd.state.wi.us/">http://www.dwd.state.wi.us/</a>
WYOMING	Cynthia Pomeroy Director Department of Employment 1510 East Pershing Boulevard Cheyenne, WY 82002	(307) 777-7261	<a href="http://www.doe.state.wy.us/">http://www.doe.state.wy.us/</a>
GUAM	Maria S. Connelley Director of Labor Department of Labor PO Box 9970 Tamuning, Guam 96931-9970	(671) 475-7043	<a href="http://www.Guamdol.net/">http://www.Guamdol.net/</a>
PUERTO RICO	Roman Velasco Secretary Department of Labor and Human Resources Edificio Prudencio Rivera Martinez 505 Munoz Rivera Avenue GPO. Box 3088 Hato Rey, PR 00918	(787) 754-2100	<a href="http://www.dtrh.gobierno.PR/">http://www.dtrh.gobierno.PR/</a>
VIRGIN ISLANDS	Albert Bryan Jr. Commissioner Department of Labor 2203 Church Street St. Croix, VI 00802-4612	(340) 776-3700 St. Thomas  (340) 692-9689 St. Croix	<a href="http://www.VIdol.gov/">http://www.VIdol.gov/</a>

# Appendix E: State Nonprofit Associations

Following is a list of state nonprofit associations. The information is from [http://www.councilofnonprofits.org/salocator\\*](http://www.councilofnonprofits.org/salocator*).

