**SHRM Employment Law**

Module 7: Benefits





Time:  2 minutes

Running time: 2 minutes

**Objective**: Introduce the topic of Benefits.

**Description**:  Introduction to the topic and why it is important.

**Instructional Method**: Lecture/ice breaker

**Script:**

Employers use benefits to attract and retain employees and, in some organizations, the benefit offerings are more influential than other types of compensation in terms of attracting and retaining employees. Some benefits are mandated by the government, but others are optional, and employers are free to get very creative with benefit offerings. Of course, there are laws that govern benefit offerings just like any other type of compensation. One of the most important things to remember about benefits is that all of the laws concerning Equal Opportunity, accessibility, and equity apply to any benefit offerings an employer provides.

**Facilitator Notes:**

Add your name or any other information to this slide in the subtitle.

Graphical user interface, application

Description automatically generated

Time:  2 minutes

Running time: 2 minutes

**Objective**: Introduce the topic of Benefits.

**Description**:  Introduction to the topic and why it is important.

**Instructional Method**: Lecture/ice breaker

**Script:**

Employers use benefits to attract and retain employees and, in some organizations, the benefit offerings are more influential than other types of compensation in terms of attracting and retaining employees. Some benefits are mandated by the government, but others are optional, and employers are free to get very creative with benefit offerings. Of course, there are laws that govern benefit offerings just like any other type of compensation. One of the most important things to remember about benefits is that all of the laws concerning Equal Opportunity, accessibility, and equity apply to any benefit offerings an employer provides.

**Facilitator Notes:**

Use the objectives topics to create evaluation for the review.

Graphical user interface, application

Description automatically generated

Time:  11 minutes

Running time: 15 minutes

**Objective**: Define key terms for Benefits.

**Description**: Identify and define key terms for Benefits.

**Instructional Method**: Game

**Script**:

Let’s play a game to define some key terms used with Benefits

**Exercise**:  Key terms Game

**Note**: The winning group will have the most key terms listed correctly

8 Minutes

1. Put students into groups of 3 – 6
2. Have each group number a list from 1 – 11.
3. Read the definition of the term (note what number you read)
4. Have 1 student write the name (or number) of the term on their list.

3 minutes

1. Give students the answers.
2. The team with the most is the winner.

**Facilitator Notes:**

1. **401(k) plan**- A retirement contribution plan that allows employees to make pre-tax elective salary deferrals through payroll deductions an employer may or may not contribute to the plan.
2. **Consolidated Omnibus Budget Reconciliation Act (COBRA)**- Allows employees who lose health insurance benefits due to job loss to continue their health insurance benefits for a set period of time.
3. **Defined benefit plan**-Defined benefit plans provide a fixed, pre-established benefit for employees at retirement.
4. Defined contribution plan
5. **Discretionary Benefits**- Benefits that are offered to employees by an employer

that are not mandated by law. Some typical examples include health insurance,

paid leave, life insurance, and paid vacations.

1. **Employee Benefits**- The parts of the total compensation package, other than pay for time worked,  provided to employees in whole or in part by employer payments (e.g., life insurance, pension, workers’ compensation, vacation) *(Milkovich, 2020).*
2. **Family Medical Leave Act**- A federal law that allows employees to take unpaid

leave from their jobs for specific family and medical reasons without losing their

employment or health insurance benefits.

1. **Health insurance**- Medical insurance offered to employees to help offset medical costs.
2. **Life insurance**- Insurance offered to employees that pays a dividend to beneficiaries in the event of death.
3. **Long-term disability-** A type of income replacement insurance that has a longer payout period if you become permanently disabled
4. **Mandatory Benefits**- Also known as statutory benefits, these are required by law.

Examples include workers compensation, unemployment insurance, and in some

states, paid leave.

1. **Paid holiday**- Paid time off for federal holidays.
2. **Paid vacation**- Paid time away from work under a bona fide vacation plan.
3. **Short-term disability**- A type of income replacement insurance that has a limited payout period if you become temporarily disabled.
4. **Social Security**- Passed in 1935, the Social Security Act provides for the welfare of

aged and those with physical and mental disabilities. [This is funded through employee and employer contributes of 6.2% of each employee’s compensation](https://www.ssa.gov/news/press/factsheets/HowAreSocialSecurity.htm). An individual can draw Social Security after becoming permanently and totally disabled or reaching the [age of 62 or 67](https://www.ssa.gov/benefits/retirement/learn.html). This is a mandatory benefit required by law.

1. **Unemployment Insurance**- “A joint state-federal program that provides

temporary financial assistance to qualifying unemployed workers while they seek work” (<https://www.dol.gov/agencies/oasp/evaluation/topic-areas/unemployment-insurance>).

