



Employment Law Update - October 2022

As we move towards year-end, now is an opportune time for businesses to review their policies to ensure compliance with recent changes in state employment laws and guidance. This Employment Alert provides a brief overview of the recent and pending changes to the laws and regulations applicable to New York employers.

Pay Transparency

New York State has followed the trend of many of its localities in passing a new statewide pay transparency law. Similar laws were passed by New York City (effective November 1, 2022), Westchester County (effective November 6, 2022), and Ithaca (effective September 1, 2022). The statewide rule goes into effect 270 days after it is signed by Governor Hochul, which has not yet occurred.

The New York State pay transparency bill provides that an employer cannot advertise a job, promotion, or transfer opportunity without disclosing the compensation or compensation range for the position. A compensation range means the minimum and maximum annual salary or hourly rate that the employer in good faith believes to be accurate at the time of posting the position. Additionally, if the position is commission based, the employer must include a general statement that the compensation will be based on commission, instead of a fixed amount or range. An advertisement must also include a job description, if such a description exists for the position. Employers must also maintain records of the history of compensation ranges for each position.

Employers are prohibited from refusing to interview, hire, promote or employ an applicant or current employee for exercising rights under this law. Violations of the law are subject to prosecution by the Commissioner of Labor. The civil penalties are not to exceed \$1,000 for the first violation, \$2,000 for the second violation, and \$3,000 for the third and any subsequent violations.

Notice of Electronic Monitoring

As of May 1, 2022, New York employers that engage in monitoring of employees' activities and communications on "any electronic system" are required to: (1) provide written notice of such to all newly hired employees and obtain their acknowledgment of the notice; and (2) post a notice in a conspicuous place in the workplace. The law applies broadly and covers monitoring of any telephone, email, or internet access/usage.

For violations of this law, the maximum civil penalty is \$500 for the first offense, \$1,000 for the second offense, and \$3,000 for the third and any subsequent offenses.

NYS Sexual Harassment Hotline

On July 19, 2022, NYS launched a statewide hotline (1-800-HARASS-3 (1-800-427-2773)) for the reporting of workplace sexual harassment. The New York State Division of Human Rights operates the confidential hotline. Employers must update their sexual harassment policies to include this hotline number.

Health Care and Mental Hygiene Worker Bonus Program

In an effort to attract and retain frontline healthcare workers, \$1.2 billion in funding was allocated for the payment of bonuses to qualified workers, including certain health care and mental hygiene workers, as part of the Fiscal Year 2023 New York State Executive Budget. Bonuses for eligible workers will be determined based upon the number of hours worked during the relevant vesting periods, which run from October 1, 2021 through March 31, 2024. A qualified employee will be eligible to receive a maximum of \$3,000 in total bonus payments for the duration of the program.

Employers should be aware of the vesting periods and submission dates for the health care bonus:

Vesting Period	Vesting Period Start Date	Vesting Period End Date	Employer Submission Start Date	Employer Submission End Date
One	October 1, 2021	March 31, 2022	August 3, 2022	September 2, 2022
Two	April 1, 2022	September 30, 2022	October 1, 2022	October 31, 2022
Three	October 1, 2022	March 31, 2023	April 1, 2023	May 1, 2023
Four	April 1, 2023	September 30, 2023	October 1, 2023	October 31, 2023
Five	October 1, 2023	March 31, 2024	April 1, 2024	May 1, 2024

For more information regarding qualified employers and worker eligibility, as well as how to submit for the bonuses, employers should review the website created by New York State: https://health.ny.gov/health_care/medicaid/providers/hwb_program/index.htm.

Please feel free to contact us with questions regarding any of these matters, or if we can assist with any other employment-related issues.

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