<p><b>ALABAMA</b> Nonprofit Resource Center of Alabama 3324 Independence Drive, Suite 100 Birmingham, AL 35209 Phone: (205) 879-4712 Fax: (205) 879-4724 Web: <a href="http://www.nrca.info">http://www.nrca.info</a></p>	<p><b>DISTRICT OF COLUMBIA</b> Center for Nonprofit Advancement 1666 K Street NW, Suite 440 Washington, DC 20006 Phone: (202) 457-0540 Fax: (202) 457-0549 Web: <a href="http://www.nonprofitadvancement.org">http://www.nonprofitadvancement.org</a></p>	<p><b>LOUISIANA</b> Louisiana Association of Nonprofit Organizations 700 North 10th, Suite 250 Baton Rouge, LA 70802 Phone: (225) 343-5266 Fax: (225) 343-5363 Web: <a href="http://www.lano.org">http://www.lano.org</a></p>
<p><b>ARIZONA</b> Alliance of Arizona Nonprofits PO Box 16162 Phoenix, AZ 85011-6162 Phone: (602) 279-2966 Web: <a href="http://www.arizonanonprofits.org">http://www.arizonanonprofits.org</a></p>	<p><b>FLORIDA</b> Florida Association of Nonprofit Organizations 7480 Fairway Drive, Suite 206 Miami Lakes, FL 33014 Phone: (305) 557-1764 Fax: (305) 821-5228 Web: <a href="http://www.fano.org">http://www.fano.org</a></p>	<p><b>MAINE</b> Maine Association of Nonprofits 565 Congress Street, Suite 301 Portland, ME 04101 Phone: (207) 871-1885 Fax: (207) 780-0346 Web: <a href="http://www.nonprofitmaine.org">http://www.nonprofitmaine.org</a></p>
<p><b>ARKANSAS</b> Arkansas Coalition for Excellence 200 South Commerce Street, Suite 100 Little Rock, AR 72201 Phone: (501) 375-1223 Fax: (501) 324-2236 Web: <a href="http://www.acenonprofit.org">http://www.acenonprofit.org</a></p>	<p><b>HAWAII</b> Hawaii Alliance of Nonprofit Organizations 33 South King Street, Suite 501 Honolulu, HI 96813 Phone: (808) 529-0466 Fax: (808) 529-0477 Web: <a href="http://www.hano-hawaii.org">http://www.hano-hawaii.org</a></p>	<p><b>MARYLAND</b> Maryland Association of Nonprofit Organizations 190 West Ostend Street, Suite 201 Baltimore, MD 21230 Phone: (410) 727-6367 Fax: (410) 727-1914 Web: <a href="http://www.marylandnonprofits.org">http://www.marylandnonprofits.org</a></p>
<p><b>CALIFORNIA</b> California Association of Nonprofits 520 South Grand Avenue, Suite 695 Los Angeles, CA 90071 Phone: (213) 347-2070 Fax: (213) 347-2080 Web: <a href="http://www.canonprofits.org">http://www.canonprofits.org</a></p>	<p><b>IDAHO</b> Idaho Nonprofit Center 1509 East Tyrell Lane, Suite 100 Boise, ID 83706 Phone: (208) 424-2229 Fax: (208) 424-2294 Web: <a href="http://www.idahononprofits.org">http://www.idahononprofits.org</a></p>	<p><b>MASSACHUSETTS</b> Massachusetts Council of Human Service Providers 250 Summer Street, Suite 237 Boston, MA 02210 Phone: (617) 428-3637 Fax: (617) 428-1533 Web: <a href="http://www.providers.org">http://www.providers.org</a></p>
<p><b>COLORADO</b> Colorado Nonprofit Association 455 Sherman Street, Suite 207 Denver, CO 80203 Phone: (303) 832-5710 Fax: (303) 894-0161 Web: <a href="http://www.coloradononprofits.org">http://www.coloradononprofits.org</a></p>	<p><b>ILLINOIS</b> Donors Forum 208 South LaSalle Street, Suite 1540 Chicago, IL 60604 Phone: (312) 578-0090 Fax: (312) 578-0103 Web: <a href="http://www.donorsforum.org">http://www.donorsforum.org</a></p>	<p><b>MICHIGAN</b> Michigan Nonprofit Association 1048 Pierpont, Suite 3 Lansing, MI 48911 Phone: (517) 492-2400 Fax: (517) 492-2410 Web: <a href="http://www.mnaonline.org">http://www.mnaonline.org</a></p>
<p><b>CONNECTICUT</b> Connecticut Association of Nonprofits 90 Brainard Road Hartford, CT 06114 Phone: (860) 525-5080 Fax: (860) 525-5088 Web: <a href="http://www.ctnonprofits.org">http://www.ctnonprofits.org</a></p>	<p><b>IOWA</b> Iowa Nonprofit Resource Center 130 Grand Avenue Court Iowa City, IA 52242 Phone: (319) 335-9765 Web: <a href="http://www.nonprofit.law.uiowa.edu">http://www.nonprofit.law.uiowa.edu</a></p>	<p><b>MINNESOTA</b> Minnesota Council of Nonprofits 2314 University West Suite 20 St. Paul, MN 55114-1904 Phone: (651) 642-1904 Fax: (651) 642-1517 Web: <a href="http://www.mncn.org">http://www.mncn.org</a></p>
<p><b>DELAWARE</b> Delaware Association of Nonprofit Agencies 100 West 10th Street, Suite 102 Wilmington, DE 19801 Phone: (302) 777-5500 Fax: (302) 777-5386 Web: <a href="http://www.delawarenonprofit.org">http://www.delawarenonprofit.org</a></p>	<p><b>KENTUCKY</b> Nonprofit Leadership Initiative University of Kentucky 500 Garrigus Building Lexington, KY 40546 Phone: (859) 257-2542 Fax: (859) 323-2715 Web: <a href="http://www.kynonprofits.org">http://www.kynonprofits.org</a></p>	<p><b>MISSISSIPPI</b> Mississippi Center for Nonprofits 700 North Street, Suite 201 Jackson, MS 39202 Phone: (601) 968-0061 Fax: (601) 352-8820 Web: <a href="http://www.msnonprofits.org">http://www.msnonprofits.org</a></p>

