

LSA HR Corner

Be HR Compliant in 2018

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With laws regarding HR compliance ever changing, it is important to periodically review the regulations that may affect you and your employees to be sure you are acting consistently and appropriately. I have included a brief overview of some of the items you should be aware of this year and have included a link to the appropriate documentation if you want to learn more.

1. **FREELANCE ISNT FREE ACT** (NYC effective 5/2017) - The law establishes and enhances protections for freelance workers, specifically the right to:

- A written contract
- Timely and full payment
- Protection from retaliation

<https://www1.nyc.gov/site/dca/about/freelance-isnt-free-act.page>

2. **NYC PAID SICK LEAVE EXPANDED TO INCLUDE SAFE TIME** (NYC effective 11/2017)

All employers with 5 employees or more in NYC are required to provide paid sick leave for a total of 40 hours per year. Effective November 2017, the NYC Paid Sick Leave Act has been expanded and renamed the “Earned Safe and Sick Time Act” (ESTA) and increases the reasons for which an employee is entitled to use paid time off. There are two major changes:

First, the bill expands the types of circumstances for which employers must allow employees to use paid time off. Specifically, an employee may now use paid time off for a wide range of circumstances related to any situation where the employee or “family member” of the employee becomes a victim of a sexual offense, stalking or human trafficking. An employee’s use of paid time off for any of these circumstances is referred to as “safe time.”

Second, the bill broadens the definition of “family member” for both sick and safe time to also include “any other individual related by blood to the employee; and any other individual whose close association with the employee is the equivalent of a family relationship.” This amendment provides employees with significant flexibility in determining who qualifies as a family member for whom they may use sick time or safe time.

Although the creation of safe time allows employees to use paid time off for a wider variety of reasons, employers are not required to increase the total number of hours for paid time off available to their employees.

<https://www.employmentlawspotlight.com/2017/11/new-york-city-expands-paid-sick-leave-law-with-creation-of-safe-time/>

3. **IMPACT OF # ME TOO ALLEGATIONS** – While there is no change to sexual harassment laws, sexual harassment has been in the spotlight recently. It is important that you follow the action steps below to be sure that you are compliant:
 - Check your written policies to be sure they are fair and consistent
 - Get sign offs on policies that are distributed to employees
 - Make sure that managers, supervisors and staff are properly trained
 - Ensure policies are consistently implemented and all complaints are investigated and documented
 - Do not respond overly harshly to complaints, but rather be fair and consistent
 - Always reach out to legal counsel before taking employment actions

4. **Pay History Ban** (NYC effective 10/2017) - Prohibits NYC employers from making inquiries regarding the salary history of an applicant unless certain limited exceptions in the law apply. The amendment defines the term “inquiry” broadly to include not only communicating a question to an applicant or his/her current or former employer about such salary history, but also includes searching publicly available records or reports to obtain an applicant’s salary history. This law is intended to level the playing field for women who have been the victim of gender bias as it relates to wages (in other words, determining future salary based on past salary).

<https://www.csemploymentblog.com/2017/05/articles/employment-policies-and-practi/nyc-pay-history-ban-take-effect-october-31-2017/>

5. **NY State Minimum Wages** (NYS effective 12/31/2017) - The New York State minimum wage increased on December 31, 2017. In New York City, it is \$12.00 per hour for businesses with 10 or fewer employees, and \$13.00 per hour for businesses with 11 or more employees. In Nassau, Suffolk and Westchester counties, it is \$11.00 per hour. In the remainder of the state, it is \$10.40 per hour. There are different hourly rates for workers in the fast food industry and those who receive tips. These rates remain in effect until December 30, 2018. If you need additional assistance please call: 1-888-4-NYSDOL (1-888-469-7365).
<https://www.labor.ny.gov/workerprotection/laborstandards/workprot/minwage.shtm>

6. **NY PAID FAMILY LEAVE** (NYS effective 1/1/18) Provides job protected paid leave – NOT for the employee’s own illness, but rather to care for family members. It is fully funded

by employees. New York State's Paid Family Leave provides New Yorkers with job-protected, paid leave to bond with a new child, care for a loved one with a serious health condition or to help relieve family pressures when someone is called to active military service abroad.

<https://www.ny.gov/programs/new-york-state-paid-family-leave>

TO DO LIST:

- Review bulletin board posters to be sure they are up to date
- Review and revise employee handbook if necessary
- Get sign off from employees
- Provide training for managers and employees
- Update job descriptions

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