1. **Vesting***-* The amount of time an employee has to spend with an organization to

receive both the employee contribution and the employer contribution of a

pension fund.

18. **Worker’s compensation**- A mandatory benefit required by law that provides replacement income, medical care, job retraining, and even long-term disability payments that are necessary as a result of being injured on the job.



Time:  2 minutes

Running time: 17 minutes

**Objective**: Describe mandatory versus discretionary benefits.

**Description**: Identify and define key terms for Compensation.

**Instructional Method**: Lecture

**Script**:

Why Offer Benefits?

Employers offer benefits for a variety of reasons. Some are required by law, so we simply must offer certain mandatory benefits that we will discuss shortly.  Other benefits are optional, and not all employers offer benefits. Many smaller employers simply cannot afford to offer anything more than the base compensation. Small employers still have to offer mandatory benefits, even if they can’t afford discretionary benefit offering. Benefit offerings are a crucial part of the total compensation package, and employers are able to highly customize benefit offerings to specifically fit the needs of their employees. Benefits expand the ability of the employer to provide additional compensation and help to attract and retain quality employees.

When employers can afford to offer benefits, they tend to offer benefits that are in the best interest of both the employer and the employee.

**Facilitator Notes:**   
**Health insurance**

Health insurance is a popular benefit. Employers like to offer this benefit because employees who are healthy come to work more frequently. Like other employee expenses, the cost of  health insurance premiums are fully tax deductible on both state and federal taxes.

**Life insurance**

Many employers offer some kind of life insurance benefit to employees. This is usually offered very inexpensively to the employer, and the employee can opt-in to purchase more. This provides some security to employees in terms of not having to worry about all of the final expenses in the event something happens.

**Child/Elder Care benefits**

Employees can reduce unplanned absenteeism when they have dependable child/elder care. This can be in the form of care offered on-site or funds provided to licensed caregivers.

**Paid Time Off**

Who doesn’t enjoy a paid holiday or a week’s paid vacation? These are excellent benefits that help employees to relax and unwind, take care of personal business, or go to the doctor. Whatever the case, this kind of leave, while very expensive for the employer, is good for employee health and well-being.

Graphical user interface, text, application

Description automatically generated

Time:  3 minutes

Running time: 20 minutes

**Objective**: Define the key terms related Benefits.

**Description**: Define the key terms related the cost of Benefits.

**Instructional Method**: Lecture

**Script**:

The Cost of Benefits

For employers, the cost of employee benefits is significant. On September 20, 2022, the [U.S. Bureau of Labor Statistics](https://www.bls.gov/home.htm) released a report on the [Employer Costs for Employee Compensation Summary.](https://www.bls.gov/news.release/ecec.nr0.htm) According to this report, employee benefits cost employers on average 29.5% - 38.3% of total employer costs for compensation. The numbers vary based on industry. This illustrates how valuable both employers and employees consider benefits to be.

How can employers determine what the individual cost of benefits is for each employee? For the organization overall?

The [College and University Professional Association for Human Resources](https://www.cupahr.org/) published a great tool that you can use to [calculate benefits as a percentage of salary.](http://efaidnbmnnnibpcajpcglclefindmkaj/https:/www.cupahr.org/wp-content/uploads/KC/toolkits/Benefits-and-salary-calculation.pdf)

Individual:

Sum of all benefits (annually)/Annual Salary = Benefits as a percent of salary.

Institution:

Average annual amount spent on all employee benefits/total annual salary for all employees.

Diagram

Description automatically generated with medium confidence

Time:  5 minutes

Running time: 25 minutes

**Objective**: Describe mandatory versus discretionary benefits.

**Description**: Describe mandatory benefits.

**Instructional Method**: Lecture

**Script**:

Mandatory or Statutory benefits are those that are required by local, state, or national governments. These types of benefits are a standard cost of doing business and are a considerable part of overall employee costs.

**Facilitator Notes:**   
*Social Security*

Social Security is designed to provide income to workers who retire, become disabled, or dies (survivorship benefits). These funds are paid jointly by employees and employers. The current Social Security portion (OASDI) is [6.2% of earnings, and Medicare is 1.45%](https://www.ssa.gov/news/press/factsheets/colafacts2021.pdf). Both the employer and the employee pay this percentage into the Social Security Administration and the employee percentage is deducted from the employee paycheck and paid on your behalf.

*Unemployment Insurance*

Employers are required to contribute to unemployment insurance as a part of the payroll tax they pay to both the state and federal governments. Unemployment insurance is administered by the individual states, and the cost to the employer varies. This insurance provides compensation to employees who lose their jobs through no fault of their own. Workers who are terminated for poor performance or other issues may not be able to collect unemployment if the employer can prove that the employee was terminated for cause.