<p><b>MONTANA</b> Montana Nonprofit Association PO Box 1744 Helena, MT 59624 Phone: (406) 449-3717 Fax: (406) 449-3718 Web: <a href="http://www.mtnonprofit.org">http://www.mtnonprofit.org</a></p>	<p><b>NORTH CAROLINA</b> North Carolina Center for Nonprofits 1110 Navaho Drive, Suite 200 Raleigh, NC 27609-7322 Phone: (919) 790-1555 Fax: (919) 790-5307 Web: <a href="http://www.ncnonprofits.org">http://www.ncnonprofits.org</a></p>	<p><b>SOUTH CAROLINA</b> South Carolina Association of Nonprofit Organizations 900 Elmwood Avenue, Suite 101 Columbia, SC 29201 Phone: (803) 929-0399 Fax: (803) 929-0173 Web: <a href="http://www.scanpo.org">http://www.scanpo.org</a></p>
<p><b>NEBRASKA</b> Nonprofit Association of the Midlands 5002 South 24th Street, Suite 201 Omaha NE 68107 Phone: (402) 557-5800 Fax: (402) 557-5803 Web: <a href="http://www.nonprofitam.org">http://www.nonprofitam.org</a></p>	<p><b>NORTH DAKOTA</b> North Dakota Association of Nonprofit Organizations PO Box 1091 1605 East Capital Ave Bismarck, ND 58502 Phone: (701) 258-9101 Fax: (701) 223-2507 Web: <a href="http://www.ndano.org">http://www.ndano.org</a></p>	<p><b>TEXAS</b> Texas Association of Nonprofit Organizations PO Box 27914 Austin, TX 78755 Phone: (512) 223-7075 Web: <a href="http://www.tano.org">http://www.tano.org</a></p>
<p><b>NEVADA</b> Nevada Association of Nonprofit Organizations 1000 North Green Valley Parkway Suite 300-166 Henderson, NV 89074 Phone: (888) 604-6273 Fax: (702) 892-0655 Web: <a href="http://www.nevadanonprofits.org">http://www.nevadanonprofits.org</a></p>	<p><b>OHIO</b> Ohio Association of Nonprofit Organizations 100 East Broad Street, Suite 2440 Columbus, OH 43216-4353 Phone: (614) 280-0233 Fax: (614) 280-0657 Web: <a href="http://www.ohiononprofits.org">http://www.ohiononprofits.org</a></p>	<p><b>UTAH</b> Utah Nonprofits Association 175 South Main Street, Suite 1210 Salt Lake City, UT 84111 Phone: (801) 596-1800 Fax: (801) 596-1806 Web: <a href="http://www.utahnonprofits.org">http://www.utahnonprofits.org</a></p>
<p><b>NEW HAMPSHIRE</b> New Hampshire Center for Nonprofits 10 Ferry Street, Suite 315 Concord, NH 03301 Phone: (603) 225-1947 Fax: (603) 228-5574 Web: <a href="http://www.nhnonprofits.org">http://www.nhnonprofits.org</a></p>	<p><b>OKLAHOMA</b> Center for Nonprofits 923 North Robinson, Suite 400 Oklahoma City, OK 73102 Phone: (405) 236-8133 Fax: (405) 272-0436 Web: <a href="http://www.oklahomacenterfornonprofits.org">http://www.oklahomacenterfornonprofits.org</a></p>	<p><b>VIRGINIA</b> Virginia Network of Nonprofit Organizations 1108 East Main Street, Suite 1200 Richmond, VA 23219 Phone: (804) 565-9871 Fax: (804) 565-9872 Web: <a href="http://www.vanno.org">http://www.vanno.org</a></p>
<p><b>NEW JERSEY</b> Center for Non-Profit Corporations 1501 Livingston Avenue North Brunswick, NJ 08902 Phone: (732) 227-0800 Fax: (732) 227-0087 Web: <a href="http://www.njnonprofits.org">http://www.njnonprofits.org</a></p>	<p><b>OREGON</b> Nonprofit Association of Oregon c/o TACS 1001 Southeast Water Avenue, Suite 490 Portland, OR 97214 Phone: (503) 239-4001 Fax: (503) 236-8313 Web: <a href="http://www.nonprofitoregon.org">http://www.nonprofitoregon.org</a></p>	<p><b>WASHINGTON</b> Northwest Nonprofit Resources PO Box 9066 Spokane, WA 99209 Phone: (509) 325-4303 Fax: (509) 483-0345 Web: <a href="http://www.nnr.org">http://www.nnr.org</a></p>
<p><b>NEW YORK</b> Council of Community Services of New York State 272 Broadway Albany, NY 12204 Phone: (518) 434-9194 Fax: (518) 434-0392 Web: <a href="http://www.ccsnys.org">http://www.ccsnys.org</a></p> <p>Nonprofit Coordinating Committee of New York 1350 Broadway, Suite 1801 New York, NY 10018-7802 Phone: (212) 502-4191 Fax: (212) 502-4189 Web: <a href="http://www.npccony.org">http://www.npccony.org</a></p>	<p><b>PENNSYLVANIA</b> Pennsylvania Association of Nonprofit Organizations 777 East Park Drive, Suite 300 Harrisburg, PA 17111 Phone: (717) 236-8584 Fax: (717) 236-8767 Web: <a href="http://www.pano.org">http://www.pano.org</a></p>	<p><b>WISCONSIN</b> Wisconsin Nonprofits Association PO Box 1662 Madison, WI 53701 Phone: (608) 772-5962 Web: <a href="http://www.wisconsinnonprofits.org">http://www.wisconsinnonprofits.org</a></p>

\* Note: Not every state has an association that is affiliated with the Council of Nonprofits.

