1. Overview

The term “social sector” encompasses both the nonprofit sector and the nongovernmental sector. It is critical that social sector organizations familiarize themselves with relevant employment laws affecting their employees and organization. Often social sector organizations begin with like-minded people who informally band together to address challenging social problems. Regardless of those ties, social sector organizations must comply with applicable employment laws and implement the proper policies and procedures in order to maximize organizational effectiveness.

This overview provides information about federal and North Carolina employment laws that may be applicable to N.C. social sector organizations and their employees. Only use this overview as an informational guideline, and do not act upon it without specific legal advice based on your particular situation. Employment laws can differ greatly by state. If your organization and employees are located in another state, you should consult the employment law pages of LawForChange™ for information on employment law in that state.
2. General Issues

a. At-will Employment

Generally, there are two types of ways to describe the relationship between a full-time employee and an employer: “at-will” or “contract.” The conventional relationship between an employer and an employee hired for an indefinite period of time is called “employment at-will.” Typically under this arrangement, either the employer or the employee may terminate the employment relationship at any time, with or without cause, and with or without advance notice. As a general rule, courts will presume a person’s employment to be “employment at-will” if there is no written employment contract for a stated duration of time, or if there is no clause in the contract indicating that an employee can be terminated only for good cause.

Federal and North Carolina employment laws bar employers from firing employees for certain “illegal” reasons (such as discriminatory reasons, or as punishment for whistleblowing or other activities that are protected by law).

b. Temporary Employment and Consulting Relationships

In addition to traditional at-will or contract employees, many employers use the services of temporary employees, independent contractors, or consultants (and the employees of independent contractors or consultants).

An employee who is hired for an undefined period of time is a temporary employee. The temporary employee is still an at-will employee of the employer. As such, the relationship is governed by the same laws that apply to all at-will employees. However, temporary employees also share some characteristics with permanent employees. For instance, they are entitled to legally mandated benefits, such as workers’ compensation insurance and unemployment insurance. Still, certain optional benefits, such as 401(k) plans, need not be offered to temporary employees.

The law does not treat an independent contractor or consultant as an employee of the employer. Instead, an individual independent contractor is “self-employed”, and payments made to the independent contractor are considered contract payments rather than wages. The United States Internal Revenue Service (“IRS”) and other governmental agencies have a variety of tests for determining whether a worker is an employee or an independent contractor. Essentially, a worker who performs the same job as a regular employee, under the same supervision, is usually deemed to be an employee. Additional factors shared by the various tests include: the degree of control the employer exercises over the worker’s hours and manner of performance (e.g., does the worker have independent control over her work or is the worker subject to discharge if she adopts one
method of work rather than another); whether the employer provides the worker’s tools and/or employee benefits (e.g., medical insurance, vacation pay); the length of service; and the method of payment (e.g., is the worker paid hourly, weekly, or on a project basis).

The consequences of incorrectly classifying an employee as an independent contractor can be far-reaching and expensive (e.g., liability for unpaid payroll taxes and penalties, administrative claims for benefits provided to regular employees, liability for unpaid unemployment insurance and workers’ compensation premiums, increased exposure to governmental audits, and potential exposure to employment-related civil suits and administrative claims).

c. Employment Agreements

While it is not required or necessary to enter into an employment agreement with any employee, social sector organizations may wish to enter into written employment agreements with one or more key leaders. If an organization chooses to enter into an employment agreement with a particular employee, such agreements typically spell out the terms of employment (even “at-will” employment). Those terms may include the duties, compensation, and circumstances under which the agreement may be terminated by either party. In addition, such agreements may contain provisions that require key employees to keep information confidential, even after they leave employment. Finally, employment agreements can bar ex-employees from later becoming employed by certain competing organizations for a limited period of time after leaving your organization.

d. Government Contractors

A number of laws impose specific requirements on employers who contract with the government, government-funded agencies, and employers who receive grants or other types of funding from the government. These laws include unique equal opportunity laws, affirmative action laws, prevailing wage laws, and drug-free workplace laws. The application of these laws will depend on the value of the contract or funding, as well as the number of employees in the company.

e. Employee Records

Under North Carolina employment laws, an employer should maintain the following records on each non-exempt employee, as defined by the Fair Labor Standards Act (“FLSA”), for at least three years:

- Full name
- Home address and phone number
• Occupation or job title

• Time of day and day of week the employee’s workweek begins

• Regular rate of pay (hourly or salary)

• Hours worked each workday

• Total hours worked each workweek

• Total straight-time earnings each workweek

• Total overtime earnings each workweek

• Total additions to or deductions from wages

• Total gross wages paid each pay period

• Date of each payment

• Tip credits

• Wage deductions

• Vacation and sick leave policies

• Wages based on bonuses, commissions, or other forms of calculation

Records must be kept confidential. The North Carolina Identity Protection Act requires businesses to protect the Social Security numbers and personal information of all employees.

In general, under federal and North Carolina laws, an employer is either required to, or should maintain, the following records on each employee:

1 year – documents related to hiring, accommodations, promotions, discipline, and discharge, including: job applications, resumes, or any other form of employment inquiry whenever submitted in response to an advertisement or notice of job opening, including records pertaining to failure or refusal to hire any individual; records relating to promotion, demotion, transfer, selection for training or apprenticeship, layoff, recall, or discharge of any employee; job orders submitted to an employment agency or labor organization for recruitment of personnel; test papers completed by applicants or candidates for any position; results of any physical examination if such is considered in connection with a personnel action; advertisements or notices relating
to job openings, promotions, training, or opportunities for overtime work; requests for reasonable accommodation for disability or religious observance and what accommodation, if any was granted.

This will cover the limitations period of claims under Title VII of the Civil Rights Act of 1964 ("Title VII"), the Americans with Disabilities Act ("ADA") and the Age Discrimination in Employment Act ("ADEA") (see Section 8 below for summaries of these and other federal laws).

1 **year after employee benefit plan terminates** – Employee benefit plan records including: pension plans, insurance plans, seniority systems, merit systems. This includes benefit plans covered by the Employee Retirement Income Security Act ("ERISA") as well as set plans for advancement, layoff, or reinstatement based on seniority, merit, or some other formula which will be pertinent to either an issue under a collective bargaining agreement or claims of age or other discrimination.

2 **years** – Supplementary payroll records such as basic time sheets or production records that contain the daily starting and stopping times of individual employees and/or amount produced that day, wage rate tables for computing piece rates or other rates used in computing straight-time earnings, wages, salary, or overtime, and any records needed to explain the wage rate differential based on sex within the establishment (e.g., production, seniority, or other bona fide business criteria). Youth employment certificates must also be maintained for two years after the employment terminates.

