Today's Agenda

9:00 – 9:05 NH Employment Security
9:05 – 9:10 NH Employer Support for Guard & Reserve
9:10 – 9:15 Veterans' Employment & Training Service
9:15 – 9:20 Small Business Administration
9:20 – 11:00 NH Wage & Hour & Safety Presentation
11:00 – 12:00 US Department of Labor Wage & Hour

New Hampshire Employment Security

Pandemic Tax Rate Impacts on Employers

- Taxpaying employers:
  - Benefit charges have not impacted tax rates during pandemic
  - $50M added to trust fund to avoid tax rate increases
  - No surcharges in effect during 2021 Q1 or Q2
  - Trust fund started pandemic at $300M and now at $104M
  - Employers currently at their experience based earned rate

- Non profit employers:
  - Benefit charges have not been required to be reimbursed

New Hampshire Employment Security

Services

- NUJOBS portal
- Virtual Job Fairs
- https://www.unemploymentbenefits.nh.gov
- Job Match System
- https://jobmatch.nh.gov/
- Work Opportunity Tax Credit (WOTC)
- Federal Bonding
- https://www.nhjobs.nh.gov/forms/employees.htm
- WorkShare
- https://www.nhjobs.nh.gov/nhworking/workshare.htm

Training

- Job Training Fund
  - WorkInvestNH
  - https://www.nhjobtrainingfund.org
  - WorkNowNH
  - https://www.nhjobs.nh.gov/forms/employees.htm
- WIOA/Dislocated Worker
- https://www.nhjobs.nh.gov/forms/employees.htm
- Return to Work
- https://www.nhjobs.nh.gov/nhworking/return/forms.htm
USERRA AND EMPLOYER RELATIONS FOR
RESERVE COMPONENTS

Uniform Service Employment Reemployment Rights Act
WWW.ESGR.MIL

NH State Chair: Bruce Thompson
Employer Support of the Guard and Reserve
bthompson@nhesgr.com  603-225-1892

Employment Support Program: Mike Pacheco
Employment and Career Services
mpacheco@nhesgr.com  603-396-8392

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Stay Connected
SBA Links & Contacts

Subscribe to SBAs e-newsletter: www.sba.gov/nh

Follow the SBA on Twitter: @SBA_NH

Email: newhampshire_DO@sba.gov

Call: (603) 225-1400

www.sba.gov/coronavirusrelief - all economic aid options
www.sba.gov/ppp - Paycheck Protection Program
www.sba.gov/svogrant - Shuttered Venue Operators Grant

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Information current as of 2/5/21 - Visit www.sba.gov/CoronavirusRelief for the most up-to-date information.
New Hampshire Department of Labor

2021 Labor Law Webinar

**Top 10 Labor Violations**

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<table>
<thead>
<tr>
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<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Pay all Wages Due</td>
<td>RSA 275:43</td>
<td>Lab 803:01</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Record-Keeping</td>
<td>RSA 279:27</td>
<td>Lab 803:03</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>Youth Employment</td>
<td>RSA 270A:4</td>
<td>Lab 1030</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Required Pay (2-hour minimum)</td>
<td>RSA 275:43-a</td>
<td>Lab 803:03 (h) (i) (j)</td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>Notification in writing</td>
<td>RSA 275:49</td>
<td>Lab 803:03</td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>Documentation of Employees</td>
<td>RSA 275-A:4-a</td>
<td></td>
<td></td>
</tr>
<tr>
<td>7</td>
<td>Deductions from Wages</td>
<td>RSA 275:49</td>
<td>Lab 803:03 (f) (h)</td>
<td></td>
</tr>
<tr>
<td>8</td>
<td>Secure workers’ compensation coverage &amp; proper employee classification</td>
<td>RSA 275:42</td>
<td>(i) &amp; RSA 281-A:6</td>
<td></td>
</tr>
<tr>
<td>9</td>
<td>Written Safety Plan</td>
<td>RSA 281-A:64</td>
<td>Lab 803:01, 803:02, 803:03</td>
<td></td>
</tr>
<tr>
<td>10</td>
<td>Pay Minimum Wage</td>
<td>RSA 275:71</td>
<td>Lab 803:02</td>
<td></td>
</tr>
</tbody>
</table>
Life Cycle of a New Hampshire Employee