*Worker’s Compensation*

Worker’s Compensation is administered by individual states and is a costly part of doing business on the part of an employer. Worker’s Compensation is a no-fault insurance, meaning that employees are covered even if their own actions caused the injury or illness. Benefits are provided for medical treatment, replacement of lost wages, partial and total disability payments, death benefits for survivors in the case of lost life, and rehabilitation and job training. Injured workers can find resources by contacting their [State Worker’s Compensation Officials](https://www.dol.gov/agencies/owcp/wc) for more information.

*Health Insurance- Affordable Care Act*

For employers with 50 or more employees, the [Affordable Care Act](https://www.irs.gov/affordable-care-act/employers) requires that the employer provide health insurance to employees or pay a penalty.

*Family and Medical Leave Act (FMLA)*

According to the [Department of Labor website](https://www.dol.gov/agencies/whd/fmla):

The FMLA entitles eligible employees of covered employers to take unpaid, job-protected leave for specified family and medical reasons with continuation of group health insurance coverage under the same terms and conditions as if the employee had not taken leave. Eligible employees are entitled to:

* Twelve workweeks of leave in a 12-month period for:
  + the birth of a child and to care for the newborn child within one year of birth;
  + the placement with the employee of a child for adoption or foster care and to care for the newly placed child within one year of placement;
  + to care for the employee’s spouse, child, or parent who has a serious health condition;
  + a serious health condition that makes the employee unable to perform the essential functions of his or her job;
  + any qualifying exigency arising out of the fact that the employee’s spouse, son, daughter, or parent is a covered military member on “covered active duty;” or
* Twenty-six workweeks of leave during a single 12-month period to care for a covered servicemember with a serious injury or illness if the eligible employee is the servicemember’s spouse, son, daughter, parent, or next of kin (military caregiver leave).

Continuation of Health Coverage (COBRA)

According to the [Department of Labor Website](https://www.dol.gov/general/topic/health-plans/cobra):

The ***Consolidated Omnibus Budget Reconciliation Act (COBRA)*** gives workers and their families who lose their health benefits the right to choose to continue group health benefits provided by their group health plan for limited periods of time under certain circumstances such as voluntary or involuntary job loss, reduction in the hours worked, transition between jobs, death, divorce, and other life events. Qualified individuals may be required to pay the entire premium for coverage up to 102% of the cost to the plan.

COBRA generally requires that group health plans sponsored by employers with 20 or more employees in the prior year offer employees and their families the opportunity for a temporary extension of health coverage (called continuation coverage) in certain instances where coverage under the plan would otherwise end.

Graphical user interface

Description automatically generated

Time:  10 minutes

Running time: 35 minutes

**Objective**: Review discretionary benefits.

**Description**: Review discretionary benefits.

**Instructional Method**: Lecture - Exercise - Large Group Discussion

**Script**:

Discretionary benefits are at the option of the employer and are used to attract and retain employees. These benefits can be so valuable, in fact, that some organizations (such as government employers) customarily lag the market in base compensation but make up for it with exceptional benefit offerings.

**Exercise**: Discretionary Benefits (5 minutes)

1. Break students into pairs.
2. Have each pair research one the types of discretionary benefits and answer questions on whiteboard (or other place where they can share)  
   a. Describe  
   b. Benefit to employers  
   c. Benefit to employees  
   d. Cost of this benefit
3. Use the gallery walk to share the answers with the class (Have student pairs walk to each flip chart paper, whiteboard or other entry).

**Discussion** – Debrief (5 minutes)

**Ask** - What discretionary benefits surprised you? Which do you think should be Mandatory?

**Facilitator Notes:**

*Health Insurance*

For employers having fewer than 50 employees, offering health insurance is optional, but many smaller organizations try to provide some health insurance options or a stipend to help offset the cost of purchasing health insurance through the marketplace.

*Cafeteria Plans*

The IRS provides for an additional plan under [Section 125](https://www.irs.gov/government-entities/federal-state-local-governments/faqs-for-government-entities-regarding-cafeteria-plans) of the Internal Revenue Code. These types of plans can include:

* Accident and health benefits (including vision and dental)
* Adoption assistance
* Dependent care assistance
* Group-term life insurance coverage
* Health savings/Flexible Savings accounts

**Life Insurance**

Many organizations offer a small life insurance policy as a no-cost benefit to employees. These can be for the employee only, or for the employee and dependents, and can vary in amount. These benefits are intended to help alleviate financial strain in the event of an untimely death of an employee or dependent. Employees can work directly with the insurance provider to purchase more coverage and have the premiums deducted from the employee’s paycheck.