Such information may be necessary to defending against claims under the FLSA, including the Equal Pay Act ("EPA").

5 **years** – Payroll records listing employee’s full name, home address, date of birth, sex (for Equal Pay Act purposes), occupation/job title, time of day and day of week on which workweek begins, regular rate of pay, the basis for determining regular rate of pay (including any payments excluded from the regular rate of pay), straight-time earnings, overtime premium earnings, additions/subtractions from wages for each pay period, total wages for each pay period, and date of payment and pay period covered by each payment. This is for claims under ADEA and FLSA.

Records related to qualified family and medical leave including: basic payroll and employee data (used to determine qualification for protection under the Family and Medical Leave Act ("FMLA"), dates and hours FMLA leave is taken, hours worked in the 12 months prior to start of leave, copies of employee notices furnished to employer, copies of notices provided to employee of rights and responsibilities under FMLA, employer polices applicable to use of family and medical leave, documents verifying premium payments of employee benefits (both employer paid and employee
portion of premium), records of any disputes with employees over use of FMLA leave. These documents will assist in supporting compliance with FMLA.

3 years or 1 year after termination – I-9 Employment Eligibility Verification Forms. These forms must be kept for a minimum of 3 years or 1 year after the employee’s employment ends, whichever is longer.

4 years – Tax records related to income tax withholdings. This is required by the Federal Insurance Contribution Act and the Federal Unemployment Tax Act.

5 years – Occupational illness or injury records. These records, required by the Occupational Safety and Health Act (“OSHA”), should be kept for 5 years after the year in which the injury was sustained or treatment ended, whichever is longer.

30 or more years – Records of employee exposure to toxic substances should be retained for thirty years. Such records are required by OSHA. Records regarding an employee’s absence for military service should be retained indefinitely under the Uniformed Services Employment and Reemployment Rights Act (“USERRA”).

At a minimum, social sector organizations should maintain one or more personnel files for each employee, containing any offer letters and agreements signed by the employee, required wage and hour records, records regarding promotion, additional compensation, termination, disciplinary action, and any documents used to determine the employee’s qualifications for employment. Medical records, immigration information, and other confidential documents, such as reference checks and investigative files for harassment claims, should be kept separately from an employee’s regular personnel file and should be kept confidential.

3. Employment Policies and Employee Handbooks

It is prudent for every employer to have written employment policies. Written policies serve to clarify expectations, reduce risk and, in some cases, are required by statute. In addition, both state and federal laws require that certain laws be posted in an area accessible to all employees. There are several services that provide updated posters containing these notices. Most concern compliance with the FMLA, Title VII, USERRA, workers’ compensation, organizational anti-harassment policies, and state and federal wage and hour laws.

Policies for any employment manual or handbook should provide information related to: nondiscrimination; harassment; OSHA injury and illness prevention; and workplace violence.

a. Nondiscrimination

Under federal law, employers are prohibited from discriminating on the basis of race, color, religion, sex, national origin, veteran status, pregnancy, age, or disability. The discrimination laws prohibit an employer from making employment related decisions,
such as hiring, firing, promotions, pay increases, or conditioning other terms and conditions of employment on a person’s protected status. Some local communities may have ordinances that provide for even greater protections, so it is important to check local laws for any additional requirements.

North Carolina’s Equal Employment Practices Act (“EEPA”) protects citizens seeking or holding positions from discrimination based on race, religion, color, national origin, age, sex, or disability. EEPA applies to employers which regularly employ 15 or more employees. It is applied much like Title VII of the Civil Rights Act of 1964, but is different because it provides no specific remedies. Other statutes also protect employees from discrimination based on the lawful use of lawful products while not at work, and membership (or lack of membership) in a labor union or organization.

North Carolina’s Retaliatory Employment Discrimination Act (“REDA”) bars discrimination against employees who have exercised, or threatened to exercise, their rights under North Carolina’s Workers’ Compensation Act, the Wage and Hour Act, OSHA, and the Mine Safety and Health Act. Situations covered by the REDA may arise from activities and situations that include: carrying sickle cell or hemoglobin C, genetic testing, National Guard service, involvement in the juvenile justice system, domestic violence, parental involvement in schools, and workplace violence.

The North Carolina Persons With Disabilities Protection Act (“PDPA”) is similar to the ADA and prohibits discrimination in employment, public accommodations, public service, and public transportation. The PDPA applies to employers with 15 or more full-time employees. The PDPA imposes duties on the employer similar to those under the ADA, including the duty to offer reasonable accommodations.

The North Carolina Smokers’ Rights Act prohibits employers from discriminating against employees who smoke. Employers can restrict off-duty smoking only if (1) the restriction relates to a bona-fide occupational requirement and is reasonably related to employment activities, or (2) the restriction relates to the fundamental objectives of the organization. Employer-sponsored life or health insurance programs may differentiate between smokers and nonsmokers but only if the different in premiums is actuarially justified.

Failing to comply with discrimination laws can result in expensive lawsuits and/or administrative investigations. In general, these laws require that all employees be treated equally without regard to their protected status. In addition, employers may not retaliate against employees who seek the enforcement of employment discrimination laws. Employers also should be aware of their obligations to make reasonable accommodations for employees where the employees’ disabilities or religious beliefs conflict with employment requirements. These obligations, which exist under both federal and state
law, are unlike other equal employment opportunity laws because treating all employees equally will not satisfy the obligations. Instead, employers must take positive steps to reasonably accommodate employees with disabilities and specific religious practices.

b. Harassment

Both federal and North Carolina law prohibits workplace harassment against any of the classes of employees protected under federal and state discrimination law. Two types of conduct constitute “harassment in the workplace.” The most obvious type occurs when a supervisor makes a job promotion or benefit dependent on the receipt of sexual favors (often called “quid pro quo” harassment). The other type occurs when an employee has to endure comments, physical contact, physical gestures, or other behavior that creates an offensive atmosphere for that employee (often called “hostile environment” harassment). Sexual harassment may be the most well-known form, but harassment on the basis of race, disability, age, and other protected classifications is also prohibited.