## Web Resources

### Government Resources

U.S. Department of Labor

<http://www.dol.gov>

U.S. Department of Labor, Employment Standards Administration

<http://www.dol.gov/dol/esa/welcome.html>

U.S. Department of Labor, Office of Disability Employment Policy and State Liaisons

<http://www.dol.gov/odep/state/directory.htm>

Small Business Handbook

<http://www.dol.gov/asp/programs/handbook/contents.htm>

Family Medical Leave Act Home Page

<http://www.dol.gov/dol/esa/fmla.htm>

U.S. Department of Labor, Employee Benefits Security Administration  
(administers ERISA)

<http://www.dol.gov/ebsa/>

U.S. Department of Labor, Employment and Training Administration  
(provides information on WARN)

<http://www.doleta.gov/>

*Employment Law Guide*

<http://www.dol.gov/compliance/guide/index.htm>

Links to state departments of labor

<http://www.dol.gov/compliance/stateresources.htm>

Listing of state minimum wage laws

<http://www.dol.gov/esa/minwage/america.htm>

U.S. Small Business Administration

<http://www.sba.gov>

National Labor Relations Board Field Offices

U.S. Census Bureau Regional Offices

U.S. Homeland Security Department State Contacts

U.S. Equal Employment Opportunity Commission

<http://www.eeoc.gov>

Labor Law Posters

<http://www.govdocs.com/Posters>

Occupational Safety and Health Administration, U.S. Department of Labor  
<http://www.osha.gov>

U.S. Occupational Safety and Health Administration Regional and Area Offices

FedState: The gateway to statistics from more than 100 U.S. federal agencies  
<http://www.fedstats.gov>

Official State Websites  
[http://www.state.\\_.us](http://www.state._.us)

Immigration and Naturalization Service  
<http://www.ins.usdoj.gov>

Internal Revenue Service, Department of Treasury  
<http://www.irs.gov>

Employers' Tax Guide to Fringe Benefits  
<http://www.irs.gov/pub/irs-pdf/p15b.pdf>

Link to the home pages and workers' compensation agencies of the states and District of Columbia  
<http://www.comp.state.nc.us/ncic/pages/all50.htm>

Bureau of Labor Statistics  
<http://www.bls.gov>

Social Security Administration  
<http://www.ssa.gov>

### **General HR and Employment Law**

Nolo  
<http://www.nolo.com/>

Nonprofit Risk Management Center  
<http://nonprofitrisk.org/>

Free Management Library  
<http://www.managementhelp.org/>

Salary.com (website for pay data)  
<http://www.salary.com>

Findlaw  
<http://www.findlaw.com>

Alexander Hamilton Institute's Employment Law Resource Center  
<http://www.ahipubs.com>

HRIM Mall  
<http://www.hrimmall.com>

International Personnel Management Association  
<http://www.ipma-hr.org>

The Up-To-Date Library  
<http://www.utdlibrary.com>

Employee Benefits Research Institute  
<http://www.ebri.org/>

Praesidium (providers of risk management products and training, including training to prevent sex abuse)  
<http://www.praesidiuminc.com/>

### **Associations or Service Providers**

American Staffing Association  
<http://www.americanstaffing.net/index.cfm>

Society for Human Resources Management  
[www.shrm.org](http://www.shrm.org)

National Association of Professional Employer Organizations  
<http://www.napeo.org/>

Employer Services Assurance Corporation  
<http://www.esacorp.org/>

Phoenix Advantage  
<http://www.thephoenixadvantage.com/>

### **Nonprofit Resources**

Council of Nonprofits  
<http://www.councilofnonprofits.org/salocator>

Child Welfare League of America  
<http://www.cwla.org>

Charity Channel  
<http://two.charitychannel.com>

## **Volunteers**

MENTOR/National Mentoring Partnership

<http://www.mentoring.org/>

MENTOR's SafetyNET Program

<http://apps.mentoring.org/safetynet/index.adp>

Association for Research on Nonprofit Organizations and Voluntary Action  
(ARNOVA)

<http://www.arnova.org/>

idealist.org Volunteer Management Resource Center

<http://www.idealists.org/en/vmrc/index.html>

CASA

<http://www.casenet.org/program-management/volunteer-manage/worksht.htm>

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