**Disability Insurance**

Disability insurance comes in two basic forms: Long-term Disability and Short-term disability. Some employers offer limited coverage to employees at no cost to them; more frequently, disability insurance is offered to employees to purchase through payroll deductions.

**Long-term Disability Insurance**- A type of income replacement insurance that has a longer pay-out period if you become permanently disabled.

**Short-term Disability Insurance**- A type of income replacement insurance that has a limited pay-out period if you become temporarily disabled.

**Flexible Spending Accounts**

[Medical Flexible Spending Accounts](https://www.healthcare.gov/glossary/flexible-spending-account-fsa/) allow employees to set aside money on a pre-tax basis for [allowable](https://www.irs.gov/publications/p502) expenses. These include any kind of medical insurance deductible or co-pay, pharmacy co-pays and deductibles, medical devices, abortion, and much more for the employee’s entire family. One major difference between a flexible spending account and a health savings account is the use-it-or-lose-it feature. Employees get to choose how much to contribute on a pre-tax basis, based upon a standard set by the IRS, and these funds must be used by a set time period. Additionally, an FSA is fully funded by the employer in advance, so employees have access to the entire amount of their annual deduction available upon the day of the first employee deposit. This means that employees don’t have to wait to earn the funds in order to use them

[Dependent Care Flexible Spending Accounts](https://www.fsafeds.com/explore/dcfsa) are a pre-tax benefit that allow employees to set aside funds for eligible dependent care services. These funds can be used to pay for childcare for children under 13, and a spouse or relative who is unable to care for themselves and lives in your home.

**Health Savings Accounts**

[Health Savings Accounts](https://www.irs.gov/publications/p969) are a little different than flexible spending accounts. They are provided for employees with High Deductible Health Plans and are also deducted on a pre-tax basis with limits on how much an employee can contribute annually. It can be used for the same types of expenses as an FSA, but the funds are only available to the employee as they are deducted from the employee’s paycheck, and the funds are not forfeited at the end of the year, but instead roll over from year to year and employees can even take their HSA from one employer to another.

*Employee Assistance Programs*

Employee Assistance Plans are a set of additional benefits offered to employees that provide additional assistance to employees and their families. These are relatively low-cost programs for

employers that provide limited benefits for employees in terms of legal assistance/advice, financial advice, access to counseling services, addiction treatment referrals, depression and anxiety treatment referrals, and more. There is no one set standard of benefits, so employers can choose an EAP provider that offers the services that best fit with their organization.

*Wellness Programs*

Many organizations offer wellness programs that promote healthy lifestyle choices, which lead a to a higher quality of life for the employees, and lower insurance premiums and fewer sick days for employers. This type of program encourages employees to exercise, stop smoking, and lose weight. The program should be accessible to all employees.

*Creative Benefit Offerings*

Discretionary benefits can be extended to whatever an employer wants to offer. From child and elder care, to parking passes, to remote work opportunities, student loan payments, and even pet health insurance. Some employers offer unlimited paid time off, others offer on-site medical care, gym memberships, and dry cleaning. Still others can offer discounted meals, flights, rides, the sky is the limit. One thing to keep in mind about discretionary benefits is that employees really like receiving them, but they don’t like having them taken away. Taking away an employee benefit can result in very unhappy employees, especially if it is something long-standing. Additionally, the creative benefit offerings should be inclusive and accessible to all employees.

Graphical user interface, text, application

Description automatically generated

Time:  10 minutes

Running time: 45 minutes

**Objective**: Explain various types of retirement plans.

**Description**: Explain various types of retirement plans.

**Instructional Method**: Lecture - Exercise - Large Group Discussion

**Script**:

Not every organization is equipped to offer a [retirement plan](https://www.irs.gov/retirement-plans/plan-sponsor/types-of-retirement-plans), but those who do participate in retirement plans that allows employees to save money for their own future on a pre-tax basis, and typically offer this type of benefit whenever they can. Retirement benefits are frequently used by government and educational institutions to compensate for lower base compensation.

**Exercise**: Retirement Plans (5 minutes)

1. Break students into pairs.
2. Have each pair research one the types of retirement plans and answer questions on whiteboard (or other place where they can share)  
   a. Describe  
   b. Benefit to employers  
   c. Benefit to employees  
   d. Cost of this benefit
3. Use the gallery walk to share the answers with the class (Have student pairs walk to each flip chart paper, whiteboard or other entry).