An employer must take all reasonable steps necessary to prevent the occurrence of any type of harassment. These steps include having an appropriate and comprehensive policy against harassment. For this reason, every employer must enact a harassment policy that both expressly prohibits harassment and provides avenues for employees to report harassing behavior. Employees should be encouraged to report any harassing behavior to the appropriate person, whether a direct supervisor, a human resources employee, or a senior manager designated to investigate such claims. An employer must take prompt and effective remedial action when harassment is either alleged or confirmed. As with discrimination, employers cannot retaliate against an employee who complains about harassment.

c. OSHA Injury and Illness Prevention

The Occupational Safety and Health Act ("OSHA") regulates workplace safety for employers in businesses that affect commerce. Under OSHA, employers are required to furnish their employees with a place of employment free from recognized hazards that are causing, or are likely to cause, death or serious physical harm. Employers must also comply with occupational safety and health standards which are issued under the Act. "Right to know" regulations issued under OSHA require that employees in certain industries be warned about hazardous materials and chemicals to which they may be exposed. OSHA sets forth a detailed procedure for adopting safety and health standards and also requires inspection, investigation and enforcement. Citations issued for noncompliance can result in civil and criminal penalties. These penalties range from fines to imprisonment for certain egregious violations (such as one that causes the death of an employee). States may develop and enforce their own plans setting forth standards
for occupational safety and health, and some industries have specific statutes which regulate employee safety and health.

d. Workplace Violence

Workplace violence is a concern for all employers and is something all employers should consider. Considerations may include policies that ban weapons and workplace security guards or monitoring systems.

4. Hiring Process

The hiring process typically entails receiving and reviewing applications, interviewing potential candidates, and selecting the employee.

a. Applications, Interviewing, Reference Checks, and Background Checks

The application process generally includes publishing an opening for a position, and then accepting applications for that position. Every help-wanted advertisement should contain an equal employment opportunity statement. Discrimination laws prohibit certain questions on the application, particularly those that elicit information about a person’s protected status that are not job related.

The interviewing process generally involves interviews and reference checks. Discrimination laws prohibit employers from asking certain questions during the hiring process. For example, questions regarding a person’s age, disability, child bearing plans, or other questions related to a person’s protected status that are not directly related to qualifications for the job are prohibited. Every person in the organization who interviews candidates and conducts reference checks should have a working knowledge of the laws that govern employment interviews.

Employers who use outside organizations to conduct background checks must comply with the federal credit-reporting law under the Fair Credit Reporting Act, which requires that certain disclosures and reports be made available to applicants.

Disability laws impose certain affirmative obligations on employers to ensure that disabled persons have a fair opportunity to participate in the hiring process. If any pre-employment testing is administered, then reasonable accommodations must be made to applicants in need of them. Further, the use of testing or other criteria that is unrelated to the essential functions of the position being filled should not be used. Courts have generally found that such testing discriminates against disabled applicants.
If an employer plans to administer a drug test, it should have a standing policy that ensures consistent administration of drug tests to all employees. Applicants may be required to disclose the use of prescription drugs to the test administrator, but that information should be kept confidential and used only to determine if the applicant passed or failed the drug test. Such information should not be provided to the employer. Drug tests in North Carolina must conform to the Controlled Substance Examination Regulation Act’s requirements. Testing must be administered at an approved facility and conducted on-site.

b. **Youth Employment**

Youth employment in North Carolina is highly regulated. Requirements vary by age and type of business and it is best to refer to the specific regulations. Under the North Carolina youth employment provisions employees under the age of 18 must hold employment certificates on or before the first day of the start of work. However, the FLSA does not require work permits and certain employers are exempt from the North Carolina youth employment provisions. It is best to check the specific regulations governing employment certificates and exemptions. Youth employees can only work three hours on a school day and eight hours on a non-school day (18 hours per week during school session and 40 hours per week when school is not in session). Youth employees under age 16 must have a 30-minute break after every five hours of work.

Sixteen and seventeen year-olds cannot work in hazardous or detrimental conditions, as defined by the Fair Labor Standards Act (“FLSA”) and North Carolina Wage and Hour Act (“WHA”). They also cannot work between 11:00 p.m. and 5:00 a.m. when there is school the next day unless they have written consent from their principal and a parent or guardian. For employees under 16, it is best to check the specific list of permissible work provided by the N.C. Department of Labor.

Fourteen and fifteen year-olds can only work in certain jobs and can only work between 7:00 a.m. and 7:00 p.m., or 9:00 p.m. in the summer. Generally, retail businesses, food service establishments, service stations, or other offices with businesses are included in the jobs fourteen and fifteen year-olds may do. 14 and 15 year-olds may also perform lifeguard duties or limited tasks in sawmills and woodshops if certain requirements are met. Again, it is best to check the specific list of permissible work provided by the N.C. Department of Labor. Youth employees under the age of 14 cannot work, unless they are working for their parents, delivering newspapers to individual consumers, or acting in commercials, television, movies, theatre, etc.
c. **Immigration**

All employers are required to verify that every newly hired employee is either a United States citizen or authorized to work in the United States. Every employee must complete an Employment Eligibility Verification ("I-9") Form and produce all required documentation in order to begin employment. Employers must review an employee’s evidence of identity and employment eligibility within three business days of the beginning of that person’s employment. Failure to follow the I-9 process can result in penalties and an audit by the United States Immigration and Customs Enforcement.

Employers cannot discriminate against employees based on their immigration status. *Thus, once an employee has proved that he or she is eligible to work in the U.S, the employee’s immigration status should not be used in any other employment decisions.*

5. **Compensation and Benefits**

Each social sector organization should adopt a compensation scheme that is compatible with the organization’s mission and the needs of its employees.

a. **Wages**

Most employers — regardless of size — are governed by both federal and state wage and hour laws. Federal and state wage and hour laws differ slightly, but employers must follow both. On July 24, 2009, the federal minimum wage increased to $7.25/hr. The North Carolina minimum wage can also be adjusted every July 24. North Carolina’s most recent adjustment also occurred on July 24, 2009, and was raised to match the federal minimum at $7.25/hr. North Carolina employers can pay full-time students, learners and apprentices 85% of the minimum wage under the FLSA. If employees receive tips, employers may pay them $2.13 per hour so long as their pay and tips combined equal the minimum wage.

Under the minimum wage laws, employers must pay employees an amount that is at least the statutory minimum wage multiplied by the number of hours that the employee worked in any given work week. Under the laws governing overtime, employers must pay most employees additional compensation for overtime hours. North Carolina enforces at least time and a half pay for any amount of time worked per week over 40 hours. Exceptions exist for salaried workers and seasonal amusement park workers.

