NEW HAMPSHIRE EMPLOYMENT LAW

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1. Introduction

New Hampshire’s state motto is “Live free or die.” This Revolutionary War rallying cry stands for the state’s long-standing tradition of limited government. There was a time, in the not too distant past, when New Hampshire was indeed considered to be a unique state with its volunteer legislature, small state government and a legal framework that was business friendly and not too intrusive into the employer-employee relationship. Things have changed. While the state still has a part time, volunteer legislature and no income or sales tax, like the rest of the nation, over the last twenty-five years more and more workplace laws and regulations have been adopted in New Hampshire. This state now has many laws and administrative rules that define and govern nearly every aspect of the employment relationship. This legal framework generally applies to workplaces of all types (private sector, public sector and not for profit organizations). With all of these laws and regulations, New Hampshire still does not have a comprehensive legislative or administrative plan for governing employer-employee relations. Instead, there are scattered state laws, administrative regulations and judicial decisions regarding employment and related matters. There are also, of course, federal laws, administrative regulations, and judicial decisions that
regulate aspects of employment in New Hampshire. However, this outline will focus only on issues where New Hampshire’s labor and employment laws differ from, or are stricter (i.e. more employee friendly) than, federal standards. Also attached (Section X) is a matrix which outlines the many state and federal laws that apply to employers in New Hampshire including the topic, the statutory cite, the number of employees needed to be covered by the law, posting requirements and contact information for the enforcement agency.

Until approximately fifty years ago, New Hampshire employers had virtually unfettered discretion to establish the terms and conditions of employment, including the right to discharge employees for any reason whatsoever without notice. While this traditional concept of “employment-at-will” has not been totally abrogated in New Hampshire, it has been significantly modified over the years, especially the last twenty-five years. This outline sets forth some of the more important aspects of the modified at-will employment relationship and the increasing regulation of employment relations in New Hampshire in recent years.

2. Wage And Hour And Other Workplace Issues

Although there are several acts dealing with employment and labor matters in New Hampshire, there is one section of state laws appropriately labeled “Protective Legislation.” (RSA 275 et. seq.). It deals with several aspects of the employment relationship, including: procuring employment, the definition of a workday, limits on Sunday work and a requirement for a day of rest, hours of work, the payment of wages, notification of benefits, and other aspects of an employment arrangement.

The following is a summary of the highlights (not exhaustive) from RSA 275.

a. Union Membership

Businesses in New Hampshire have seen ebbs and flows in the amount of workplace union activity. Attitudes have changed about the role of unions in the workplace so, although there has been a law on the books in New Hampshire since 1913 regarding union membership, its enforcement has varied over the years. That law provides that no person shall coerce or compel, or attempt to coerce or compel, any person into a verbal or written agreement, not to join or become a member of any labor organization as a condition of securing or continuing in any employment. Individuals who violate this provision may be convicted of a misdemeanor and businesses found guilty of a violation of the law may be convicted of a felony.

b. Soliciting Help During Labor Trouble

Labor strikes and work stoppages are very rare, especially in New Hampshire. In the event of such disruptions New Hampshire law provides that during a strike, lockout or
other labor action, an employer may advertise for employees to fill the places of strikers, but the advertisement and solicitation must plainly and explicitly state that a strike, walkout or other labor disturbance exists.

c. Payment for Medical Examination and Records

Employers requiring an employee or an applicant to undergo a medical examination, or drug test or to furnish other records as a condition of employment must pay the cost of the examination or test, or the cost involved in furnishing the records. This is a sensitive subject because of the restrictions imposed under the Americans with Disabilities Act (ADA), as well as the overlap between the ADA, the Family and Medical Leave Act (FMLA) and New Hampshire’s Worker’s Compensation Law, all of which provide for employer requested medical certifications of illness or fitness for duty. The ADA provides that an employer may not require an applicant to submit to a medical exam before making a job offer to that applicant. However, the ADA does permit the job offer to be conditioned upon passing a medical exam. The ADA also permits employers to require employees to submit to job-related medical exams during employment. In any event, under New Hampshire law, employers may not require applicants or employees to pay the cost of such exams.

d. Holidays

Holiday pay is not required as a matter of state law. Most employers in the state recognize the most common legal holidays. As a matter of workplace policy, most workplaces provide at least straight time for the recognition of holiday observances. Some employers, again as a function of workplace policy, pay a premium rate to employees who work on holidays. State law provides that as a carryover from the days when the state had a more significant manufacturing basis, employees cannot be required to work in any mill or factory on any legal holiday, except to perform work as is both absolutely necessary and can lawfully be performed on the Lord’s day. The Lord’s day is defined as Sunday. Individuals who violate this law may be guilty of a misdemeanor and businesses that violate this law may be convicted of a felony.

e. Sunday Work/Day Of Rest

As a carryover from Sunday Blue laws, employers in New Hampshire still cannot require an employee to do his or her usual work on a Sunday, unless the employee is allowed during the next ensuing six (6) days to have twenty-four (24) consecutive hours without labor. Employers who violate this provision may be subject to a fine for each infraction. (RSA 275:28; 32; and 33). No employer may operate any such business on a Sunday unless it has posted in a conspicuous place on the premises a schedule containing a list of employees who are required or allowed to work on Sunday and designated a day of rest
for each in the ensuing week. In addition, the employer must promptly file a copy of the schedule and every change to it with the New Hampshire Department of Labor. Again, violations of this law may subject the employer to a fine for each infraction.

f. Exceptions

The provisions of RSA 275:32 and 33 do not apply to the following types of jobs: janitors; watchmen; firemen employed at stationary plants; caretakers; employees whose duties on Sunday include: setting sponges in bakeries; caring for live animals or caring for machinery and plant equipment; those engaged in the preparation, printing, publication, sale or delivery of newspapers or periodicals with definite on-sale newsstand dates; employees engaged in farm or personal service; employees engaged in a labor called for by an emergency which could not have been reasonably anticipated; employees engaged in the canning of perishable goods; employees engaged in any work connected with theatres, motion picture theatres, hotels and restaurants, retail stores in resort areas, cabins and inns; and employees of telegraph and telephone offices.

g. Days of Work Defined

In all contracts relating to labor, eight (8) hours of actual work shall be taken to be a day’s work unless otherwise agreed to by the parties. This provision does not apply to certain classes of labor (e.g., youth employment) for which the law provides limits on the number of hours a minor may work in a day and in a week. (RSA 275:30; 276-A:4 et. seq).

h. Making Up Time

No person shall require or request any employee engaged in any occupation to work more hours in any one day than is limited by law, in order to make up for lost time because of a legal holiday.