**Discussion** – Debrief (5 minutes)

**Ask** - What discretionary benefits surprised you? Which do you think should be Mandatory?

**Facilitator Notes:**

*Pension/Retirement*

Not every organization is equipped to offer a [retirement plan](https://www.irs.gov/retirement-plans/plan-sponsor/types-of-retirement-plans), but those who do participate in retirement plans that allows employees to save money for their own future on a pre-tax basis, and typically offer this type of benefit whenever they can. Retirement benefits are frequently used by government and educational institutions to compensate for lower base compensation.

**Employee Retirement Income Security Act (ERISA)**

“The [Employee Retirement Income Security Act of 1974](https://www.dol.gov/general/topic/retirement/erisa) (ERISA) is a federal law that sets minimum standards for most voluntarily established retirement and health plans in private industry to provide protection for individuals in these plans.

ERISA requires plans to provide participants with plan information, including important information about plan features and funding; sets minimum standards for participation, vesting, benefit accrual and funding; provides fiduciary responsibilities for those who manage and control plan assets; requires plans to establish a grievance and appeals process for participants to get benefits from their plans; gives participants the right to sue for benefits and breaches of fiduciary duty; and, if a defined benefit plan is terminated, guarantees payment of certain benefits through a federally chartered corporation, known as the [Pension Benefit Guaranty Corporation (PBGC)](https://www.pbgc.gov/)” (DOL.gov).

**Individual Retirement Arrangements (IRAs)**

[**IRA’s**](https://www.irs.gov/retirement-plans/individual-retirement-arrangements-iras) allow employees to make tax-deferred investments to provide financial security for retirement and there are multiple types of IRA’s. IRA’a have annual [contribution](https://www.irs.gov/retirement-plans/plan-participant-employee/retirement-topics-ira-contribution-limits) and [deduction](https://www.irs.gov/retirement-plans/ira-deduction-limits) limits, [rollover](https://www.irs.gov/retirement-plans/plan-participant-employee/rollovers-of-retirement-plan-and-ira-distributions) requirements, and distribution rules that apply to each.

[**Traditional IRA**](https://www.irs.gov/retirement-plans/traditional-iras)- “is a tax-advantaged personal savings plan where contributions may be tax deductible” (irs.gov).

[**Roth IRA**](https://www.irs.gov/retirement-plans/roth-iras)- “a tax-advantaged personal savings plan where contributions are not deductible but qualified distributions may be tax free” (irs.gov).

[**Payroll Deduction IRA**](https://www.irs.gov/retirement-plans/plan-sponsor/payroll-deduction-ira)- “plan is set up by an employer. Employees make contributions by payroll deduction to an IRA (Traditional or a Roth IRA) they establish with a financial institution” (irs.gov).

[**Simplified Employee Pension Plan (SEP)**](https://www.irs.gov/retirement-plans/plan-sponsor/simplified-employee-pension-plan-sep)- “plan set up by an employer. Contributions are made by the employer directly to an IRA set up for each employee” (irs.gov).

[**Savings Incentive Match Plan for Employees**](https://www.irs.gov/retirement-plans/plan-sponsor/simple-ira-plan) **(SIMPLE IRA Plan)**- “a Savings Incentive Match Plan for Employees set up by an employer. Under a SIMPLE IRA plan, employees may choose to make salary reduction contributions, and the employer makes matching or nonelective contributions” (irs.gov).

[**Salary Reduction Simplified Employee Pension Plan (SARSEP)**](https://www.irs.gov/retirement-plans/individual-retirement-arrangements-iras)- “a type of SEP set up by an employer before 1997 that includes a salary reduction arrangement” (irs.gov).

**401(k) Plan**

“A traditional [***401(k)***](https://www.irs.gov/retirement-plans/plan-sponsor/401k-plan-overview) ***plan*** allows eligible employees (i.e., employees eligible to participate in the plan) to make pre-tax elective deferrals through payroll deductions. In addition, in a traditional 401(k) plan, employers have the option of making contributions on behalf of all participants, making matching contributions based on employees’ elective deferrals, or both. These employer contributions can be subject to a vesting schedule which provides that an employee’s right to employer contributions becomes nonforfeitable only after a period of time, or be immediately vested” (irs.gov).

[**Simple 401(k) Plans**](https://www.investopedia.com/articles/retirement/04/052604.asp)**-** “The SIMPLE 401(k) plan was created so that small businesses could have an effective, cost-efficient way to offer retirement benefits to their employees. A SIMPLE 401(k) plan is not subject to the annual nondiscrimination tests that apply to traditional 401(k) plans (irs.gov).