Minimum wage and overtime laws are not limited to hourly employees. Salary and commission employees may also be entitled to minimum wages and overtime pay. The minimum wage laws apply to all employees, and the overtime laws apply to all employees except those who fall into an “exempt” classification under federal law.
Exempt employees include bonafide executives, administrative and professional employees, certain computer employees, and outside sales employees.

In North Carolina, an employer may withhold or divert wages, but the employer must receive prior authorization from the employee. Also, the employer must provide the employee with a statement containing all of the deductions and withholdings.

North Carolina allows pay periods to be daily, weekly, bi-weekly, or monthly. Special payments, such as bonuses, can be spaced further.

b. **Bonuses**

Bonuses may improve employee retention and provide extra incentives for reaching certain targets. Employers who provide bonuses (other than gift bonuses, like holiday bonuses) should have a written bonus plan to ensure clarity and avoid unintended bonuses that may be implied in an employee’s contract. Additionally, bonus calculation methods and whether those bonuses are guaranteed (for example, for hitting certain production goals) or discretionary (for example, a bonus for demonstrating “team-spirit”) should have an effect on calculating an employee’s overtime.

c. **Taxes**

Employers are required to withhold state income tax, federal income tax, and social security tax from taxable wages paid to employees. Under state law, the amount withheld should be determined by a signed North Carolina Employee’s Withholding Allowance Certificate (“Form NC-4”), along with tax tables found in the publication NC-30. Federal law mandates that funds withheld must be deposited in certain depositories accompanied by a Federal Tax Deposit Coupon (IRS Form 8109), or through the Electronic Federal Tax Payment System (“EFTPS”). Then, an Employer’s Quarterly Federal Tax Return (“IRS Form 941”) must be filed before the end of the month following each calendar quarter. Willful failure on the part of the employer to collect, account for, and pay withholding taxes will subject the employer to a significant monetary penalty, and in some cases, the IRS will impose personal liability on those responsible for an organizations’ non-compliance with the guidelines for withholding taxes.

Most employers, including non-profit organizations that are not 501(c)(3) organizations, must also file an Employer’s Annual Federal Unemployment (FUTA) Tax Return (IRS Form 940) and pay any balance due on or before January 31 of each year. Details may be found in IRS Circular E, available at [http://www.irs.gov/pub/irs-pdf/p15.pdf](http://www.irs.gov/pub/irs-pdf/p15.pdf).

Employers who are 501(c)(3) organizations, however, are not required to file a FUTA Tax Return. If tax payments are required, it is due on or before January 31 of each year.

d. Mandatory Benefits

i) Workers’ Compensation
Workers’ compensation protects employees who are injured on the job by replacing lost wage while they recover. All employers with three or more employees must provide workers’ compensation coverage. Any business where employees could possibly be exposed to radiation must have coverage regardless of the number of employees. Agricultural enterprises do not need coverage unless they have at least 10 permanent, non-seasonal employees. There are some limited exemptions from this requirement, but the workers’ compensation benefits are the only benefits available to an employee who is injured during an “on the job accident.” For employers, this means that an employee who is injured while performing work for an employer cannot sue that employer for his/her injury, because he/she is compensated directly through the workers’ compensation program. The North Carolina’s Workers’ Compensation Act prohibits employers from deducting employees’ wages to pay the insurance.

ii) Unemployment Insurance
Employers must contribute to an unemployment compensation fund. As a general rule, former employees are eligible for unemployment compensation when they are not responsible for their dismissal. When an employer terminates an employee, the employer has the burden of proof to show good cause for the termination. Employees who quit have the burden of proof to show good cause for quitting. The employer will receive notice when the state determines a former employee is eligible for benefits and any appeal must be received by the Division of Employment Security within 10 days. The law is complex and it is best to contact a lawyer when discharging an employee for good cause. Employers are required to post information about the unemployment compensation program in the workplace. To download free posters, visit www.nclabor.com/posters/posters.htm.

iii) Federally Mandated Benefits
See summaries of the Employee Retirement Income Security Act (“ERISA”), the Consolidated Omnibus Budget Reform Act (“COBRA”), the Health Insurance Portability and Accountability Act (“HIPPA”), and the Patient Protection and Affordable Care Act (“ACA”) in the “Federal Law” discussion below. If applicable, these federal laws mandate certain specified benefits.
e. Mandatory Leave of Absence

Federal laws govern leaves of absence, and the application of those laws depends on the reason for the leave. These laws can be very complicated. A law’s applicability also will often depend on the size of the employer, but some of the more complicated laws do not apply to small employers.

With certain exceptions, the federal Family and Medical Leave Act (“FMLA”) requires employers with 50-plus employees to provide unpaid family or medical leave of up to 12 weeks within a year for: the birth or adoption of a child; the serious health condition of an employee or employee’s spouse, parent or child; or, a qualifying emergency arising out of the fact that an employee’s spouse, child or parent is on active duty (or has been notified of an impending call or order to active duty) in the Armed Forces. A “serious health condition” includes inpatient hospitalization and subsequent treatment, as well as continuing treatment by a health care provider, including pregnancy. Additionally, an employee is entitled to leave for up to 26 weeks within a 12-month period to provide care to a spouse, child, parent, or next of kin who was injured during military service.

To be eligible for FMLA leave, the employee must have worked for at least 12 months, performed at least 1,250 hours of service for the employer in the 12 months prior to the leave of absence, and worked at a location within 75 miles of which the employer has 50 or more employees. If the employee’s need for leave is foreseeable, the employee must provide his or her employer with 30-days notice before taking leave. When the need for leave is unforeseeable, the employee is required to provide notice as soon as realistically possible.

Employers who violate their employees’ FMLA rights can be sued by their employees. Damages from this type of lawsuit can include lost compensation, liquidated damages, other out of pocket expenses, equitable relief, and attorney’s fees.

North Carolina employers must also abide by the state’s leave laws on school visitation and jury duty. Employees who are parents or guardians may take up to four hours of unpaid leave per year to attend their children’s school activities. The employee must give at least 48 hours’ notice and the employer may require written verification of attendance.

In North Carolina, pay is not required for employees on leave for jury duty, but it is illegal to punish employees who are summoned for jury duty or as witnesses in court. An employer also cannot force an employee to use vacation or sick leave for jury duty. The employer is entitled to prior notice of the need for leave, but the law does not specify how much notice.
f. Voluntary Benefits

The benefits listed below are not required by law. However, many employers choose to provide employees with such benefits in order to attract and retain the most qualified workers.