i. Work Breaks, Lunch Or Eating Period

Work breaks (other than a lunch or eating period) are not required under New Hampshire law. However, an employer may not require an employee to work more than five (5) consecutive hours without granting the employee a one-half hour lunch or eating period, except if it is feasible for the employee to eat during performance of the employee’s work, and the employer permits this activity.

j. Special Provisions For Women And Children

Antiquated laws providing protective legislation for women and children as a special class of employees were repealed during the last decade because other laws and administrative regulations provided adequate protection. However, RSA 276-A and
administrative regulations from the New Hampshire Department of Labor still provide for special measures to be taken when employing children, regulating types of employment, and hours of work. In some instances, New Hampshire’s Youth Employment laws are stricter than federal child labor laws. By way of example, our state laws contain a provision requiring youth in school to obtain a certificate from the school principal indicating a “satisfactory level of academic performance.”

k. Leave for Victims of Crime

New Hampshire has a law which allows employees leave to attend court, legal, or investigative proceedings associated with the prosecution of a crime generally. See N.H. R.S.A. §§275.61 – 275.65. Collectively, these provisions are referred to as the Crime Victim Employment Leave Act. The Act provides that employers with 25 or more employees for each working day in each of 20 or more calendar weeks during any calendar year must permit an employee who is a victim of a crime to leave work so that the employee may attend court or other legal or investigative proceedings associated with the prosecution of the crime. A victim is defined to include a person who suffers direct or threatened physical, emotional, psychological, or financial harm as a result of the commission or the attempted commission of a crime. The term also includes the immediate family of any victim who is a minor or who is incompetent, or the immediate family of a homicide victim. Before employers are required to provide leave, employees must provide employers with a copy of the notice of each scheduled hearing, conference, or meeting that is provided by the court or agency responsible for provide notice to the employee.

Employers are prohibited from discharging, threatening, or otherwise discriminating against an employee regarding such employee’s compensation, terms, conditions, location, or privileges of employment because the employee has exercised his or her right to leave work under the Act. However, employers may limit the leave otherwise allowed under the Act if an employee’s leave creates an undue hardship to the employer’s business. Significantly, unlike the other state statutes that provide an undue hardship exception, the New Hampshire statute defines undue hardship. That statute provides it is a “significant difficulty and expense to a business, and includes the consideration of the size of the employer’s business, the employee’s position and role within the business, and the employer’s need for the employee.”

Finally, the statute does not require employers to provide paid leave, but employees may elect to use, or an employer may require the employee to use, the employee’s accrued paid vacation time, personal leave time, or sick leave time. Violation of the leave rights under the Act subject employers to a civil penalty, to be imposed by the Labor Commissioner.
I. Wages

The state’s wage laws (RSA 275:42-55) and administrative regulations (Lab. 801.01 et. seq.) are enforced by the New Hampshire Department of Labor. This section of Protective Legislation covers subjects such as: the requirement of the weekly or other scheduled payment of wages; the payment of wages within seventy-two (72) hours after an employee is involuntarily discharged from the employment; compensation for vacation pay, personal days, holiday pay, sick pay, and employee expenses, when such benefits are considered wages due in accord with employer practice or policy; permitted deductions from salary and other wages; the unlawful withholding of wages; the maintenance of payroll records and personnel files; and, enforcement/penalty provisions. Some of these sections are highlighted below:

m. Required Wage Payments

Unless otherwise permitted by the Department of Labor, every employer must pay all wages due employees within eight (8) days, including Sunday, after the expiration of a week in which the work is performed, on a regular payday designated in advance by the employer.

n. Electronic Funds/Direct Deposit

Wages must be paid, when due, in lawful U.S. currency. If wages are paid to employees through an electronic fund transfer, employers must do so at no cost to the employee. If an employer elects to pay employees through electronic fund transfer or direct deposit, the employer must also offer employees the option of being paid by check drawn on a local bank, convenient to the employees’ place of work; and employers are required to make arrangements at the banks for the cashing of the checks in the full amount due to the employee.

o. Weekly Pay

Employers are required to have weekly pay periods unless, upon written request to the Commissioner of the Department of Labor, on a form provided by the Department, (showing good and sufficient reason) the employer is permitted to pay less frequently than weekly. The maximum pay period permitted by law is monthly and then, only upon approval from the Commissioner of the Department of Labor. That approval must be obtained in advance from the Commissioner. It may, once granted, also be withdrawn by the Department of Labor, if the employer fails to satisfy the eligibility criteria. (RSA 275:43 I, II; Lab 803.2 [b], [c] and [d]).
p. Payment Of Pension Fund Contributions

As noted above, all wages are generally to be paid within eight (8) days from the week in which they are earned. The only exception is for payments in the form of health and welfare fund or pension fund contributions required pursuant to a health and welfare trust agreement, pension fund trust agreement, collective bargaining agreement, or other agreement, adopted for the benefit of employees and agreed to by the employer. Those payments shall be paid within thirty (30) days of the date of demand for such payment.

q. Payment For Other Benefits When Due

Vacation pay, severance pay*, personal days, holiday pay, sick pay and payment of employee expenses, when such benefits are a matter of employer practice or policy, or both, shall be considered wages and paid when due. (RSA 275:42, III and 275:43).

*Severance pay claims may not be enforced by the New Hampshire Department of Labor if they are deemed to be covered and therefore preempted, by ERISA.

r. Minimum Reporting Pay (The Two Hour Rule)

On any day in which an employee reports to work at an employer’s request, the employee shall be paid not less than two (2) hours pay at the employee’s regular rate of pay. However, if an employer makes a good faith effort to notify an employee not to report to work, the employer shall not be liable to pay wages. If the attempts to contact the employee are unsuccessful and the employee reports to work, or if employer is prevented from making notification, the employee shall perform whatever duties are assigned by the employer when the employee reports to work.*

* This provision does not apply to counties or municipalities. This section has also been found not to apply to part-time employees who are routinely scheduled to work for periods of less than two (2) hours per day of shift. That work arrangement, however, needs to be in writing.

s. Overtime

Overtime premiums for hours worked beyond the statutory standard of forty (40) hours in a workweek are generally covered by federal law (Fair Labor Standards Act or FLSA). New Hampshire’s overtime law, RSA 279:21, is found in the state’s minimum wage law and provides that employees, working for employers covered by this state law, with the following exceptions, shall, in addition to their regular compensation, be paid at the rate of time and one-half for all time worked in excess of forty (40) hours in any one week. Exempt from the state’s overtime law are employees of seasonal, amusement or recreational employees, which: (1) Do not operate for more than seven (7) months in any
calendar year; or (2) During the preceding calendar year, its average receipts for any six (6) months of such year were not more than 33 1/3 percent of its average receipts for the other six (6) months of such year. In order to meet the requirements of this exception, the establishment in the previous year shall have received at least 75 percent of its income within six (6) months. The six (6) months, however, need not be six (6) consecutive months. New Hampshire’s overtime law also references and adopts the exceptions from overtime outlined in the federal Fair Labor Standards Act of 1938, as amended (29 U.S.C. section 201, et seq.).

