

WEBINAR SERIES

New York Compliance Update

August 9, 2023

Today's Presenters



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Today's Agenda

- Non-Compete Agreements
- New York City Artificial Bias Law
- Pay Transparency
- NY WARN Update
- EEO Protected Class
- Discrimination
- Minimum Wage Update

Webinar Forum

All participants are muted.

Please type questions in the side navigation panel and we will try to address most questions during today's session.

Today's presentation will be posted online at prestigepeo.com/blogs/

A woman with glasses and a man in a professional setting are looking at a document together. The woman is on the left, wearing a light-colored blazer, and the man is on the right, wearing a dark sweater. They are both smiling and appear to be in a collaborative work environment. The background is a blurred office space with windows and a desk.

Non-Compete Agreements

Non-Compete Agreement Ban

- [Bill](#) passed on June 20, 2023, awaiting Governor Hochul's signature. The effective date of the law would be 30 days after the Governor's signature.
- The new law will not be retroactive. Agreements entered prior to the effective date will remain in effect but cannot be modified.
- The Bill excludes the following from its coverage:
 - Agreements that prohibit disclosure of trade secrets, confidential or proprietary information.
 - Client non-solicitation agreements for solicitation of clients that the employee became aware of during employment
- If signed into law, New York will join California, North Dakota, Oklahoma and Minnesota in prohibiting non-compete agreements.
- Employers should prepare for the possibility that non-compete agreements may be prohibited in New York in the future.
- Governor Hochul has until the end of 2023 to sign or veto the legislation.



New York City Artificial Bias Law

New York City Artificial Bias Law Enforcement in Effect

- Went into effect on July 5, 2023.
- Designed to regulate the use of automated employment decision tools (AEDT).
 - Example of an AEDT: Using an AI tool to filter through resumes submitted by job applicants.
- While technology is a wonderful thing, it can unintentionally perpetuate biases or give one group of candidates an advantage over others in violation of a variety of employment laws.
- An Employer using AEDT must comply if:
 - The position is in New York City.
 - The position is remote, but the employer has an office in New York City.
 - If the position is remote and the employer has offices outside of New York City, in addition to an office in New York City, an analysis must be completed to determine for which office the remote work will be performed.



New York City Artificial Bias Law Enforcement in Effect

- Examples of AI Bias:
 - Amazon’s algorithm discriminating against women.
 - US healthcare algorithm underestimating black patients needs.
- Compliance Requirements:
 - Employers must hire an independent third party to conduct a bias audit and publish the results.
 - Bias audits are only good for one year from the date the audit was conducted.
 - Advance notice to candidates and employees.
 - Or employers can put a notice to job seekers on the employment section of business’ website and in written policy to employees.
- Penalties could result in penalties of \$375 for the first offense and up to \$1,500 for subsequent offenses.
- Employers can find a variety of audit vendor options online.
- NYC’s Department of Consumer and Worker Protection released [FAQs](#) that can also assist in compliance.

Pay Transparency

New York State Pay Transparency Law

- Effective September 17, 2023, for all employers of four or more employees in New York.
- The law applies to postings for jobs that will at least, in part, be performed in the state or a remote job that will be reporting to a supervisor, office, or other work site in New York.
- Employers are required to disclose the compensation or range of compensation in any advertising for a job, promotion, or transfer opportunity.
- The disclosure of salary range is not required if compensation is made entirely on commission. Employers do need to include a statement that compensation will be based on commission.
- The law does not preempt other laws or regulations. Covered employers with operations in New York City will need to comply with local laws.

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protected veteran status, sexual orientation, gender identity or expression, or any other characteristic protected by federal, state, or local laws. This policy applies to all terms and conditions of employment, including recruiting, hiring, placement, promotion, termination, layoff, recall, transfer, leaves of absence, compensation, and training.

Job Types: Full-time, Part-time

Salary: \$18.00 - \$22.00 per hour

Benefits for Eligible Employees:

- Dental insurance
- Employee discount
- Flexible schedule
- Health insurance
- Vision insurance

Shift:

- 8 hour shift

Weekly day range:

- Weekends as needed

Work Location: In person

EEO Statement

Aviator Nation provides equal employment opportunities to all employees and applicants for employment and prohibits discrimination and harassment of any type without regard to race, color, religion, age, sex, national origin, disability status, genetics, protected veteran status, sexual orientation, gender identity or expression, or any other characteristic protected by federal, state, or local laws.

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The responsibilities described are inclusive of this position but are not limited to those listed here. The expectations and duties of this position may change at any time without notice.