An employer is not required to provide employees with retirement benefits, welfare plans, or severance pay. But if an employer does establish such plans, they are governed by ERISA, which requires compliance with a number of complex, procedural requirements.

Also, an employer is not required to provide employees with vacation pay. However, if an employer elects to provide vacation pay, it should be uniformly applied in conformity with a written policy. This uniformity will provide protection against discrimination claims and helps the employer comply with the pay provisions of FLSA that relate to “exempt” employees.

Although it is common, employers are not required to give employees paid holidays. Indeed, employers are not even required to give employees time off during holidays, except in certain cases, where accommodation of religious holidays might be required.

Employers are not required to offer paid sick leave to employees. Traditionally, sick leave is limited to time off for dealing with the employee’s own illness or possibly to care for a sick child or spouse. Upon termination, the employer has no pre-existing legal obligation to pay out unused sick leave, unless the employer has a written policy to the contrary.

Many employers choose to combine vacation, sick leave, personal days, and floating holidays into a single “paid time off” or “PTO” policy. This policy makes it easier to administer employee time off because a single policy for accumulating and using PTO will often suffice.

Paid leaves of absence, such as paid maternity or paternity leave, are not required by law.

6. Termination of Employment

Absent an employment contract in the contrary, an employee of a social sector organization may ordinarily be terminated with or without cause provided there is no violation of applicable anti-discrimination laws. Prior to termination, social sector organizations should thoroughly review all records concerning the employee or employees in question and carefully assess the risks of litigation. Normally, advance notice of termination should be given. In most cases, employment counsel should be consulted before terminating one or more employees.
a. **Pay**

All earned wages that are unpaid at the time of discharge are due on the next regular pay-day after termination.

b. **Severance Agreements/Releases**

Generally, employers are not required to provide severance pay, unless they have agreed to do so. If the employer wants to offer severance to an employee, the employer may ask the employee to sign a release in exchange for the severance. The release waives all legal claims the employee may have against the employer. If an employer seeks a release, the employee must be provided severance or other consideration in addition to any payments the employee was already entitled to receive. Federal law contains specific statutory requirements for waivers of age discrimination claims, and federal law prohibits the waiver of certain wage claims.

c. **Unemployment Insurance / Compensation**

Unemployment benefits come from taxes paid by employers on the wages of their workers. These taxes are put in a special trust fund that is used solely to pay unemployment benefits to workers who lose their jobs through no fault of their own. A purpose of these benefits is to provide temporary assistance to the involuntarily unemployed while they seek new employment.

Typically, to be eligible for payments an applicant must either (1) have quit for good cause attributable to his or her employer or (2) have been terminated for reasons other than serious misconduct connected with his or her work. In addition, an applicant must:

1. Have earned at least $3,400 during a period of at least 18 weeks in the base year;
2. Be unemployed for a waiting period of one week;
3. Make a claim for benefits for each week of unemployment;
4. Have registered to work and continue to report to the employment office;
5. Be available and able to work; and
6. Actively seek, but be unable to obtain work in four of the last five calendar quarters.

Most employers pay contributions under the experience rating provisions of the law at a rate of 2.7 to 5.4% of their total payroll. An employer’s contribution rate depends on its
individual benefit ratio (benefits charged to its account for a certain period divided by its total payroll for the same period).

To be “unemployed,” individuals must perform no services in a given week and receive no compensation. In situations where individuals receive payments from their employers for periods in which they render no personal services (e.g., back-pay awards, holiday and vacation pay, certain severance payments or employer funded disability pay), they are not technically “unemployed.” Workers who are not technically “unemployed” are not entitled to unemployment benefits.

d. Health Care Continuation (COBRA) Requirements

The Consolidated Omnibus Budget Reconciliation Act of 1985 (“COBRA”) requires employers who provide employee health and medical benefits to provide notification to employees of their COBRA rights at the time of a “qualifying event” such as a resignation or an involuntary terminate on of employment. COBRA applies to employers with more than 20 employees.

7. Immigration

Due to globalization and the benefits of a diverse workforce, social sector employers located in the United States have increasingly sought to employ foreign personnel (“aliens”). This is particularly true with social sector organizations that already work to address problems abroad. A variety of permanent and temporary visas are available for aliens depending on various factors such as, the proposed job, the individual alien’s qualifications, and the relationship between the American employer and the prospective alien employee. Permanent residents are authorized to work where and for whom they wish. Temporary visa holders have authorization to remain in the United States for a temporary time, and often the employment authorization is limited to particular employers and jobs. Sometimes employment authorization may be limited to specific work sites.

When planning to bring foreign personnel to the United States, American employers should allow several months for processing by the United States Citizenship and Immigration Services (“USCIS”), as well as the Departments of State and Labor. Furthermore, employers should be aware of certain corporate changes including: stock or asset sales; job position restructuring; changes in job site locations; and, changes in job duties. Such changes may dramatically affect the employment authorization of foreign employees.

a. Permanent Residence (the “green card”)

Permanent residence is usually achieved by familial relationships (marriage to a United States citizen, etc.) or an employment offer. Gaining permanent residence through employment is often a time-consuming process that may take several years. Accordingly,
employers should first determine the permanent residence requirements that apply to an individual alien before deciding whether to bring that alien to the United States.

b. Temporary Visas.

The following are the most commonly used temporary visas:

i) **B-1 Business Visitors and B-2 Visitors for Pleasure**
   These visas are commonly utilized for brief visits to the United States of six months or less. These visas do not authorize employment in the United States. B-1 business visitors are often sent by their overseas employers to negotiate contracts, to attend business conferences or board meetings, or to fulfill short-term contractual obligations in the United States (such as equipment repair). B-1 or B-2 visitors cannot be on an American payroll or receive American-sourced compensation.

ii) **F-1 or M-1 Academic Student Visas Including Practical Training**
   Often foreign students come to the United States in F-1 status for academic training or M-1 status for vocational training. Students in F-1 status can often engage, within certain constraints, in on-campus employment and/or off-campus curricular or optional practical training for limited periods of time. These individuals are allowed to stay in the United States as long as they are full-time students. Vocational students cannot obtain curricular work authorization but may receive some post-completion practical training in limited instances.

iii) **J-1 Exchange Visitor Visas**
    These visas are not for paid employment. These visas are for academic students, scholars, researchers, and teachers traveling to the United States to participate in an approved exchange program. J-1 exchange visitor visas authorize training or internships. Potential employers should note that some J-1 exchange visitors and their dependents are subject to a two-year foreign residency requirement abroad before being allowed to change status and remain or return to the United States.