t. **Payment of Wages After Discharge of Employee**

Whenever an employer discharges an employee, all wages due to the employee must be paid in full within seventy-two (72) hours.

u. **Payment After Employee Resigns**

Whenever an employee voluntarily resigns, the employer must pay the employee’s wages no later than the next regular pay day, except, if that employee gave at least one pay period’s notice of his or her intention to quit, then the employer shall pay all wages earned by the employee within seventy-two (72) hours.

v. **When Employee is Suspended After Labor Dispute or Is Laid Off**

Whenever an employee is suspended as a result of a labor dispute, or when an employee for any reason whatsoever is laid off, the employer shall pay the employee all wages due not later than the next regular pay day all wages earned at the time of the suspension or layoff.

w. **Penalties For Failure To Pay Wages When Due**

If an employer willfully and without good cause fails to pay an employee wages, as required under RSA 275:44, that employer may be additionally liable to the employee for liquidated damages of up to 100 percent of the unpaid wages. Attorneys fees may also be awarded to a successful wage claimant. (RSA 275:53 III).

x. **Personal Liability for Officers**

The definition of an employer includes individuals, in addition to traditional business entities. In two recent cases, the New Hampshire Supreme Court has ruled that officers (e.g. President, Vice President, CEO, CFO, COO, etc.) who knowingly direct or permit a company to violate state wage payment laws could be found personally liable for the payment of the wages.
y. Improper Withholding of Wages Prohibited

Generally, employers may not withhold or divert wages due to employees. Wages may be withheld or diverted only if the employer has a written authorization by the employee for lawful deductions accruing to the benefit of the employee, or if deductions are pursuant to any department rules and regulations. (RSA 275:48). In recent years, the list of permitted withholdings (e.g. union dues, health/welfare/Pension fund contributions, voluntary contributions to charities, payments into savings funds, housing and utility expenses, rental fees of non-required clothing, voluntary cleaning of uniforms, employee’s use of certain vehicles, group health insurance plan contributions and required clothing not considered to be a uniform) has increased to include deductions for: contributions to cafeteria plans or flexible spending plans; voluntary payments for child care fees, parking fees and pharmaceutical items, gift shop and cafeteria items purchased on site of a hospital by hospital employees; voluntary installment loan payments; voluntary repayment after accidental overpayment of wages by an employee; voluntary repayment of tuition advances for non-required educational costs; and deductions for repayment of balances on borrowed leave time.

z. Salaried Employees

Payment of wages on a salary basis, similar to provisions under Federal wage laws, means the employee regularly receives, each pay period, a predetermined or fixed amount of money which is not subject to reduction because of variations in the quality or quantity of the work (with a few exceptions) in that pay period.

Employers may like they are permitted by federal wage laws, under certain circumstances, take deductions from the compensation of salaried employees for disciplinary suspensions, bereavement leave, family or medical leave, or voluntarily-requested leave (special exceptions apply).

In addition, employees may not be paid full salary when: the employee performs no work in a workweek; the employee is hired after the start of the workweek; the employee quits before the end of a pay period by the employer; or if the employee is discharged for cause. Finally, employers may offset any amount received by a salaried employee for jury duty, witness fees or military pay.

aa. Notice to Employee - Rate of Pay and Place of Payments

Every employer shall, at the time of hiring, notify each employee of the rate of pay and day and place of payment. Employers shall also notify employees of any changes in those arrangements in advance of any such changes.
bb. Employment Policies Provided or Posted

Every employer shall make available to its employees, in writing or through a posted notice maintained in the place accessible to its employees, employment practices and policies with regard to vacation pay, sick leave, and other fringe benefits. (RSA 275:49 III).

c. Statement of Payroll Deductions

Every employer shall furnish each employee with a statement of deductions made from the employee’s wages under RSA 275:48 for each pay period such deductions are made.

dd. Time Records

Every employer in New Hampshire is required to keep a true and accurate record of the hours worked by every employee and the wages paid to those employees. (RSA 279:27; Lab 803.04 [f]). Those records must be open to inspection by the Department of Labor upon request. Those records must include: payroll information for all employees, except for employees who are exempt under 29 U.S.C. section 213(a) of the Fair Labor Standards Act, showing the time work began and ended each work day, including any bona fide meal periods. Individual pay sheets or time cards must support that information.

Time records with entries that are altered shall be signed or initialed by the employee whose record was altered.

Employers may not make use of automated time keeping devices or software programs that can be altered by an employer without the knowledge of the employee, or that do not clearly indicate that a change was made to the record. (RSA 279:27; RSA 275:49, VI). This regulation applies to all employers. These records must be preserved and stored for a period of no less than four (4) years.

e. Time Limit on Wage Claims

Wage claims under state law may be submitted to either the New Hampshire Department of Labor or the appropriate State Superior Court within thirty-six (36) months of the alleged violation. (RSA 275:51; RSA 275:53).

ff. Employment of Illegal Aliens Prohibited

While this is an issue that is commonly thought of as being a matter of federal law, New Hampshire has a state law which prohibits employers from employing illegal aliens. That law, RSA 275-A:4-a, provides that, no employer may employ an alien whom the employer knows is not a citizen of the United States and not in possession of Form I-151,
Alien Registration Receipt Card or any other document issued by the United States Immigration and Naturalization Service or the Attorney General of the United States which authorizes him to work. The New Hampshire Department of Labor enforces this provision and usually looks at Form I-9 and support information to determine employer compliance.

3. Personnel Records And Files
   
   a. Employment Records

   Every employer must keep records, including wage and hour records, of each of its employees, preserve such records, and provide them to the New Hampshire Department of Labor upon request.

   b. Employee Access to Personnel Files

   Every employer must provide employees and former employees, upon request, reasonable opportunity to inspect the employee’s personnel file. Employers must also, upon request, provide a copy of all or a portion of the employee’s file and may charge a reasonable fee related to the cost of complying with such a request.