- Workers' Compensation Coverage
- Notification
- Youth Employment
- Documentation of Employees
- Recording of Hours
- Safety and Health Program
- Deductions
- Paying all Wages due on Payday
- Terminating the Employee & Relationship

Workers' Compensation Coverage Division

Coverage:
Phone: 603.271.3175
Email: NHcoverage@dol.nh.gov

Claims:
Phone: 603.271.3174
Email: WorkersComp@dol.nh.gov

Workers' Compensation

Coverage:
- Secure & Maintain NH Workers' Compensation Insurance Coverage
- Misrepresentation of Workers
- Exclusion of Executive Officers
- Prime Contractor's Responsibility

Claims:
- Filing A First Report of Injury
- First Aid
- Job Modification
- Second Injury Fund
Wage & Hour Inspection Division

Phone Numbers:
603.271.3176
603.271.6294
603.271.0127

Email Address:
InspectionDIV@dol.nh.gov

Notification RSA 275:49

Wages
• In writing
• At least minimum wage
• Signed by the employee
• Copy maintained by the employer
• Hourly, Salary, Commission, etc.

Benefits
• Vacation, Sick, Holiday
• What qualifies an employee to benefits
• How it is earned, lost, and calculation at termination
• Accrued benefits cannot be lost with change

Company Name/Logo Here

Wages
- Name
- Rate
- Hours
- Total
- Date
- Pay Period
- Manager
- Employee
- Change a Rate
- Tips
- Stock
- Other
- Commission

Benefits
- Name
- Rate
- Hours
- Total
- Date
- Pay Period
- Manager
- Employee
- Change a Rate
- Tips
- Stock
- Other
- Commission
## Youth Age Documentation When What

<table>
<thead>
<tr>
<th>Age</th>
<th>Documentation</th>
<th>When</th>
<th>What</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under 16</td>
<td>Youth Certificate</td>
<td>Within three days of the 1st day of employment</td>
<td>Employment or Volunteering</td>
</tr>
<tr>
<td>16/17</td>
<td>Parental Permission</td>
<td>On or before the 1st day of employment</td>
<td>Employment</td>
</tr>
</tbody>
</table>
YOUTH HOURS

Age Under 16

Every Day
- Not older than 7AM or later than 1PM
- No night work
- No more than 30 hours

School Day
- No more than 3 hours on School Day (Yes, Friday is a School day)
- No more than 30 hours

School Week
- No more than 23 hours
- No more than 30 hours

Full Vacation Week
- No more than 48 hours
- No more than 30 hours

USSSL Differences
- Not older than 7AM, no older than 1PM, no night work:
- Shorter hours due to USSSL

Age 16 / 17

Every Day
- No more than 10 hours per day
- No night work
- No more than 30 hours per week

School Days
- Less than 6 hours on School days
- No more than 30 hours

School Weeks
- No more than 40 hours
- No more than 30 hours

Documentation of Employees

RSA 275-A:4-a

Citizen Protection

- Document to show identity
- Document to show eligibility
- Federal Form

YOUTH HAZARDS

Age Under 16

No Construction
- Cannot be on a work site

No Manufacturing or Warehouse
- Cannot be in a warehouse

No Golf Carts / Go Carts
- Cannot ride or drive a bicycle

No Mowing or Weed Whacking
- Cannot weed whack

No Open Water Lifeguarding
- Cannot be a lifeguard

Age 16 / 17

No Driving
- At age 17 limited usage (e.g., driving to school)

No Power-driven, Motorized or Fixed Stairs
- Limited: Cannot drive

No Reading
- Or working on or about a road

No Power-driven Bakery Machines
- Cannot use power-driven bakery machines

Please see all HRs in the HERO’s Full Labor Relations or go to www.youthrules.gov
NHDOL Biennial Report
Injuries By Body Parts