iv) **Nonimmigrant NAFTA Professional Visas (TN)**
    Under the North American Free Trade Agreement, certain Canadians and Mexicans who qualify and fill specific, defined professional positions can qualify for TN status. Such professionals include some medical/allied health professionals, engineers, computer systems analysts, and management consultants. TN holders are granted one-year stays for specific employers and other employment is not allowed without prior USCIS approval. The paperwork required for filing these requests is relatively minimal, particularly with regard to Canadians.
v) **E-1 Treaty Trader and E-2 Treaty Investor Visas**
These are temporary visas for persons in managerial, executive or essential skills capacities who individually qualify for or are employed by companies that engage in substantial trade with or investment in the United States. E visas are commonly used to transfer managers, executives or engineers with specialized knowledge about the proprietary processes or practices of a foreign company to assist the company at its United States operations. Generally, E visa holders receive a five-year visa stamp but only two-year entries at any one time.

vi) **E-3 Treaty Alien in a Specialty Occupation Visas for Australian Citizens**
E-3 visas are for Australian citizens who will be employed in the United States in specialty occupations that require at least a bachelor’s degree. Like H-1B visas (see below), the United States employer must pay the E-3 worker the higher of the actual wage paid by that employer to United States workers or the prevailing wage paid to United States workers in local commuting area as determined by Department of Labor online wage library or other valid salary survey. These temporary visas are granted for a period of two years and are renewable indefinitely.

vii) **H-1B Specialty Occupation Visas**
H-1B visas are for persons in specialty occupations that require at least a bachelor’s degree. Examples of such professionals are computer programmers, engineers, architects, accountants, and, on occasion, business persons. Initially, H-1B temporary workers are given three-year temporary stays with possible extensions of up to an aggregate of six years. H-1B visas are both employer-specific and job-specific. A United States employer must pay H-1B workers the higher of the actual wage paid by that employer to United States workers or the prevailing wage paid to United States workers in local commuting area as determined by Department of Labor online wage library or other valid salary survey. This category also includes fashion models and specialty occupations related to Department of Defense Cooperative Research and Development projects or co-production projects.

viii) **L-1 Intra-company Transferee Visas**
L-1 visas are often utilized in the transfer of executives, managers or persons with specialized knowledge from international companies to U.S.-related companies. These visas provide employer-specific work authorization for an initial three-year period with possible extensions of up to seven years in certain categories. L-1A visas are designed for the transfer of executives and managers while L-1B visas are designated for persons with specialized knowledge. As in the case of certain E visa capacities, some L managers or executives may qualify for a shortcut in any permanent residence filings.
ix) **O-1 and O-2 Visas for Extraordinary Ability Persons**

O-1 and O-2 visas are for persons who have extraordinary abilities in the sciences, arts, education, business or athletics, which results in sustained national or international acclaim. Also included in this category are persons who assist in the underlying O-1’s artistic or athletic performances. These individuals are allowed an initial stay of up to three years.

x) **P-1 Athletes/Group Entertainers and P-2 Reciprocal Exchange Visitor Visas**

These temporary visas allow certain athletes who compete at internationally recognized levels or entertainment groups who have been internationally recognized as outstanding for a substantial period of time, to come to the United States and work temporarily. Essential support personnel can also be included in this category.

xi) **Others**

There are a number of other non-immigrant visas categories that may apply to specific desired entries.

c. **Immigration and Nationality Act (“INA”)**

The Immigration and Nationality Act (“INA”) includes provisions addressing employment eligibility, employment verification and nondiscrimination. Employers may hire only persons who may legally work in the United States (i.e., U.S. citizens, U.S. nationals, and aliens who are authorized to work in the United States). The employer must verify the identity and employment eligibility of anyone to be hired, which includes completing the Employment Eligibility Verification Form (I-9). Employers must keep each I-9 on file for at least three years, or one year after employment ends, whichever is longer.

d. **Immigration Reform and Control Act (“IRCA”)**

The Immigration Reform and Control Act (“IRCA”) requires that employers, regardless of size, inspect and verify documentation establishing the identity and eligibility to work in the United States of every newly hired employee. The IRCA prohibits hiring aliens who are ineligible to work in the United States. Organizations that fail to comply with IRCA documentation requirements or hire unauthorized workers are subject to significant fines and penalties. IRCA also prohibits employers with four or more workers from discriminating against lawfully admitted aliens.

8. **Federal Law**

This section describes some of the more significant federal employment laws and regulations. *The penalties for an employer who violates some of these laws and regulations*
can be severe. If unsure about a law’s applicability to your organization, it is in your best interest to consult a qualified professional.

a. Age Discrimination in Employment Act ("ADEA")

The Age Discrimination in Employment Act ("ADEA") protects employees who are at least forty years old. The ADEA makes it unlawful for employers to fail or refuse to hire an employee based on age. It also makes it unlawful to segregate or classify ADEA-protected employees, or otherwise discriminate against them with respect to their compensation, or the terms, conditions and privileges of their employment because of their age. The ADEA applies to almost all employers with 20 or more employees.

There are limited exceptions to the ADEA where age is a "bona fide occupational qualification" necessary to the essential operation of a particular business, or where the differentiation is based on reasonable factors other than age. The burden of proving a need for such exceptions is usually on the employer. Employees who feel wrongfully discriminated against on the basis of age may file charges of discrimination with the Equal Employment Opportunity Commission (“EEOC”), which enforces the ADEA. The employee or the EEOC may then sue in federal court for damages and other relief. Remedies under the ADEA include reinstatement or front pay, back pay, liquidated damages, and attorneys’ fees.

b. Americans with Disabilities Act (“ADA”)

The Americans with Disabilities Act (“ADA”) makes it unlawful for employers to discriminate against a qualified individual with a disability based on either the existence of a disability, a record of a disability, or the employer’s perception of an employee disability. The ADA defines “disability” broadly and requires that employers take reasonable steps to accommodate disabled individuals in the workplace unless such measures would constitute an undue hardship on the employer. The ADA applies to employers that have 15 or more employees. The procedures for pursuing a claim under the ADA, as well as the available remedies, are similar to those provided by Title VII.

c. The Consolidated Omnibus Budget Reform Act ("COBRA")

The Consolidated Omnibus Budget Reform Act ("COBRA") requires an employer with more than 20 employees who provides health and medical benefits to offer continuation of those benefits to former employees and their covered dependents ("qualified beneficiaries") upon the occurrence of certain “qualifying events.” COBRA generally provides for a maximum continuation period of 18 months. In certain circumstances where a qualified beneficiary is disabled at any time during the first 60 days of COBRA coverage, the period can be extended to 29 months. Also, if certain qualifying events occur during the original 18 months of COBRA coverage, qualified beneficiaries become
entitled to receive 36 months of continuation coverage. Employers may require the election of qualified beneficiaries to pay the entire premium for COBRA coverage plus a 2% administrative charge. COBRA contains very specific procedures for notifying qualified beneficiaries of their COBRA rights and obligations. COBRA applies whether employees leave voluntarily or involuntarily.

d. Employee Polygraph Protection Act ("EPPA")

Employee Polygraph Protection Act ("EPPA") generally prohibits the use of polygraph machines by an employer in determinations that involve hiring, promoting, or terminating an employee. Some private employers are exempt from the EPPA. Exempt employers include: those within the security field; those involved in the protection of the public; those involved in operations impacting national security; and those authorized to manufacture, distribute, or dispense any controlled substance.