   A “personnel file” is defined by the New Hampshire Department of Labor’s Administration Rules as: any and all personnel records created and maintained by an employer and pertaining to an employee including and not limited to employment applications, internal evaluations, disciplinary documentations, payroll records, injury reports and performance assessments, whether maintained in one or more locations, unless such records are exempt from disclosure under RSA 275:56 III, or are otherwise privileged or confidential by law. Peer evaluations, letters of recommendation and notes not generated or created by the employer are not included in the definition of “personnel file”.

   c. Changes To Personnel Files

   If an employee disagrees with any information contained in his/her personnel file, and the employee and employer cannot agree upon removal or correction of such information, then the employee may submit a written statement explaining his or her version of the information together with information supporting such a version. This statement must be disclosed whenever the disputed portion of the file is disclosed to a third party.

   d. Exceptions to Access and Disclosure Rules

   Employers are not required to disclose information in an employee’s personnel file if that employee is, at the time of the request, the subject of an investigation, or if that disclosure
would prejudice law enforcement, or if it is information related to a government security investigation.

In addition, health, fitness, lifestyle and other information obtained from employees by their employer or the employer’s agents for the purposes of providing employees with a health risk assessment or other wellness program shall not be considered a personnel record, shall not be retained in an employee’s personnel file and is inadmissible in any workers compensation proceeding.

4. New Hampshire’s Law Against Discrimination


New Hampshire’s law against discrimination in many ways parallels federal acts that prohibit discrimination, but there are some ways in which New Hampshire acts are distinct. Some of those differences are as follows.

i. Threshold Number of Employees

New Hampshire’s law against discrimination applies to employers with six (6) or more employees. Included are private employees, as well as the state and all of its political subdivisions, boards, departments and commissions. Certain social clubs, fraternal or religious associations or corporations are exempt from this law. Federal discrimination laws have higher thresholds for jurisdiction (fifteen (15) to fifty (50) employees depending on the statute).

ii. Scope Of Employer Discrimination

The law establishes that it shall be an unlawful discriminatory practice for “an employer because of the age, sex, sexual orientation, race, color, marital status, physical or mental disability, religious creed, or national origin of any individual to refuse to hire an employee or to bar or to discharge from employment such individual or to discriminate against such an individual in compensation or in terms, conditions or privileges of employment, unless based upon a bona fide occupational qualification.” (RSA 354-A:8, I; NH Admin. Rules, Hum. 401. 01).

iii. Differences With the Scope of Federal Discrimination Statutes

It is important to note several differences between New Hampshire and federal nondiscrimination laws. First, New Hampshire law provides that marital status is protected; there is no similar protection under federal law. Second, unlike federal
law, there is no requirement under New Hampshire law that an individual be at least forty (40) years old to file an age discrimination complaint. Finally, New Hampshire law prohibits discrimination on the basis of “sexual orientation.” Sexual orientation is defined as “having or being perceived as having an orientation towards heterosexuality, bisexuality, or homosexuality.” Federal law does not have a similar provision.

iv. **Pregnancy Discrimination/Maternity Leave and Reinstatement**

New Hampshire's Employment discrimination statute specifically prohibits pregnancy discrimination and outlines how covered employers should deal with employment, accommodations, leave, pay, benefits and reinstatement. That statute, RSA 354-A:7, VI provides that [covered employers] shall permit a female employee to take leave of absence for the period of temporary physical disability resulting from pregnancy, childbirth or related medical conditions. When the employee is physically able to return to work, her original job or a comparable position shall be made available to her by the employer unless business necessity makes this impossible or unreasonable. In other words, there is no durational limit on the leave as long as it is medically necessary.

The law also provides that for all other employment related purposes, including receipt of benefits under fringe benefit programs, pregnancy, childbirth, and related medical conditions shall be considered temporary disabilities, and a female employee affected by pregnancy, childbirth, or related medical conditions shall be treated in the same manner as any employee affected by any other temporary disability. The law prohibits covered employers from failing or refusing to make reasonable accommodations for the known physical or mental limitations of a qualified individual with a disability who is an applicant or employee, unless such employer can demonstrate that the accommodation would impose an undue hardship on the operation of the business of the employer. Finally the law prohibits employers from denying employment opportunities, compensation, terms, conditions, or privileges of employment to a job applicant or employee who is a qualified individual with a disability, if such denial is based on the need of such employer to make reasonable accommodation to the physical or mental impairments of the applicant or employee.

v. **Limits On the Use of Information In Job Application**

New Hampshire law also states that “... it shall be an unlawful discriminatory practice for an employer to print or circulate any statement, advertisement or publication, or to use any application or to make any inquiry which expresses, directly or indirectly, any limitation, specification or discrimination as to age, sex,
sexual orientation, race, color, marital status, physical or mental disability, religious creed or national origin or any intent to make any such limitation, specification or discrimination in any way on the ground of age, sex, sexual orientation, race, color, marital status, physical or mental disability, religious creed or national origin, unless based upon a bona fide occupational qualification; provided, however, that nothing in that Act shall limit an employer after the offer of hire of an individual from inquiring into and keeping records of any existing or preexisting physical or mental conditions.” (RSA 354-A:7, III).

vi. Violations of Discrimination Laws

Because most violations of Title VII of the Civil Rights Act of 1964 are also violations of New Hampshire law against discrimination, the federal agency which enforces Title VII, the Equal Employment Opportunity Commission (EEOC), has an arrangement with the New Hampshire Commission for Human Rights whereby most complaints are investigated, at least initially, by the state agency.

5. Employee Manuals and Enforceable Contracts

a. Employee Manuals/Handbooks

i. Enforceable Contracts

In the last fifteen years there has been abundant litigation concerning employment policies and employee handbooks. The issue is whether or not statements contained in those materials are enforceable contracts. The majority of courts across the country have ruled that statements in handbooks and manuals give the employee an enforceable contract right against the employer. For example, a statement in an employee manual that an “employee will be fired only for just cause” changes the at-will nature of employment and prohibits the employer from firing the employee without establishing just cause.