[**403(b) Plans**](https://www.irs.gov/retirement-plans/irc-403b-tax-sheltered-annuity-plans)- “A 403(b) plan (tax-sheltered annuity plan or TSA) is a retirement plan offered by public schools and certain charities. It's similar to a 401(k) plan maintained by a for-profit entity. Just as with a 401(k) plan, a 403(b) plan lets employees defer some of their salary into individual accounts. The deferred salary is generally not subject to federal or state income tax until it's distributed” (irs.gov).

[**Profit-Sharing Plans**](https://www.irs.gov/retirement-plans/choosing-a-retirement-plan-profit-sharing-plan)**-** “A profit-sharing plan accepts discretionary employer contributions. There is no set amount that the law requires you to contribute. If you can afford to make some amount of contributions to the plan for a particular year, you can do so. Other years, you do not need to make contributions. Also, your business does not need profits to make contributions to a profit-sharing plan” (irs.gov).

[**Defined Benefit Plans**](https://www.irs.gov/retirement-plans/defined-benefit-plan)**-** “Defined benefit plans provide a fixed, pre-established benefit for employees at retirement. Employees often value the fixed benefit provided by this type of plan. On the employer side, businesses can generally contribute (and therefore deduct) more each year than in defined contribution plans. However, defined benefit plans are often more complex and, thus, more costly to establish and maintain than other types of plans” (irs.gov).

[**Money Purchase Plans**](https://www.irs.gov/retirement-plans/choosing-a-retirement-plan-money-purchase-plan)**-** “Money purchase plans have required contributions. The employer is required to make a contribution to the plan each year for the plan participants” (irs.gov).

[**Employee Stock Ownership Plans (ESOPs)**](https://www.irs.gov/retirement-plans/employee-stock-ownership-plans-esops)**-** “An employee stock ownership plan (ESOP) is an [IRC section 401(a)](http://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title26-section401&num=0&edition=prelim) qualified defined contribution plan that is a stock bonus plan or a stock bonus/[money purchase plan](https://www.irs.gov/retirement-plans/choosing-a-retirement-plan-money-purchase-plan). An ESOP must be designed to invest primarily in qualifying employer securities as defined by [IRC section 4975(e)(8)](http://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title26-section4975&num=0&edition=prelim) and meet certain requirements of the Code and regulations. The IRS and [Department of Labor](http://www.dol.gov/) share jurisdiction over some ESOP features (irs.gov).

[**Governmental Plans**](https://www.irs.gov/retirement-plans/governmental-plans-under-internal-revenue-code-section-401a)- “Under Internal Revenue Code (IRC) Section [414(d)](http://uscode.house.gov/view.xhtml?req=(title:26%20section:414%20edition:prelim)%20OR%20(granuleid:USC-prelim-title26-section414)&f=treesort&edition=prelim&num=0&jumpTo=true%20-%20substructure-location_f_1), a governmental plan is an IRC Section [401(a)](http://uscode.house.gov/view.xhtml?req=(title:26%20section:401%20edition:prelim)%20OR%20(granuleid:USC-prelim-title26-section401)&f=treesort&edition=prelim&num=0&jumpTo=true%20-%20substructure-location_f_1) retirement plan established and maintained for the employees of:

the United States or its agency or instrumentality, a state or political subdivision, or its agency or instrumentality, or an Indian tribal government or its subdivision, or its agency or instrumentality (participants must substantially perform services essential to governmental functions rather than commercial activities)” (irs.gov).

Other types of governmental plans include:

[403(b)](https://www.irs.gov/retirement-plans/irc-403b-tax-sheltered-annuity-plans) tax-sheltered annuity plans,

[457](https://www.irs.gov/retirement-plans/irc-457b-deferred-compensation-plans) deferred compensation plans,

Certain grandfathered 401(k) plans adopted by a governmental entity before May 6, 1986.

[**457 Plans**](https://www.irs.gov/retirement-plans/irc-457b-deferred-compensation-plans)**-** “Plans of deferred compensation described in IRC section 457 are available for certain state and local governments and non-governmental entities tax exempt under IRC Section 501. They can be either eligible plans under IRC 457(b) or ineligible plans under IRC 457(f). Plans eligible under 457(b) allow employees of sponsoring organizations to defer income taxation on retirement savings into future years. Ineligible plans may trigger different tax treatment under IRC 457(f)” (irs.gov).



Time:  5 minutes

Running time: 50 minutes

**Objective**: Review mandatory versus discretionary benefits.

**Description**: Discuss leave.

**Instructional Method**: Lecture

**Script**:

Many employers provide a number of paid leave opportunities that employees are awarded and/or earn. Some employers allow employees to earn paid leave time, but others shower their employees with it.

