

December 3, 2009

New York Employment Law Update

New York State Department of Labor Clarifies that Use of Specific Form for New Hires Pursuant to Recent Labor Law Amendments is *Not* Required

As we have previously reported, Section 195(1) of the New York Labor Law was amended effective October 26, 2009 to require that at the time of hire, employers provide all employees with written notice of their pay day and regular hourly pay rate and, if they are eligible, their overtime rate of pay. See Sullivan & Cromwell LLP's New York Employment Update, dated August 6, 2009, *available at* <http://www.sullcrom.com/publications/detail.aspx?pub=650>. The required notice must be given to new employees before they start work. On October 28, 2009, the New York State Department of Labor ("NYS DOL") issued an announcement stating that the notice "must be provided on a form available from the New York State Department of Labor" and published a model form for that purpose. See Sullivan & Cromwell LLP's New York Employment Update, dated October 30, 2009, *available at* <http://www.sullcrom.com/publications/detail.aspx?pub=695>. Thereafter, a number of commenters, including this firm, wrote to the Department of Labor urging that it not require the specific, one-size-fits-all form that it had published. On December 2, the NYS DOL issued a statement clarifying that "[n]o particular form is required. Employers may create their own forms, or use and/or adapt a sample form available at the link below. In the near future, sample forms for a variety of pay agreements (salaried, prevailing rate, exempt, and others) will be provided on the NYS DOL website. Employers wishing to use the original NYS DOL form itself, or create their own using the NYS DOL's form as a model, can access the sample form at <http://www.labor.state.ny.us/workerprotection/laborstandards/workprot/lshmpg.shtm>.

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