The prevailing theory is that, once an employer announces a policy (presumably hoping to attain certain benefits from a boost in employee morale), the employer cannot then at its whim treat the promises contained in the policy as illusory. Once the employer has created an expectation of benefits, procedures or protections, it must live up to its word.

ii. Written Policies

The issue of whether an employee could rely upon an employer policy or practice as an enforceable contract was addressed by the New Hampshire Supreme Court
in the case of Panto v. Moore Business Forms, Inc. 130 N.H. 730 [1988]. Panto apparently quit his job when his position at Moore was changed. He claimed that under a written layoff and recall policy he was entitled to up to three months pay and other benefits such as health, dental and group life insurance. The employer claimed the policy did not apply to him because he was not laid off at the time the policy was announced, and he continued employment for several months after his job was changed. Panto relied on the majority of cases from other states to support his claim that the policy gave him an enforceable contract right. In a decision written by Justice David Souter, dated August 9, 1988, the New Hampshire Supreme Court held that an employment policy regarding deferred compensation is enforceable as a contractual obligation if the employee complies with its terms. However, Justice Souter added: “. . . Moore could simply have avoided the entire issue by announcing in the written policy itself that it was not an offer or a policy enforceable as a contractual obligation.”

iii. Effect Of Disclaimers

Based upon Panto and other more recent decisions, it appears that the New Hampshire Supreme Court is inclined to rule that employee handbooks and policy manuals are more than mere statements of policy to be changed at the will of the employer. Although disclaimer language such as the language cited by the court in Panto is helpful, in a recent case, the New Hampshire Supreme Court revisited this issue and found that such disclaimers will be narrowly construed. Butler v. Walker Power, Inc., 137 N.H. 432 [1993]. In a more recent case, Dillman v. New Hampshire College, 150 N.H. 431 [2003], the State Supreme Court found that in spite of an Employee Handbook with otherwise appropriate and enforceable disclaimer language, an employee could advance a claim for breach of contract when handbook and separate employer contract terms were confusing, inconsistent or contrary.

Therefore, employers are well advised to use caution with any mention of benefits, rights, privileges or procedures in an employment manual, handbook or other policy or document.

6. Independent Contractors

a. Independent Contractors under state law

In New Hampshire this issue has been a hot topic for a few years. In 2008 the New Hampshire Department of Labor revised its Independent Contractor (new 12 point) test. That test covers workers compensation, wage and hour, and whistleblower claims as it defines who should be considered an employee and therefore covered by these laws.
Those tests have elements in common with, but are still very different from, the Department of Employment Security’s ABC test and the Human Rights Commission/Common Law ‘Right to Control’ tests.

On September 17, 2010, Governor Lynch issued an Executive Order directing a coordination of agency action on employee misclassification and establishing a Joint Agency Task Force on Employee Misclassification. That order requires increased coordination among state agencies with responsibility for enforcement of workers’ rights as employees. The Department of Labor is the lead agency for the coordination of state agency efforts to identify and investigate employee misclassification to review enforcement mechanisms and make recommendations for improvement, as well as to work with business, labor, and communities to improve compliance with classification laws and regulations.

7. Wrongful Discharge and Related Claims

a. Modified At-Will Doctrine/Termination Issues

i. New Hampshire Rule

New Hampshire has adopted a “modified employment-at-will” doctrine meaning that if the employee does not have the benefit of a contract, or other agreement that may constitute a contract, he or she may be treated as an at-will employee and will be subject only to those limitations imposed by the federal and state legislatures, employee contracts and manuals and common law (judicial limitations). That is, unless an employment contract or employee handbook restricts the grounds or procedures for discharge, the employee may be terminated for any lawful reason without notice. As outlined above, over the last twenty years there have been several federal and state employment laws adopted. These laws and their attendant regulations have caused a significant narrowing of an employer’s discretion, at least without some risk or need to document or justify the reasons for the action, to terminate an employee’s employment.

b. Judicial Limitations

i. Wrongful Discharge in New Hampshire

In 1981, the New Hampshire Supreme Court recognized the cause of action now commonly known as “wrongful discharge.” In the case of Cloutier v. A & P Tea Co., Inc., 121 N.H. 915 [1981] the court held that an employer would be liable for damages for terminating employees for performing an act that public policy would encourage or for refusing to do an act that public policy would discourage.
Further, the plaintiff must establish that the employer was motivated by bad faith or malice. A major issue in most wrongful discharge cases is whether the discharge implicates a matter of “public policy.” It is well settled in New Hampshire that the public policy at stake in a case does not need to be a part of any statutory or regulatory provision. [Note: Other states, including Massachusetts, have modified their position on the public policy element, requiring that the alleged violation be anchored in a statutory right.] Rather, it is sufficient to allege generalized concepts of public policy. The New Hampshire Supreme Court has held that the issue of whether public policy is involved in discharge is usually a question left to the jury. (Cilley v. NH Ball Bearings, Inc., 128 N.H. 401 [1986]). Although in certain circumstances where the presence or absence of such public policy is clear, the court may take the question away from the jury. (Short v. SAU, 16 [1992]). Some of the situations that might give rise to a claim of wrongful discharge are as follows:

• an employee is fired for filing a workers’ compensation claim;
• an employee is fired for reporting a dishonest act of the employer;
• an employee is fired for refusing to lie to an investigation officer;
• a personnel director is fired for criticizing the employer’s hiring practices as discriminatory;
• a store manager is fired for refusing to carry cash receipts to the bank without an armed guard;
• an employee is fired for refusing to seek some exemption from jury duty; and
• a financial officer is fired for refusing to misrepresent the financial condition of the company.

In recent years the New Hampshire Supreme Court and Federal Courts, applying New Hampshire law, have decided cases that indicate a tightening of the “public policy” concept in wrongful discharge cases (e.g., Short v. SAU, 16 [1992]). Subsequent cases will have followed this trend.

ii. Remedies Available for Wrongful Discharge

The New Hampshire Supreme Court, unlike the courts in several other jurisdictions, appears to have given a rather expansive interpretation of the types of remedies available for wrongful discharge. That is, it appears that a discharged employee in New Hampshire may secure damages beyond just back pay and attorney’s fees. For example, the discharged employee may be able to recover front pay and other types of compensatory damages.

However, if the employee’s claim is based on impermissible discrimination for which a claim could be made under Title VII, then the employee cannot recover
separately for wrongful discharge. Smith v. F.W. Morse, (1996), citing Wenners v. Great State Beverages, Inc., (1995). Although not expressly stated in the Smith case, the same rule precluding a wrongful discharge claim should apply equally when an employee’s claim is based on forms of discrimination other than those precluded under Title VII, such as disability (ADA) and age (ADEA).

iii. Other Recognized Causes of Action

In addition to wrongful discharge, New Hampshire has recognized related causes of action available to a discharged employee including: intentional infliction of emotional distress, intentional interference with economic relations, implied duty of good faith and fair dealing, fraud/misrepresentation, and defamation.

c. New Hampshire Whistleblower’s Protection Act

New Hampshire law prohibits retaliation against employees who alert their employer or others to an alleged violation of law (RSA 275-E). Under that law, employees cannot be fired for reporting employer violations of federal, state or local “law or rule,” participating in proceedings or court actions involving allegations of employer violations or refusing to carry out illegal employer directions. Likewise, employees must act in “good faith” and have reasonable cause to believe the employer is violating a law or rule. The employee should first bring the alleged violation to the attention of the employer. The employee should also make a “reasonable effort” to use any internal grievance procedure before filing a complaint under the statute.

