

Employment Law Advisory: Two New NYC Laws that Will Affect You

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Client Alert:

Two New NYC Employment Laws

1. Freelancer Protection Act: As of May 15, 2017 (last Wednesday), all freelancers now enjoy certain protections you must be aware of:

- For all projects over \$800, including in the aggregate, contracts must be in writing.
- You must pay all freelancers within 30 days of work completed.
- There are penalties for “retaliation”. Note that evidence of a violation may include failure to give additional work to the freelancer. This means that employers must be careful to put everything in writing and maintain records of any disagreement or unsatisfactory product.
- The Mayor’s Office of Labor Standards is charged with enforcement, and penalties range from \$250 for failure to provide a contract, to twice the total contract cost plus damages for retaliation. The law also authorizes the City Corporation Counsel to bring suit for willful patterns of behavior, with statutory

penalties up to \$25,000.

2. Salary History Confidentiality: Effective October 21, 2017, Employers in NYC will no longer be allowed to ask candidates for their salary history. Consequences include:

- Investigation and penalty imposed by the NYC Commission on Human Rights, which is charged with enforcement.
- Penalties up to \$125,000 for an UNINTENTIONAL violation.
- Penalties up to \$250,000 for “WILLFUL, WANTON OR MALICIOUS” activity.
- Individuals can also bring a law suit to recover back pay, compensatory damages, and attorneys’ fees.
- **Please note that this is in addition to Labor Law section 174 which became effective February 1, 2017 and applies statewide. That law, regarding “wage parity” says employees may not be prohibited from discussing their wages.**

The provision of the Labor Law provides that:

- Employees may discuss wages.
- Employers may limit the time, place, and manner with written notice.
- Employers must obtain employee permission to disclose their salary to a third party.
- The State Labor Department will enforce the provision and all civil penalties and lawsuit recovery will be as all other “wage claim” cases, including liquidated damages and attorneys’ fees.
- **This means that employers must draft a written policy, make sure that written confirmation is received that all employees have read and understand the policy, and then keep the paperwork for 6 years.**

All employers should update their policy and procedure manuals to reflect this as well as the Paid Family Leave Law provisions that take effect July 1. We will be sending details on that as well soon. In the meantime, if we can be of any assistance, please [let us know](#).