<table>
<thead>
<tr>
<th>Body Part</th>
<th>2016</th>
<th>2017</th>
<th>2018</th>
<th>2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>Finger</td>
<td>3,645</td>
<td>4,050</td>
<td>4,615</td>
<td>4,810</td>
</tr>
<tr>
<td>Other</td>
<td>3,738</td>
<td>3,860</td>
<td>3,986</td>
<td>3,940</td>
</tr>
<tr>
<td>Lower Back</td>
<td>2,708</td>
<td>2,747</td>
<td>3,166</td>
<td>3,282</td>
</tr>
<tr>
<td>Hand</td>
<td>2,666</td>
<td>2,871</td>
<td>3,056</td>
<td>3,169</td>
</tr>
<tr>
<td>Knee</td>
<td>2,048</td>
<td>2,054</td>
<td>2,322</td>
<td>2,300</td>
</tr>
</tbody>
</table>

NHDOL Biennial Report
Common Injury Causes

<table>
<thead>
<tr>
<th>Causes</th>
<th>2016</th>
<th>2017</th>
<th>2018</th>
<th>2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Slip or Fall</td>
<td>8,038</td>
<td>9,493</td>
<td>10,251</td>
<td>10,445</td>
</tr>
<tr>
<td>2. Lifting Action</td>
<td>7,025</td>
<td>7,012</td>
<td>7,162</td>
<td>7,343</td>
</tr>
<tr>
<td>3. Person</td>
<td>2,995</td>
<td>3,676</td>
<td>4,317</td>
<td>5,041</td>
</tr>
<tr>
<td>4. Hit by Object</td>
<td>3,089</td>
<td>4,028</td>
<td>4,134</td>
<td>4,619</td>
</tr>
<tr>
<td>5. Other</td>
<td>4,070</td>
<td>3,478</td>
<td>3,981</td>
<td>4,274</td>
</tr>
<tr>
<td>6. Sharp Object</td>
<td>2,248</td>
<td>2,026</td>
<td>2,345</td>
<td>2,523</td>
</tr>
<tr>
<td>7. Tool</td>
<td>1,891</td>
<td>1,967</td>
<td>2,152</td>
<td>2,137</td>
</tr>
<tr>
<td>8. Non Applicable</td>
<td>1,318</td>
<td>1,388</td>
<td>1,499</td>
<td>1,691</td>
</tr>
<tr>
<td>9. Repetitious</td>
<td>1,050</td>
<td>1,044</td>
<td>1,048</td>
<td>1,086</td>
</tr>
<tr>
<td>10. Motor Vehicle Accident</td>
<td>729</td>
<td>828</td>
<td>812</td>
<td>915</td>
</tr>
</tbody>
</table>

Why Invest in Workplace Safety

A Written Safety Program with the help of JLMC Will...

- Reduce fatalities, injuries and illnesses
- Increase productivity and financial performance
- Reduce absenteeism and turnover
- Raise employee morale
- Reduce direct and indirect costs
### Fatalities, Injuries, and Illnesses Will Increase Costs

<table>
<thead>
<tr>
<th>Direct Costs</th>
<th>Indirect Costs</th>
</tr>
</thead>
<tbody>
<tr>
<td>✓ Medical Expenses</td>
<td>✓ Lost Time to assist injured worker</td>
</tr>
<tr>
<td>✓ Increase of Workers’ Compensation Premiums</td>
<td>✓ Damage to tools, equipment, materials and property</td>
</tr>
<tr>
<td>✓ Compensation to injured employees for time away from work</td>
<td>✓ Losses due to late or unfulfilled orders, loss of bonuses or payment of penalties</td>
</tr>
<tr>
<td>✓ Repair or replacement of damaged equipment, buildings, and other items</td>
<td>✓ Loss of profit because of lost work time and idle machines</td>
</tr>
</tbody>
</table>