An employee alleging a violation of this law may obtain a hearing before the New Hampshire Commissioner of Labor. Following the hearing, the Commissioner may render an “appropriate” order that may include reinstatement, back pay, payment of fringe benefits, seniority rights, and “injunctive relief.” Decisions of the Commissioner may be appealed to the New Hampshire Supreme Court.

8. Occupational Health and Safety Issues

a. Safety and Health of Employees

i. Department of Labor

The New Hampshire Department of Labor has jurisdiction over nearly every aspect of the regulations affecting employment in the state. With regard to the safety and health of employees, several statutes and Administrative Regulations such as: Occupational Health (RSA 140); Smoking in the Workplace (RSA 155:50 et. seq.); Safety and Health of Employees (RSA 277); Toxic Substances in the Workplace (RSA 277-A); and Workers’ Compensation (RSA 281-A) address
a variety of standards and procedures intended to protect employees in the workplace.

ii. **Reinstatement After Injury/Illness**

The Workers’ Compensation Act was amended in early 1994 to require employers to require the reinstatement of injured workers to their jobs within eighteen (18) months after the date of the injury. While there are some exceptions, employers need to be aware of this obligation.

iii. **Light Duty**

Employers in New Hampshire are required to establish a temporary alternative duty program to assist employees with workplace injuries when they return to work.

iv. **Safety Committees and Reports**

Employers with five (5) or more employees must form safety (joint loss management) committees composed of representatives from management and labor to develop and administer workplace safety programs, alternative work programs that encourage injured employees to return to work and programs for continuing education on workplace safety.

Employers with ten (10) or more employees must prepare a written safety program with employer rules and regulations and policies and procedures for discipline for safety violations. Employers must file a summary of developments under the plan with the Department of Labor on a bi-annual basis. (RSA 281-A:64).

v. **Workers’ Right To Know Law**

Because of the proliferation of toxic substances in the workplace which pose a growing threat to the health and safety of employees, and the difficulty and expense of monitoring these potential hazards, the New Hampshire legislature determined that employers were often in the best position to detect toxicity and provide employees with information concerning the nature and potential hazard of certain substances. Similar to federal laws on the same subject, New Hampshire laws require the use of Material Safety Data Sheets. These must accompany any toxic substance manufactured, formulated, transported or distributed in the state of New Hampshire. Employers are required to keep such information on file, post the same as a warning in certain workplaces, and provide it to employees within seventy-two (72) hours of the request.
Employers must notify all employees of their rights under the law and provide education and training programs for all employees routinely exposed to toxic substances.

If any employee who requests information about a toxic substance does not receive that information within five (5) working days, he/she may refuse to work with that substance until the employer provides that information. Employers are prohibited from discriminating against or retaliating (e.g., discharge) against prospective or current employees for exercising their right under the law.

vi. Smoking In The Workplace

New Hampshire has an Indoor Smoking act which allows employers and places of public accommodation to ban smoking unless it can be effectively segregated from nonsmoking areas. This seems to favor nonsmokers. However, New Hampshire also has a law that prohibits employers from discriminating against smokers and users of tobacco products in employment. This has been read to suggest you can't refuse to hire smokers but I think it could also be read to suggest that you can't treat them differently with regard to the terms and conditions (benefits) of employment but that hasn't been tested by a court yet. National Healthcare Reform laws may provide some guidance on this issue.

9. Termination Of Employment

In New Hampshire, absent a union contract clause or employment policy that requires otherwise, no notice or reason for termination is required as a matter of law. However, if the former employee files a claim for unemployment benefits, the employer needs to respond to the Department of Employment Security with, among other things, the effective date and reason for the separation from employment. In section II we addressed wage payment and related issues that arise upon or after separation. In some cases, more notice or payment of wages in lieu of notice may be required. One such instance is when there is a plant closing or mass layoff.

a. New Hampshire's Mini-WARN Act--Layoff/Termination Notices and Benefits

Like its federal counterpart the Worker Adjustment RetrainingNotifications Act (WARN) which provides notice requirements for employers who create significant job losses with a plant shut down or mass lay offs, New Hampshire adopted its own Mini WARN Act effective January 1, 2010. That law requires employers to provide sixty (60) days advance written notice before significant employment losses, including mass layoffs and plant closings. However, unlike the federal law, which covers those with 100 or more employees, New Hampshire’s WARN Act will cover to companies with 75 or more
full-time employees or 75 or more employees who in the aggregate work at least 3,000 hours per week, excluding overtime. In addition, New Hampshire employers should note that the state law’s application to parent companies is much stricter than the federal law.

Under New Hampshire’s WARN Act, a mass layoff is defined as one resulting in the loss of jobs during a 30-day period for at least 250 workers or at least 25 workers if they constitute a third of the workforce. A plant closing is defined as a permanent or temporary shutdown resulting in a least 50 job losses. For purposes of counting employees under this section, part-time employees are excluded. Like the federal law, under certain circumstances, the minimum number of employees to meet these definitions will be triggered by aggregating two or more events at a single site, which occur within a 90 day period.

In the event that New Hampshire’s WARN Act’s notification provisions are triggered, the employer must provide the written notice to employees and their representatives, the New Hampshire Labor Commissioner, the Attorney General, and the chief elected official of each municipality in New Hampshire where the plant closing or mass layoff occurs. Employers who meet the threshold requirements of the New Hampshire and federal law must comply with both. Under both laws, the notice must contain the elements required by federal WARN.

The new law has real teeth. Employers who fail to comply with New Hampshire WARN will be liable for back pay and lost benefits for each employee who was entitled to notice, costs and reasonable attorney’s fees, as well as, civil penalties of up to $2500, plus $100 per employee for each day of non-compliance. The Labor Commissioner may also place a lien on the business revenues and all real and personal property of the employer as well as hold a parent corporation liable.
# Employment Law Guide And Resources