The EPPA also permits the use of a lie detector by any employer when the employer sustains an economic loss, the employee to be tested had access to the property that is the subject of the investigation, the employer has a reasonable suspicion that the employee was involved in the incident being investigated, and the employer obtains a statement from the employee authorizing the test. Even in these limited situations where use of a lie detector is permissible, an employee being tested can terminate the examination at any time. Either the Secretary of Labor or an aggrieved employee can bring an action against an employer for violating the EPPA. Remedies can include reinstatement, promotion, back pay, and attorney’s fees. In addition, the Department of Labor may impose a fine up to $10,000.

e. The Equal Pay Act of 1963 ("EPA")

The Equal Pay Act ("EPA") of 1963 requires an employer to pay all male and female employees an equal wage for equal work. Equal pay is required for the performance of any jobs "which require equal skill, effort and responsibility and which are performed under similar working conditions." There are exceptions for seniority systems, merit systems, pay systems based on quantity or quality of production, or other pay differentials based on factors other than sex. The Equal Pay Act applies to employers who have two or more employees and work with goods and materials that involve interstate commerce. An employee who believes his or her employer has violated the EPA may bring an action in federal court or file a charge with the EEOC. The employee is not required to first bring the claim before the EEOC in order to sue. Remedies can include back pay, attorney’s fees, and court costs.
f. The Fair Credit Reporting Act ("FCRA")

The Fair Credit Reporting Act ("FCRA") limits employers’ use of credit information to inform a variety of employment decisions, including hiring and termination. The FRCA imposes strict guidelines requiring employers to use credit reports only for a permissible purpose, after disclosure to employment applicants or employees of the intent to seek and use credit information, and after obtaining the written consent of the employee/applicant. The disclosure/consent may not be made a part of the employer’s application form. Additionally, employees/applicants must be notified of any adverse decision based in whole or in part upon credit information. Additional requirements apply to investigative consumer reports.

g. The Family and Medical Leave Act ("FMLA")

The Family and Medical Leave Act ("FMLA") requires that eligible employees working for covered employers be allowed to take up to 12 weeks of unpaid leave per year for: the birth or adoption of a child; the serious health condition of the employee or its spouse, parent, or child; or, for a qualifying situation arising out of the fact that an employee’s spouse, child, or parent is on active duty (or has been notified of an impending call or order to active duty) in the Armed Forces. A “serious health condition” includes inpatient hospitalization and subsequent treatment therefore and continuing treatment by a health care provider, including pregnancy. Additionally, an employee is entitled to leave for up to 26 weeks within a 12-month period to provide care to a spouse, child, parent, or next of kin who was injured during military service. Covered employers include private-sector employers with 50 or more employees in 20 or more work weeks, public agencies, and public or private elementary or secondary schools. To be eligible for FMLA leave, the employee must have worked 12 months or longer, performed at least 1,250 hours of service for the employer in the 12 months prior to the date of leave, and must work at a location where the employer has at least 50 employees within 75 miles. If the employee’s need for leave is foreseeable, the employee must provide his or her employer with 30 days notice before taking leave. When the need for leave is unforeseeable, the employee is required to provide notice as soon as practicable.

An individual who believes his or her FMLA rights have been violated is entitled to file a lawsuit. Remedies can include lost compensation, liquidated damages, other out of pocket expenses, equitable relief, and attorney’s fees.

h. The Federal Fair Labor Standards Act ("FLSA")

The Federal Fair Labor Standards Act ("FLSA") regulates wages and hours of certain covered employees. Employers must keep accurate records of hours worked by covered employees and those employees must receive a regular rate of pay for each hour they
work, up to 40 hours in a week. The regular rate must be at least equal to the required "minimum wage," which was increased to $7.25 on July 24, 2009. All hours worked over 40 in a week are considered "overtime." Generally, an employer must provide compensation to any covered employee (an employee whose wages and hours fall under FLSA is known as a “non-exempt employee”) who works in excess of 40 hours in a week at an amount not less than one and a half times the worker’s regular rate of pay for each hour of overtime. For public policy reasons, these protections may not be eliminated by individual agreement or by union contract. While appearing simple, the FLSA is subject to many regulations, exceptions, interpretations and exemptions and is not capable of a full short-summary. For example, professional, executive and administrative employees, as defined by regulations, are exempt from both the minimum wage and overtime pay requirements. On the other hand, some occupations and industries have special minimum wage provisions. Employers who violate the FLSA are subject to civil penalties, which can include fines. Furthermore, prevailing employees may be able to recover unpaid wages, unpaid overtime compensation, liquidated damages, and attorney’s fees.

i. The Federal Employee Retirement Income Security Act of 1974 ("ERISA")

The Federal Employee Retirement Income Security Act of 1974 ("ERISA") regulates employee benefit plans maintained by employers engaged in commerce or in an industry or activity affecting commerce. ERISA contains specific requirements governing the creation, modification, maintenance and reporting of employer pension and retirement plans as well as other plans relating to employee health and welfare benefits. Welfare plans include, for example, plans providing medical, hospital, death or other insurance benefits, vacation and severance benefits. ERISA sets out a detailed regulatory scheme mandating certain reporting and disclosure requirements, providing exemptions for religious institutions, setting forth fiduciary obligations and, in most types of retirement plans, coverage, vesting and funding requirements. ERISA does not prescribe any particular level of severance, insurance, pension or welfare benefits, nor does it require that they be provided at all. This is a matter to be decided by the employer and, if the employer’s industry is unionized, such terms should be bargained between the employer and the union. However, any benefits offered must comply with regulations prohibiting discrimination and must be administered fairly under the terms of the benefit plan. ERISA generally preempts state laws governing employee plans and arrangements.