#### How to Determine Total Cost of an Employee Injury

<table>
<thead>
<tr>
<th>Direct Cost</th>
<th>Cost Multiplier</th>
</tr>
</thead>
<tbody>
<tr>
<td>$0 - $2,999</td>
<td>4.5</td>
</tr>
<tr>
<td>$3,000 - $4,999</td>
<td>1.6</td>
</tr>
<tr>
<td>$5,000 - $9,999</td>
<td>1.2</td>
</tr>
<tr>
<td>$10,000 or more</td>
<td>1.1</td>
</tr>
</tbody>
</table>

- Indirect cost = direct cost X cost multiplier
- Cost multiplier depends on size of direct cost
- Total cost = Direct cost + Indirect Cost

**Example:**

The Insurance Claim Cost = $12,000
Indirect cost $12,000 x 1.1 = $13,200
Total cost $12,000 + $13,200 = $25,200
All Allowable Deductions:

- Accidental Overpayment
  - Voluntary & in writing
  - Dates to begin & end
  - No more than 20% of gross wages for any 1 pay period

- Insurance benefit lapse
  - Employer responsible for failed obligation & deducted premiums

---

Payment of Wages

- Permission to pay other than weekly or bi-weekly

- Payment Options
  - Checks
  - On bank that is convenient
  - No fee to cash paycheck
  - Direct Deposit
  - Pay Card

- Paying all wages due
  - Short Breaks & Lunch Periods
  - Late Pays
  - Miscalculations or errors in pay
Salaried Employees
RSA 275:43-b

Paid the same salary for each pay period
Regardless of quality or quantity of work

Unless

- No work performed at all in a pay period
- Bereavement leave
- Family Medical Leave Act
- If a salaried employee voluntarily, without coercion or pressure, requests time off without pay for any portion of a pay period
- Offset any amount received for jury duty, or military pay

Terminating an Employee

<table>
<thead>
<tr>
<th>72 Hours</th>
<th>Next Payday</th>
</tr>
</thead>
<tbody>
<tr>
<td>Termination by employer</td>
<td></td>
</tr>
<tr>
<td>Suspension or Labor Dispute</td>
<td></td>
</tr>
<tr>
<td>Quit with Notice</td>
<td></td>
</tr>
<tr>
<td>Quit</td>
<td></td>
</tr>
</tbody>
</table>

New Hampshire Department of Labor
Website: www.nh.gov/labor
Email:
- InspectionDiv@dol.nh.gov
- SafetyDiv@dol.nh.gov
- WorkersComp@dol.nh.gov

SIGN UP FOR EMAIL ALERTS
Essential Workers
Essential Protections

Wage and Hour Division
Who we are

Enforcing Workplace Protections

- 10 million establishments nationwide and 148 million workers covered.
- More than 200 WHD offices throughout the country.
- More than 200 languages spoken.
Essential Protections

- Payment of minimum wages and overtime
- Youth employment standards
- Job protections for time taken for the birth of a child or caring for sick family members
- Housing and transportation standards for farm workers
- Payment of prevailing wage rates for federally funded construction and service contract work
- Standards for hiring and paying workers temporarily in the U.S under H-2A, H-1B and H-2B visas

Tax Credits for Paid Sick Leave

- American Rescue Plan extended tax credits for employers through September 30, 2021
- Up to $12,000 per worker
- Visit IRS.gov for more information

Achieving Compliance

- Investigations
- Outreach to workers
- Education for employers
- Partnerships
Regional Outreach Events

- Planning more than 100 local outreach events
- Keep an eye out for more information about these events, including registration links

FAIR LABOR STANDARDS ACT

Essential Protections:
- Minimum wage: $7.25 per hour
- Overtime at “time and one-half” for hours worked over forty in a workweek
- Recordkeeping requirements
- Prohibited youth employment
- Anti-retaliation provisions
**Overtime**

Covered, non-exempt employees must receive one and one-half times their regular rate of pay for all hours worked over forty in a workweek.

- All time that is hours worked must be counted when determining overtime hours worked.

