



New Year, New Updates for New York Employment Laws

January 19, 2023

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New York's Pay Transparency Law – What It Says

- **Legislation (S.9427-A/A.10477)** signed by Gov. Hochul on December 21, 2022
 - **Expected Effective Date:** September 17, 2023
 - **Goal:** Promote pay equity and eliminate wage gaps for women and people of color
 - **Covered Employers:** Employers with at least 4 employees and employment agencies/recruiters (excluding temporary help firms)
- **Local Laws:** The state law comes after local laws in Ithaca (Eff. September 1, 2022), New York City (Eff. November 1, 2022), Westchester County (Eff. November 6, 2022), and Albany (Eff. February 12, 2023).
 - State pay transparency law does not supersede or preempt the local laws

New York's Pay Transparency Law – What It Says (Cont.)

- **Requirements Under the State Law:** In any advertisement for a job, promotion, or transfer opportunity that can or will be performed in New York State, a covered employer must disclose (1) the minimum and maximum annual salary or hourly range of compensation the employer in good faith believes to be accurate at the time of posting, and (2) the job description, if it exists.
 - For solely commission positions, need only include a general statement that compensation will be based on commission
 - Keep and maintain necessary records to demonstrate compliance, including history of compensation ranges and job descriptions
 - Retaliation prohibited
- **Violations Under the State Law:** Subject to civil penalties of up to \$1k for first violation, \$2k for second, and \$3k for third+

New York's Pay Transparency Law – What We Have Learned



- What is good/bad faith for a published compensation range?
 - Excessively broad compensation ranges = likely bad faith
 - Reasonably narrow compensation ranges = likely good faith
 - Agreeing to a compensation rate outside the range is permissible
- When is creating a job description useful?
 - Exempt vs. non-exempt positions
 - Strategic marketplace/competition considerations
 - Reservation of rights to change job duties

New York's Pay Transparency Law – What We Have Learned (cont.)



- Publication of employee benefits and potential bonus information is *not* required
- Private cause of action in New York City, but no private cause of action outside New York City
- In some situations, the law will apply to positions with a primary worksite *outside* of New York
 - When “can or will” a job, promotion, or transfer opportunity be performed in New York State?
 - Client meetings
 - Annual/semi-annual board or organization-wide meetings
 - Remote worker issues
 - Cost of living and geographic issues

Workplace Poster Updates

- **Legislation (S.6805/A.7595)** signed by Gov. Hochul on December 16, 2022
 - Took effect immediately
 - Requires electronic posting of workplace posters and any other documents required to be physically posted at a worksite under state or federal law, on the employer's website or by email
 - Employers must provide notice of digital versions (Tip: Update your employee handbook)
 - Employers should continue to conspicuously post physical copies at their workplace
 - Violations may result in monetary fines and other penalties
 - Non-compliance could serve as evidence against employers

Workplace Poster Updates (Cont.)

- **Veterans' Benefits & Services Poster**
 - As of January 1, 2023, all public and private New York employers with more than 50 FTEs must conspicuously display poster
- **EEOC's "Know Your Rights: Workplace Discrimination is Illegal" Poster**
 - Revised version issued October 20, 2022
 - Replaced "Equal Employment Opportunity is the Law" Poster

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Minimum Wage and Salary Increases



- **Minimum Hourly Wage**
 - \$15 per hour in New York City, Long Island, and Westchester
 - \$14.20 in remainder of New York State
 - \$15 per hour for fast food workers throughout New York State
- **Minimum Salary for Overtime Exempt Employees**
 - \$1,125 per week in New York City, Long Island, and Westchester
 - \$1,064.25 per week in remainder of New York State

Paid Vaccination Leave Updates

- Legislation (S.8529/A.9513) signed by Gov. Hochul has now extended paid vaccination leave through December 31, 2023
- Employers must provide employees “a sufficient period of time, not to exceed four hours” of paid leave for each COVID-19 vaccination and booster dose
- Employees must be paid at their regular rate of pay
- Vaccination leave cannot be charged against any other leave to which the employee is entitled, including paid sick leave or leave provided under a CBA
- **Tips:**
 - Review COVID policies to ensure compliance with new expiration date
 - Encourage employees to provide notice as soon as possible of their need for vaccination leave

Paid Family Leave Law Updates

- **Overview**
 - 12 weeks of job-protected leave to care for eligible family members
 - Eligible family members previously included spouses, domestic partners, children, step-children, parents, parents-in-law, grandparents, and grandchildren
 - Full-time employees become eligible for leave after working a regular schedule of at least 20 hours for 26 consecutive weeks
 - Part-time employees become eligible after performing work for the employer on at least 175 days
- **Amendments effective January 1, 2023**
 - Eligible family members include biological siblings, adopted siblings, and half-siblings

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Questions?

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Speakers



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Nicholas Reiter is co-chair of Venable's Labor and Employment Practice Group, overseeing the firm's national team of management-side labor and employment attorneys. Nick's experience includes first-chairing jury trials, leading negotiations for new collective bargaining agreements, and advising clients on the best employment practices for minimizing litigation risk.



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