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<td>Age Discrimination</td>
<td>Age Discrimination in Employment Act (ADEA) 29 U.S.C. § 621, et. seq.</td>
<td>≥20</td>
<td>Must be posted in a conspicuous place</td>
<td>Prohibits discrimination on the basis of age against employees and job applicants who are 40 years of age or older. Applies to federal, state and local governments.</td>
<td>Equal Employment Opportunity Commission (EEOC) 475 Government Center Boston, MA 02203 800.669.4000 or 617.565.3200 <a href="http://www.eeoc.gov/boston">www.eeoc.gov/boston</a></td>
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<td>Classification of Independent Contractors</td>
<td>Definition of Employee N.H. RSA 275:42, RSA 275-E:1 and RSA 281-A</td>
<td>≥1</td>
<td>Must be posted in a conspicuous place</td>
<td>Presumption person is an employee unless elements of 12-point test are satisfied.</td>
<td>N.H. Department of Labor State Office Park, Spaulding Building 95 Pleasant Street Concord, NH 03301-3836 603.271.3176 <a href="http://www.labor.state.nh.us">www.labor.state.nh.us</a></td>
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<td>Disability Discrimination</td>
<td>Americans with Disabilities Act (ADA) Title I (private employers) 42 U.S.C. § 12101, et. Seq. (Also see N.H. RSA 354-A)</td>
<td>≥15</td>
<td>Must be posted in a conspicuous place at work and hiring locations</td>
<td>Prohibits discrimination in employment against qualified individuals with disabilities. Employers must reasonably accommodate such individuals unless it would result in undue hardship.</td>
<td>Equal Employment Opportunity Commission (EEOC) 475 Government Center Boston, MA 02203 800.669.4000 or 617.565.3200 <a href="http://www.eeoc.gov/boston">www.eeoc.gov/boston</a></td>
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<td>Discrimination/Other Claims</td>
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<td>Discrimination in Pay (b/w sexes and other protected characteristics)</td>
<td>Lilly Ledbetter Fair Pay Act of 2009</td>
<td>≥15 Posting not required</td>
<td>180-day statute of limitations for filing equal-pay lawsuit or disparate pay claim under other federal discrimination laws resets with each new paycheck when pay discrimination alleged. Applies to all pay discrimination claims pending on or after May 28, 2007.</td>
<td>Equal Employment Opportunity Commission (EEOC) 475 Government Center Boston, MA 02203 800.669.4000 or 617.565.3200 <a href="http://www.eeoc.gov/boston">www.eeoc.gov/boston</a></td>
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<tr>
<td>Discrimination/Sexual Harassment and other claims</td>
<td>NH Law Against Discrimination N.H. RSA 354-A</td>
<td>≥6</td>
<td>State anti-discrimination law. Prohibits discrimination on the basis of age, race, color, national origin, religion, sex, marital status, physical or mental disability, national origin and sexual orientation, in any term, condition or privilege of employment.</td>
<td>N.H. Commission for Human Rights 2 Chennel Drive, #2 Concord, NH 03301-8501 603.271.2767 <a href="http://www.nh.gov/hrc/">www.nh.gov/hrc/</a></td>
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<td>Discrimination/Sexual Harassment and other claims</td>
<td>Title VII - Civil Rights Act of 196442 U.S.C. § 2000e, et. seq.</td>
<td>≥15</td>
<td>Federal civil rights law that prohibits discrimination based on the basis of race, color, religion, sex or national origin.</td>
<td>Equal Employment Opportunity Commission (EEOC) 475 Government Center Boston, MA 02203 800.669.4000 or 617.565.3200 <a href="http://www.eeoc.gov/boston">www.eeoc.gov/boston</a></td>
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<td>Family Leave</td>
<td>Family and Medical Leave Act (FMLA) 29 U.S.C. § 2601, et. seq.</td>
<td>≥50</td>
<td>Must be posted in a conspicuous place at work and hiring locations. Employees who work more than one year with 1,250 hours or more may be entitled to 12 weeks unpaid leave for birth/adoption or serious illness of employee or family member. Up to 26 weeks available to care for injured family member returning from military service. Leave also available (up to 12 weeks) for issues related to deployment.</td>
<td>U.S. Department of Labor ESA Wage &amp; Hour Division 1750 Elm Street, Suite 111 Manchester, NH 03104-2907 866.487.9243 or 603.666.7716 <a href="http://www.dol.gov/esa">www.dol.gov/esa</a></td>
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<td>Furlough / Layoff</td>
<td>N.H. RSA 282-A:45-a (Also see Emp Rule 302.13)</td>
<td>≥1</td>
<td>Must be posted in conspicuous place</td>
<td>Requires employers to report layoffs of more than 25 individuals in the same calendar week to NH Department of Employment Security if layoff will last seven days or more.</td>
<td>N.H. Department of Employment Security 32 South Main Street Concord, NH 03301 603.224.3311 or 800.852.3400 <a href="http://www.nh.gov/nhes">www.nh.gov/nhes</a></td>
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<td>Group Health Insurance</td>
<td>COBRA 29 U.S.C. § 1161, et. seq. N.H. RSA 415:18</td>
<td>≥20/All</td>
<td>Notice to employee of benefit extension option within 14 days after plan administrator receives notice that an event triggering loss of coverage has occurred.</td>
<td>Employers must offer eligible employees the option of continued health insurance benefits.</td>
<td>U.S. Department of Labor Employee Benefits Security Administration JFK Federal Building - Room 575 Boston, MA 02203 617.565.9600 <a href="http://www.dol.gov/ebsa">www.dol.gov/ebsa</a></td>
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<td>HIPAA</td>
<td>N/A</td>
<td>Posting not required. Notice of privacy practices must be issued to plan participants at the time of enrollment.</td>
<td>Information maintained, created or received by health plan sponsor in connection with administration of the plan must be kept confidential.</td>
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<td>Mass Layoff / Plant Closing Worker Adjustment and Retraining Notification Act</td>
<td>≥100</td>
<td>Posting not required. Notice to affected workers within 60 days or as soon as practicable.</td>
<td>Requires employers to give 60-day advance written notice to employees and local government in event of mass closing or mass layoff.</td>
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<td>Mass Layoff / Plant Closing New Hampshire Worker Adjustment and Restraining Notification Act</td>
<td>≥75</td>
<td>Notice to Affected employees/representatives, N.H. Attorney General, Commission NH Department of Labor and Chief Executive Officer of Municipality where plant is located.</td>
<td>Requires notice 60 days in advance of Mass layoff (at least 250 employees in 30 day period, or at least 25 employees if that is 1/3 of workforce - excluding part-time and seasonal workers) or plant closing. Exceptions apply. Civil penalties and Corporate liability possible in addition to pay and benefits in lieu of proper notice.</td>
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<td>Military Leave</td>
