

3 Things to Keep You Up At Night:

Strategies to Protect You and Your Business from Significant Employment Headaches

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Contractors face an increasing maze of employment laws, rules, and regulations. As the weather turns warmer and the days grow longer, it is a great time to review your business practices in three key areas to avoid litigation.

First, adopt a written sexual harassment policy and make sure your employees attend mandatory training. You have probably attended a breakfast briefing or received an email reminding you that New York has adopted new laws requiring written sexual harassment policies and mandatory interactive training for all employees on an annual basis. Not only must policies prohibit sexual harassment, they must also provide:

- **Examples of inappropriate conduct,**
- **Refer to state and local laws,**
- **List available remedies,**
- **Identify administrative and judicial complaint options;**
- **Commit to timely investigations; and**
- **Provide a written complaint form.**

In addition, New York employees must complete annual, interactive harassment prevention training. While classroom seminars will satisfy the training mandate, webinars and computer-based training programs are acceptable so long as they are interactive. Finally, while the new law is limited to sexual harassment, adopt a policy that prohibits all forms of unlawful harassment, including harassment based on race, color, creed, religion, gender, sexual orientation, marital status, national origin, age, disability or other protected status.

Second, review your weekly payroll for compliance. In New York, employers **still** are required to pay manual workers **weekly**. A “manual worker” includes “a mechanic, workingman or laborer” or individuals who spend more than 25% of working time engaged in **physical labor**. “Physical labor,” according to the Department of Labor, includes “countless physical tasks” not just those that require heavy lifting or brute strength. If you employ “manual workers,” you must issue paychecks weekly **and** pay all wages owed within **seven calendar days** after the workweek ends. Also, the minimum wage rate increased on December 31, 2018:

- **NYC Big Employers (11 or more employees) – \$15.00 hour**
- **NYC Employers (10 or less employees) – \$13.50/hour**
- **Long Island & Westchester Employers – \$12.00/hour**

Similarly, employees paid on a salary basis (and “exempt” from overtime) must earn at least \$1,125/week.

Third, if you have workers in New York City – avoid questions about salary history and criminal convictions when hiring new employees. New York City law prohibits employers from asking job applicants (or their current or former employer) about their salary history. Also, the Fair Chance Act requires NYC employers with 4 or more employees to make a conditional offer of employment before conducting background checks or asking questions about an applicant’s criminal convictions.

If you have questions concerning these or other employment laws impacting your business, contact *Dominique Camacho Moran* at dmoran@FarrellFritz.com