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**FACT SHEET:**

- Compliance determined by workweek
- Each workweek stands alone
- Workweek is 7 consecutive 24-hour periods (168 hours)

---

**Regular Rate**

- Determined by dividing total earnings in workweek by total number of hours worked in workweek

\[
\text{Total Compensation} \div \text{Total Hours Worked} = \text{RR}
\]

- Regular Rate may not be less than the applicable minimum wage

- Total earnings include commissions, certain bonuses, and cost of room, board, and other facilities provided primarily for the employee’s benefit
Overtime

**Regular Rate and Premium Pay for OT Hours**

- **STEP 1:** Total compensation paid in a workweek (minus statutory exclusions) divided by total hours worked in the workweek
  
  \[
  \text{Total Compensation} \div \text{Total Hours} = \text{RR}
  \]

- **STEP 2:** \( \text{RR} \times .5 \) = Half-time Premium Pay per OT Hour

- **STEP 3:** \( \text{(Half-time) Premium Pay Rate} \times \text{Overtime Hours in the Workweek} = \text{Overtime Compensation Due} \)

**Hourly Rate:** $12.00

**Bonus per week:** $100.00

**Hours worked:** 48

**Total compensation for week:** $676 + $56.32 = $732.32

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**Exercise: Production Bonus**

<table>
<thead>
<tr>
<th>Hourly Rate:</th>
<th>$12.00</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bonus per week:</td>
<td>$100.00</td>
</tr>
<tr>
<td>Hours worked:</td>
<td>48</td>
</tr>
</tbody>
</table>

- \( 48 \times 12 = 576 \)
- \( 576 + 100 = 676 \)
- \( 676 \div 48 = 14.08 \text{ RR} \)
- \( 14.08 \times .5 = 7.04 \)
- \( 7.04 \times 8 = 56.32 \text{ OT} \)

---

**Overtime Exclusions from the Regular Rate**

- Gifts – e.g., coffee, snacks, t-shirts, raffle prizes, certain longevity bonuses, certain sign-on bonuses
- **Discretionary bonuses** – e.g., severance bonuses, referral bonuses for employees not primarily engaged in recruiting activities, bonuses for overcoming challenging or stressful situations
- **Payments for time not worked** – includes paid leave, paid leave buybacks, “show up” or “reporting pay”, “call-back pay”
- **Reimbursements for business expenses** – includes business supplies, tools, cell phone plans, credentialing exam fees, travel expenses
Overtime

Exclusions from the Regular Rate

- Overtime premium payments
- "Perks" and conveniences for the employee – e.g., gym memberships, gym access, fitness classes, wellness programs, employee discounts on retail and services, on-the-job medical care, tuition payments, adoption assistance, parking benefits and spaces
- Profit sharing plans, stock options
- Retirement and insurance plan contributions - also includes plans for accident, unemployment, legal services, or other events that could cause significant future financial hardship or expense

FACT SHEET: Regular Rate

Discretionary Bonuses

- Discretionary bonuses may be excluded from the regular rate if all the following criteria are met:
  1. The employer has the sole discretion, until at or near the end of the period that corresponds to the bonus, to determine whether to pay the bonus;
  2. The employer has the sole discretion, until at or near the end of the period that corresponds to the bonus, to determine the amount of the bonus; and
  3. The bonus payment is not made according to any prior contract, agreement, or promise causing an employee to expect such payments regularly.
- Labels are not determinative.

FACT SHEET: Regular Rate

Common Questions

I am an employee of a private employer that began paying me incentive payments, such as hazard pay, for working during the COVID-19 emergency. Do those incentive payments have to be included in the regular rate that is used to compute my overtime pay?
Exemptions

There are numerous exemptions from the minimum wage and/or overtime standards of the FLSA. One of the most common FLSA minimum wage and overtime exemptions is often called the "541," "white collar" or "EAP" exemption.