<td>ALL</td>
<td>Posting not required</td>
<td>Employees returning from military service must receive the same wages, benefits and rights they would have received had they not left. Employees must re-apply within 90 days of release from service if service term was longer than 180 days.</td>
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<td>Minimum Wage</td>
<td>Fair Labor Standards Act (FLSA) 29 U.S.C.§ 201, et. seq. (Also see N.H. RSA 279:21)</td>
<td>ALL</td>
<td>Must be posted in a conspicuous place</td>
<td>Employees must be paid the higher of federal or state hourly minimum wage.</td>
<td>U.S. Department of Labor ESA Wage &amp; Hour Division 1750 Elm St., Suite 111 Manchester, NH 03104-2907 866.487.9243 or 603.666.7716 <a href="http://www.dol.gov/esa">www.dol.gov/esa</a>; or N.H. Department of Labor State Office Park Spaulding Building 95 Pleasant St. Concord, NH 03301-3836 603.271.3176 <a href="http://www.labor.state.nh.us">www.labor.state.nh.us</a></td>
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<td>Personnel Files</td>
<td>N.H. RSA 275:56 and Lab 802.09</td>
<td>ALL</td>
<td>N/A</td>
<td>Upon request, employer must provide employees with a reasonable opportunity to inspect any and all records pertaining to employees no matter where kept. Exceptions to disclosure apply.</td>
<td>N.H. Department of Labor State Office Park Spaulding Building 95 Pleasant Street Concord, NH 03301-3836 603.271.3176 <a href="http://www.labor.state.nh.us">www.labor.state.nh.us</a></td>
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<td>Prompt Wage Payments</td>
<td>N.H. RSA 275:43, N.H. RSA 275:44 and Lab 803.01(e)</td>
<td>ALL</td>
<td>Employees must be paid wages within eight days after expiration of the week in which the work was completed and within designated time after termination.</td>
<td>N.H. Department of Labor State Office Park Spaulding Building 95 Pleasant Street Concord, NH 03301-3836 603.271.3176 <a href="http://www.labor.state.nh.us">www.labor.state.nh.us</a></td>
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<td>Retirement/Pension Plans</td>
<td>Employment Retirement Income Security Act (ERISA) 29 U.S.C. § 1001, et. seq.</td>
<td>N/A</td>
<td>All employers, regardless of size, engaged in interstate commerce (excluding churches and federal, state and local government) are required to act with skill, prudence and diligence when managing employer's pension and benefit plans</td>
<td>U.S. Department of Labor Employee Benefits Security Administration JFK Federal Building - Room 575 Boston, MA 02203 617.565.9600 <a href="http://www.dol.gov/ebsa">www.dol.gov/ebsa</a></td>
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<td>Unemployment Benefits</td>
<td>N.H. RSA 282-A, et. seq.</td>
<td>ALL</td>
<td>Unemployment benefits for employees who are laid off or terminated without cause</td>
<td>N.H. Department of Employment Security 32 South Main Street Concord, NH 03301-4857603.224.3311 or 800.852.3400 <a href="http://www.nh.gov/nhes">www.nh.gov/nhes</a></td>
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<td><strong>Union Activities</strong> (Private Sector)</td>
<td><strong>National Labor Relations Act</strong> 29 U.S.C. § 151, et. seq.</td>
<td>ALL</td>
<td>Must be posted in a conspicuous place</td>
<td>Provides legal framework for union activities in the private sector, defines unfair labor practices and outlines penalties for violations. Generally covers all employers engaged in interstate commerce</td>
<td>National Labor Relations Board – Region 1 10 Causeway Street, 6th Floor Boston, MA 02222-1072 617.565.6700 <a href="http://www.nlrb.gov">www.nlrb.gov</a></td>
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<td><strong>Wage Rates and Benefits</strong></td>
<td><strong>Notification, Posting and Records</strong> N.H. RSA 275:49 and Lab. 803.3</td>
<td>ALL</td>
<td>Notice to employees and posting of policies</td>
<td>Notify employees at times of hire and before terms change of wage rate, pay period, pay date and fringe benefits</td>
<td>N.H. Department of Labor State Office Park Spaulding Building 95 Pleasant Street Concord, NH 03301-3836 603.271.3176 <a href="http://www.labor.state.nh.us">www.labor.state.nh.us</a></td>
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<td><strong>Wages: Overtime and Child Labor</strong> Fair Labor Standards Act (FLSA) Labor 29 U.S.C. § 201, et. seq.</td>
<td>ALL</td>
<td>Must be posted in a conspicuous place</td>
<td>Federal overtime law. Eligible employees must be paid after working 40 hours a week at time and a half the regular rate of pay. Executives, professionals, administrators, outside sales employees and other exemptions possible. Also provides child labor and minimum wage protections.</td>
<td>U.S. Department of Labor ESA Wage &amp; Hour Division 1750 Elm Street, Suite 111 Manchester, NH 03104-2907 866.487.9243 or 603.666.7716 <a href="http://www.dol.gov/esa">www.dol.gov/esa</a></td>
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<td><strong>Worker Authorization Documentation</strong></td>
<td><strong>Immigration and Reform Control Act</strong> 8 U.S.C. § 1324a</td>
<td>ALL</td>
<td>Posting location not specified</td>
<td>Employers must verify the employment authorization of all individuals hired after November 6, 1986. Must require documentation of identity and authorization to work. Must retain verification forms for three years after hiring/recruiting or one year after termination of employee, whichever is earlier.</td>
<td>U.S. Citizen and Immigration Services 903 Canal Street Manchester, NH 03101 1-800-375-5283 <a href="http://www.uscis.gov">www.uscis.gov</a></td>
</tr>
</tbody>
</table>
Worker Safety Plans | N.H. RSA 281-A:64 and Lab 603 | ≥5 / ≥10 | Must be posted in a conspicuous place | Requires employers with five or more employees to form Joint Loss Management Committee to develop and carryout workplace safety programs. Employers with ten or more employees must create written safety plans to be filed with the Department of Labor and updated biennially. | N.H. Department of Labor State Office Park Spaulding Building 95 Pleasant Street Concord, NH 03301-3836 603.271.3176 www.labor.state.nh.us |

Workers' Compensation | N.H. RSA 281-A | ≥1 | Must be posted in a conspicuous place | Employers must provide workers' compensation coverage to all employees for work-related injuries. Reinstatement rights available for 18 months. | N.H. Department of Labor State Office Park Spaulding Building 95 Pleasant Street Concord, NH 03301-3836 603.271.3176 www.labor.state.nh.us |

Workplace Safety | Occupational Safety and Health Act29 U.S.C. § 651, et. seq. | ALL | Must be posted in a conspicuous place | Requires employers to provide a safe workplace, to have accident prevention program safety training and scheduled safety inspections. The United States government (not including the U.S. Postal Service), states and their subdivisions are excluded. | U.S. Department of Labor OSHAJK Federal Building - Room E340 Boston, MA 02213 617.565.9860 www.osha.gov Area Office |