

New Year, New Requirements for New York Employers

Published by *Kattison Avenue/Katten Kattwalk* | Issue 1

January 26, 2022

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Employers in New York should be aware of the following key legal requirements and employee protections coming into effect in 2022:

Workplace Vaccine Mandate: All workers in New York City who perform in-person work or interact with the public must show proof that they have received at least one dose of a COVID-19 vaccine by December 27, 2021 and must show proof of a second dose (if applicable) within 45 days of submitting proof of the first dose (i.e., by no later February 10, 2022). Employers are required to provide accommodations for medical or religious reasons and should develop a procedure for processing requests for accommodation. The New York City Commission on Human Rights has provided guidance on accommodations available here.

Salary Disclosures in Job Postings: As of May 15, 2022, employers in New York City with four or more employees (and all employers of domestic workers, regardless of employer size, as discussed below) will be required to include in all job postings (including those for internal promotion or transfer opportunities) the minimum and maximum salary for the applicable position. The law clarifies that "[i]n stating the minimum and maximum salary for a position, the range may extend from the lowest to the highest salary the employer in good faith believes at the time of the posting it would pay for the advertised job, promotion or transfer opportunity." The protections of the law apply to interns, freelancers and independent contractors, as well as employees. Temporary help firms (i.e., temp agencies) are not required to comply with the law's requirements, although they do have wage disclosure requirements under other laws including the New York State Wage Theft Prevention Act.

Whistleblower Protections: As of January 26, 2022, employees, former employees and independent contractors throughout New York State have expanded protections from adverse employment actions in retaliation for whistleblower activities. Specifically, an individual is protected from retaliatory action because he or she "discloses, or threatens to disclose to a supervisor or to a

public body an activity, policy or practice of the employer that the employee reasonably believes is in violation of law, rule or regulation or that the employee reasonably believes poses a substantial and specific danger to the public health or safety." Previously, the protections of the law applied only to current employees and only to reporting *actual* violations of law that created a danger to public health or safety or that constituted health care fraud. Employers will be required to post a notice in the workplace informing employees of their rights under the law.

Notice of Workplace Monitoring: Effective as of May 7, 2022, all employers in New York State must provide to all employees at the time of hire (and must post in a conspicuous place within the workplace) a written notice if the employer monitors or otherwise intercepts telephone or email conversations or transmissions or internet access or use using any electronic device or system. Employees must acknowledge this notice electronically or in writing.

Minimum Wage and Exempt Salary Increases: As of December 31, 2021, the minimum wage throughout New York State (except New York City and Nassau, Suffolk and Westchester counties) increased to $13.20 per hour and the minimum salary to be classified as exempt under the executive or administrative exemptions increased to $990 per week (or $51,480 per year). The minimum wage for Nassau, Suffolk and Westchester Counties increased to $15 per hour and the minimum salary to be classified as exempt increased to $1,125 per week ($58,500 per year). (These rates have been in effect for all employers in New York City since December 31, 2019.)

Protections for Domestic Workers: Effective as of March 12, 2022, the employment protections of the New York City Human Rights Law will apply to all domestic workers (such as nannies, housekeepers, and home care workers) regardless of the size of the employer. Previously, the employment protections of the NYCHRL applied only to employers of four or more employees, meaning that most household employees were not covered. Among other impacts, this means that domestic employers will be subject to new requirements and restrictions with respect to conducting background checks on employees and candidates for employment.

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