**Facilitator Notes:**

**Vacation Leave**

Paid [vacation](https://www.dol.gov/general/topic/workhours/vacation_leave) is a common benefit offered to employees. There is no limit to the number of days an employer can award and the policies by which they allow employees to earn vacation time is up to the employer. There are various state laws that govern the payment of earned or promised vacation in the event of early employee separation, but those are largely state-governed and out of the scope of our discussion. Employers can allow an employee to earn a certain number of hours per pay period, annually, etc., and can choose to limit how much vacation an employee can earn and/or bank. This type of benefit is highly attractive to employees and is used to attract and retain quality employees.

**Sick Leave**  
Other than [Family Medical Leave](https://www.dol.gov/agencies/whd/fmla), there is no federal requirement for paid [sick leave](https://www.dol.gov/general/topic/workhours/sickleave). [Arizona](http://arizonapaidsickleave.com/), [California](https://www.dir.ca.gov/dlse/paid_sick_leave.htm), [Colorado](https://leg.colorado.gov/bills/sb20-205), [Connecticut](https://www.ctdol.state.ct.us/wgwkstnd/sickleave.htm), [Maryland](https://www.dllr.state.md.us/paidleave/paidleaveposter.shtml), [Massachusetts](https://www.mass.gov/info-details/earned-sick-time), [Michigan](https://www.michigan.gov/leo/bureaus-agencies/ber/wage-and-hour/poster-wage-and-hour-posting-requirements-for-employers), [New Jersey](https://www.nj.gov/labor/worker-protections/earnedsick/law.shtml), [New Mexico](https://www.dws.state.nm.us/NMPaidSickLeave), [New York](https://www.ny.gov/programs/new-york-paid-sick-leave), [Oregon](https://www.oregon.gov/boli/workers/pages/sick-time.aspx), [Rhode Island](https://dlt.ri.gov/regulation-and-safety/labor-standards/paid-sick-and-safe-leave), [Vermont](https://labor.vermont.gov/sites/labor/files/doc_library/Earned-Sick-Time-Rules.pdf), [Washington](https://www.lni.wa.gov/workers-rights/leave/paid-sick-leave/), and [Washington, D.C](https://does.dc.gov/page/dc-paid-family-leave). all have mandatory paid sick leave laws, but the reminder of the country does not. For those states who don’t have laws to comply with, most organizations allow employees to earn sick and/or personal leave based upon time of service. This is a good plan for employers, because of the reality of employee need to be off for the occasional illness of themselves and/or their dependents. This is an excellent benefit for employees, particularly if the leave granted isn’t tied to the requirement of a doctor’s note or some other such proof. The increasing awareness of mental health issues is driving fewer restrictions on sick leave days so that employees can miss days for any reason they need to, on short notice, so long as the privilege isn’t abused and/or the work product isn’t impacted. [Paycor](https://www.paycor.com/) offers an excellent summary of [Paid Sick Leave Laws By State for 2022](https://www.paycor.com/resource-center/articles/paid-sick-leave-laws-by-state/).

**Holiday Leave**  
Another common leave granted to employees is [holiday leave](https://www.dol.gov/general/topic/workhours/holidays). While the Fair Labor Standards Act does not require payment for holiday work, most employees expect it, and it is an easy way to build good relations with employees. Observation of holidays may not be possible for all employees on the day of the celebration due to business necessity, but many employees offer extra compensation for working holidays and/or additional/different days off if an employee must work on an identified holiday.

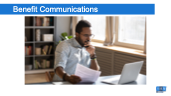
A major issue for employers is the recognition of religious holidays. Any employee may have different religious holidays that they celebrate. If an employer offers a paid day off to celebrate Easter or Christmas, they should offer the same paid time off for Hanukkah, Kwanzaa, Ramadan, or any other religious holiday., as well. The failure to do so could result in claims of religious discrimination.

**Other types of leave**

Jury Duty

While the FLSA does not require compensation for [jury duty](https://www.dol.gov/general/topic/benefits-leave/juryduty), some states do require it. Many employers recognize the importance of this civic duty and pay their employees for their full day, though some employers require the employee to return any compensation received from the court for jury service so that compensation laws are not inadvertently violated as a result of serving on a jury. [Paycor](https://www.paycor.com/) offers an excellent resource to explain [Jury Duty Pay Laws by State](https://www.paycor.com/resource-center/articles/employees-rights-for-jury-duty-leave/).

Bereavement Leave  
Bereavement leave or funeral leave is not a required benefit, but many employers offer some sort of bereavement policy which provides employees a few days to deal with the loss of a family member. Keep in mind that this type of leave can frequently be accompanied by paid or unpaid sick leave policies. Employers should design clear policies so that employees know what to expect in situations involving the loss of a loved one.