Exemptions

Three Tests for the "White Collar" Exemptions

1. Salary Basis
2. Salary Level
3. Job Duties

Salary Basis Test

- An exempt employee must regularly receive a predetermined amount of compensation each pay period (on a weekly or less frequent basis)
- The compensation cannot be reduced because of variations in the quality or quantity of the work performed
- If employer chooses to use nondiscretionary bonuses and incentive payments to meet the standard salary level, the employee must be paid at least 90% of the standard salary level for any week in which the employee performs any work
Exemptions

Salary Level Test

For most employees the minimum salary level required for exemption is $684.00 per week.

Final Rule

Nondiscretionary Bonuses

- Nondiscretionary bonuses and incentive payments (including commissions) are forms of compensation promised in advance to employees (e.g., bonuses for meeting set production goals, retention bonuses, and commission payments based on a fixed formula).
- May be used to satisfy up to 10% of the standard salary and special salary levels.
  - Minimum of 90% (approx. $616 per week) of standard salary level must be paid as a weekly salary.
- Bonuses must be paid on an annual or more frequent basis.

Final Rule

Catch-Up Payments

- If an employee does not earn enough from nondiscretionary bonuses, commissions, or incentive payments to meet the standard salary level in the 52-week period – an employer may make a "catch-up" payment within one pay period after the end of the 52-week period.
- Any such "catch-up" payment will count only toward the prior 52-weeks salary amount and not toward the salary amount during the period in which it is paid.
Final Rule
Example Catch-Up Payments

1/2/2020 – 12/30/2020

January – June
$616 per week + $1,300 bonus

July – December
$616 per week + $2,000 bonus

Catch-Up Payment
$236

Final Rule
Example Catch-Up Payments

Minimum Salary Level
$684 per week = $35,568 per year

Employer Paid
$616 per week = 90% of standard salary level
$616 X 52 weeks = $32,032
Jun Bonus $1300 + Dec Bonus $2000 = $35,332

Total paid = $35,332 is $236 less than the minimum amount of $35,568 required per year

Duties Tests
No Changes

• The Final Rule did not make any changes to the Duties Tests
Executive Duties
No Changes

- Primary duty is management of the enterprise or of a customarily recognized department or subdivision
- Customarily and regularly directs the work of two or more other employees
- Authority to hire or fire other employees or recommendations as to the hiring, firing, advancement, promotion or other change of status of other employees given particular weight

Administrative Duties
No Changes

- Primary duty is the performance of office or non-manual work directly related to the management or general business operations of the employer or the employer’s customers
- Primary duty includes the exercise of discretion and independent judgment with respect to matters of significance

Professional Duties
No Changes

- Primary duty is the performance of work requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction
  OR
- Primary duty is the performance of work requiring invention, imagination, originality, or talent in a recognized field of artistic or creative endeavor
**Professional Duties**

**Non-Exempt Professions**

*Common errors: misapplication of exemptions*

- Licensed Practical Nurses
- Paralegals, legal assistants
- Engineering Technicians
- Accounting clerks, bookkeepers typically performing routine work
- Cooks performing predominantly routine mental, manual, mechanical, or physical work

**Computer-Related Occupations**

To qualify for the computer employee exemption, an employee, such as a computer analyst, programmer, or software engineer, must receive either:

- A guaranteed salary or fee of $684 per week or more, or
- An hourly rate of not less than $27.63 per hour and
- Their primary duty must be in design, development, or creation of computer systems, systems analysis etc. (as defined in the regulations).

**Child Labor**

In non-agricultural jobs...

- Minimum age of employment is 14
- Hours and occupations are restricted for 14- and 15-year-olds
- Hazardous occupations are prohibited for every covered worker under 18 years of age
- Some exceptions for minors working for their parents
Online Resources

- Worker.gov
- Employer.gov

Online Resources

Elaws Advisors

- Coverage and employment status advisor
- Overtime calculator
- Overtime security advisor
- Hours worked advisor

dol.gov/elaws

Contact Us

- Visit www.dol.gov/agencies/whd
- Call our toll-free information and helpline at 1-866-4US-WAGE (1-866-487-9243)
Compliance Assistance

- Northern New England District Office
- PHONE: 603-666-7716
- Web: www.dol.gov/agencies/whd

Wage and Hour Division

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