j. Genetic Information Nondiscrimination Act ("GINA")

The Genetic Information Nondiscrimination Act ("GINA") prohibits an employer from discriminating against an individual in hiring, firing, compensation, terms, or privileges of employment based on the individual’s genetic information or the genetic information of the individual’s family member.
The law defines genetic information as (1) an individual’s genetic tests; (2) an individual’s family member’s genetic tests; or (3) the manifestation of a disease or disorder in the individual’s family member. Subject to a number of narrowly defined exceptions, GINA prohibits an employer from requesting, requiring, or purchasing genetic information of the individual or family member. An employer may engage in genetic monitoring of biological effects of toxic substances in the workplace but only in certain narrowly defined situations. Employees may sue for relief from violations of GINA in an appropriate court and obtain back pay, front pay, compensatory and punitive damages, and attorney’s fees.

k. Health Insurance Portability and Accountability Act ("HIPAA")

The Health Insurance Portability and Accountability Act ("HIPPA") establishes limitations on the use of preexisting condition exclusions (so-called “portability” rules). HIPAA prevents group health plans or health insurance issuers from imposing a preexisting condition exclusion of more than 12 months (18 months for late enrollees) for coverage of any condition that was present during the six-month period ending on the individual's enrollment date. In addition to various other provisions, HIPAA mandates that preexisting condition limitations generally may not be imposed upon newborns or adopted children under age 18, and may not apply to pregnancy.

The preexisting condition exclusion period must be reduced by periods of “creditable coverage,” which are generally defined as periods of continuous coverage the individual has under other health plans. HIPAA also imposes various other requirements on employers and group health plan providers and insurers, such as nondiscrimination and disclosure requirements, special enrollment rights, and special notice obligations.

The HIPAA privacy rules extend privacy protection to all types of “protected health information” held by “covered entities.” Covered entities include health plans, health care clearinghouses, and health care providers. Also included are qualifying business associates of these health care related entities that perform certain activities that involve the use of protected health information. The HIPAA security rules impose requirements with respect to safeguarding and protecting the confidentiality, integrity and availability of electronic protected health information.

l. The Occupational Safety and Health Act ("OSHA")

The Occupational Safety and Health Act ("OSHA") regulates workplace safety for employers in businesses which affect commerce. Under OSHA, employers are required to furnish their employees with a place of employment free from recognized hazards that cause, or are likely to cause, death or serious physical harm. Employers must also comply with the occupational safety and health standards which are issued under the Act.
"Right to know" regulations issued under OSHA require that employees in certain industries be warned about hazardous materials and chemicals to which they may be exposed. OSHA sets forth a detailed procedure for adopting safety and health standards and provides for inspection, investigation and enforcement. Citations issued for noncompliance can result in civil and criminal penalties, such as fines, and can even include imprisonment for violations causing the death of an employee. States are allowed to develop and enforce their own plans setting and enforcing occupational safety and health standards. Some industries have specific statutes which regulate employee safety and health.

m. Patient Protection and Affordable Care Act (“ACA”)

The recently-enacted Affordable Care Act mandates numerous and far-reaching changes. It is unclear how this law will ultimately affect employers, because litigation is pending and many provisions of the Act do not go into effect until 2014 or 2015. Under the law, employers are not required to provide health care coverage. However, employers with more than 50 employees will be required to pay a fine of $2,000 per worker per year if they do not provide health insurance and any employee receives federal subsidies in order to purchase their own health insurance. Employers with fewer than 50 employees face no such penalty. However, the law provides a tax incentive for such small employers who wish to provide health care. Employers may also be required to subsidize employees who wish to purchase health insurance on the market if the employer offers health care coverage that is deemed too expensive. Additionally, the law requires employers to provide nursing mothers with unpaid breaks and implements new protections for whistleblowers.

n. The Pregnancy Discrimination Act of 1978 (“PDA”)


o. Title VII of the Civil Rights Act of 1964 (“Title VII”)

Title VII of the Civil Rights Act of 1964 (“Title VII”) prohibits employment discrimination based on race, sex, color, national origin, or religion in the workplace. *Title VII applies to all employers with 15 or more employees and prohibits discrimination in areas of advertising, recruiting, hiring, promotion, compensation, benefits administration, and termination.* Title VII also prohibits harassment based on an individual’s protected characteristics, as well as retaliation for engaging in conduct protected by Title VII. To recover damages, any individual who has suffered such discrimination must file a complaint with the Equal Employment Opportunity Commission (“EEOC”) within 180 days of the alleged discrimination. Once the EEOC
investigates the allegations and makes a determination regarding the sufficiency of the evidence to prove the alleged discrimination, it will notify the employee in writing of his or her right to bring a civil action. Regardless of the EEOC’s determination, the employee may, within 90 days of receipt of the notice, bring a legal action based on his or her allegations. An individual’s possible remedies under Title VII include compensatory and punitive damages, back pay and front pay, reinstatement, and attorney’s fees.

p. The Uniformed Services Employment and Reemployment Rights Act (“USERRA”)

The Uniformed Services Employment and Reemployment Rights Act (“USERRA”) prohibits discrimination against persons because of their service in the Armed Forces Reserve, the National Guard, or other uniformed services. USERRA prohibits an employer from denying any benefit of employment on the basis of an individual’s membership, application for membership, performance of service, application for service, or obligation for service in the uniformed services. USERRA also protects the right of veterans, reservists, National Guard members, and certain other members of the uniformed services to reclaim their civilian employment after being absent due to military service or training. There is no statute of limitations for complaints of discrimination arising under USERRA, so records regarding an employee’s absence for military service should be retained indefinitely.
9. Employment Law Internet Resources
   a. Federal
      i) Agencies
         - Dept. of Justice Civil Rights Division, http://www.usdoj.gov/crt
         - U.S. Citizenship and Immigration Services (USCIS),
           http://www.uscis.gov/portal/site/uscis
         - National Labor Relations Board (NLRB), http://www.nlrb.gov
      ii) Websites
         - Patient Protection and Affordable Care Act informational website, http://www.healthcare.gov/
      iii) Additional Materials
         - Publications by the American Bar Association Section on Labor and Employment, http://www.americanbar.org/groups/labor_law/publications.html
   b. North Carolina
      i) Agencies
      ii) Websites
         - North Carolina General Statutes http://www.ncleg.net/gascripts/statutes/Statutes.asp