Time:  20 minutes

Running time: 70 minutes

**Objective**: Create a benefit communication guide.

**Description**: Create a benefit communication guide.

**Instructional Method**: Lecture - Exercise  - Discussion

**Script**:

Employees need to know what their benefits are and how to access them. Organizations have so many options today to communicate employee benefit information. Many organizations have an employee intranet where information is shared with employees already, so sharing benefit information here is a natural extension of that communication tool.

**Exercise**: Discretionary Benefits 10 minutes)

1. Break students into pairs.
2. Have students create a benefit communication guide

**Discussion – Debrief** (10 minutes)

Ask: What was important to communicate? How did you communicate this information?

**Total Rewards Statement**

Total compensation statements are a tool to help employees see the full picture of the actual dollar value of their various benefits. Also included in the statement is an employee’s

base compensation amount, the dollar amount of any incentives or bonuses earned, and the dollar value of the benefits. Employees really appreciate fully understanding their compensation, and it helps to retain employees when they aren’t only comparing base compensation with

other possible employers.

**Open Enrollment**

Employees gain access to benefit information upon initial hire into an organization. This is usually accomplished during the employee new-hire processing, during which employees make decisions about what levels of coverage they want to choose and what types of benefits they want to purchase. Once these initial selections are made, they cannot be changed until the next open enrollment period (which occurs annually), unless there is a significant event such as a birth, death, adoption, loss of coverage for dependents (such as due to a spouse losing a job), a divorce, a marriage, and/or a court order. Open enrollment typically happens annually (unless there is a union contract that dictates otherwise). During this time, employees are educated about new or updated benefit offerings and costs and are able to make changes for any reason they choose, without needing a significant life event to occur.

Graphical user interface, website

Description automatically generated

Time: 10 minutes

Running time: 80 minutes

**Objective**: Determine the appropriate laws to apply to given employment situations.

**Description**: Students will review the material by answering the questions on the slide.

**Instructional Method**: Pair and share discussions, exercises, homework

**Script:** Let’s discuss different employment laws when it comes to Benefits.

**Exercise**:

1. Pair students
2. Have students discuss and answer the questions on the slide.
3. Have students share their answers.

**Individual Exercise:**

1. Have each student write a one-page answer to question #2
2. Have students get into to groups of 3-5 and discuss their answers
3. Have students share with the entire class (optional)

**Discussion Prompts**

1. Should paid family medical leave be a federally-mandated benefit? If so, how should it be paid for?
2. Since the reversal of Roe v. Wade in 2022, many employers are offering benefits to women to cover abortion, including travel funds and paid time off. What should employers consider when developing a policy to cover abortion?

**Case Law in the Spotlight**

* City of Brighton v. Rodriguez 318 P.3d 496 (Col. 2014)
* EEOC v. Verizon (2011)
* National Federation of Independent Business v. Sebelius (2012)
* State Ex Rel. Gross v. Industrial Commission of Ohio 115 Ohio St. 3d 249

**State Employment Law Focus**

* Review the [Paid Sick Leave Laws By State for 2022](https://www.paycor.com/resource-center/articles/paid-sick-leave-laws-by-state/) and compare and contrast the various requirements. Which states offer the best employee job protections? What does it cost, and how is it paid for?

**HR Skills Exercise**

* Design a discretionary benefits plan based on your dream job to recommend to your employer and develop a benefits communication guide to communicate the benefits to the employees. Keep in mind, you are only discussing discretionary benefits, not required benefits.

A picture containing logo

Description automatically generated

Time:  10 minutes

Running time: 90 minutes

**Objective**: Review main points in this module.

**Description**:  Be sure that students have a fun way to remember the material.

**Instructional Method**: Game – Review

**Script**:

Let’s see how much we remember about this module.

**Facilitator Notes:**

Review Exercise:  Create a fun game to review the material.  Remember to use the objectives to measure learning:

* Define the key terms related compensation.
* Determine the appropriate laws to apply to given employment situations.
* Appropriately classify employees as exempt or nonexempt.
* Discuss various aspects of the Fair Labor Standard Act.
* Describe the concept of equal pay and its impact on the workplace.

* Have each student submit a question on a piece of paper, crumple it up and toss it in a bucket (clean wastebasket), Instructor will then read them and give points to each team with the correct answer.
* Any game show – Family Feud, Jeopardy, $10,000 pyramid, Password, Tic Tac Toe
* Extra credit quizzes

There are many ways to review material virtually or in person.  Students can use their phones or computers to navigate to various online review websites.

A few are:

* Kahoot
* Quizlet