Benefits found in job post

- Dental insurance
- Vision insurance
- Medical insurance

New York State Pay Transparency Law

- New York State law requires covered employers to include a job description (if one exists) in the posting or advertisement, which is not required in the New York City law.
- As a best practice, prior to September 2023, employers should:
 - Determine and document salary ranges for positions working in New York.
 - Conduct a pay audit for positions that would be subject to the law.
 - Review job posting templates for compliance.
 - Make sure internal HR, managers, and supervisors are aware of the law.

New York State Pay Transparency Law

- New York City's pay transparency law became effective in November 2022.
 - Requires a good faith pay range in all job advertisements
- New York City's introduced some new proposed [amendments](#) in February 2023.
- If passed, the amendments would:
 - Increase pay disclosure obligations to include non-wage compensation such as bonuses, benefits, stock and options.
 - Require disclosure of range of compensation, including the non-wage compensation, to employees annually and upon request.
 - Go into effect 180 days after the law is passed

New York WARN

Worker Adjustment and Retraining Notification (WARN) Update

- Generally:
 - NY WARN applies to private sector employers who employ at least **50 full-time employees** in New York while federal WARN applies to employers with at least 100 full-time employees.
 - Most employers covered under NY WARN must provide effected employees with **90 days' notice**. Federal WARN is 60 days.
- Some exceptions exist to the 90-day notice (like a pandemic), but in order to be eligible for an exception, employers must submit a request to the NY DOL Commissioner within 10 days of the required WARN notice to the NY DOL Commissioner



Worker Adjustment and Retraining Notification (WARN) Update

- WARN Act regulations have recently been [strengthened](#) to clarify how remote work is impacted.
- Determination will include individuals employed at a single site of employment, including individuals who work remotely but are based at the employment site.
- Notice to the DOL commissioner must be provided electronically as defined on the department website.
 - A WARN portal went live on the NYS DOL website in May 2023. Previously notice could be provided by mail or fax.
- Notice must now also include:
 - Business addresses and email addresses of employer's and employees' agents;
 - Personal telephone numbers, email addresses (if known), work locations, status as part- or full-time, method of payment (hourly, salary, or commission), and union affiliation for each affected employee;
 - Total number of full-time employees in state and at each affected site and the number of affected employees at each site;
 - Total number of part-time employees in state and at each affected site and the number of affected employees at each site



Model Sexual Harassment Policy

Model Sexual Harassment Policy

- Every employer in New York state must adopt a sexual harassment prevention policy.
- New York released an updated [model policy](#) in January 2023.
 - Includes more examples of gender-based harassment and discrimination
 - Highlights EEOC's conciliation program.
- If an employer does not adopt the model policy, they must ensure that the policy they adopt includes the following:
 - Prohibits sexual harassment consistent with guidance provided by the NY Department of Labor.
 - Includes a complaint form.
 - Provides examples of prohibited conduct.
 - States that retaliation against individuals who complain or assist in any investigation is unlawful.
 - Clearly states that sexual harassment is considered employee misconduct and that sanctions will be enforced.
 - Sanctions can also be enforced to supervisors and managers who knowingly allow such behavior to continue.



Model Sexual Harassment Policy

- If an employer does not adopt the model policy, they must ensure that the policy they adopt includes the following (cont.):
 - Informs employees of their rights of redress.
 - Include procedures for the timely and confidential investigation of complaints.
 - Include information concerning the federal and state statutory provisions concerning sexual harassment, remedies available to victims of sexual harassment, and a statement that there may be applicable local laws.



EEO Protected Class Update

Equal Employment Opportunity (EEO) Protected Class Update

- Protected classes under the New York Human Rights Law:
 - Age, immigration or citizenship status, color, disability, sex (including sexual orientation, gender identity, pregnancy and lactation accommodation), race, religion and veteran or active military status, arrest or conviction record, caregiver, credit history, pre-employment marijuana testing, unemployment status, sexual and reproductive health decisions, salary history, and status as a victim of domestic violence.
- In New York State, a bill was introduced to ban height or weight discrimination in employment, housing, and public accommodations opportunities across the state. That bill is still in committee.



Equal Employment Opportunity (EEO) Protected Class Update – New York City

- New York City Human Rights law prohibits discrimination for:
 - Same categories as state, but also includes protection for hair texture, style, length or the use of head coverings that are commonly associated with a particular racial or religious group.
- NYC has also now added height and weight as protected classes
 - Signed into law on 5/26/23
 - Goes into effect on 11/22/23
- There are some exemptions. For example, if federal, state, or local laws and regulations require a different standard; or the person cannot do the essential requirements for the job and no other reasonable alternatives are available



Minimum Wage Update

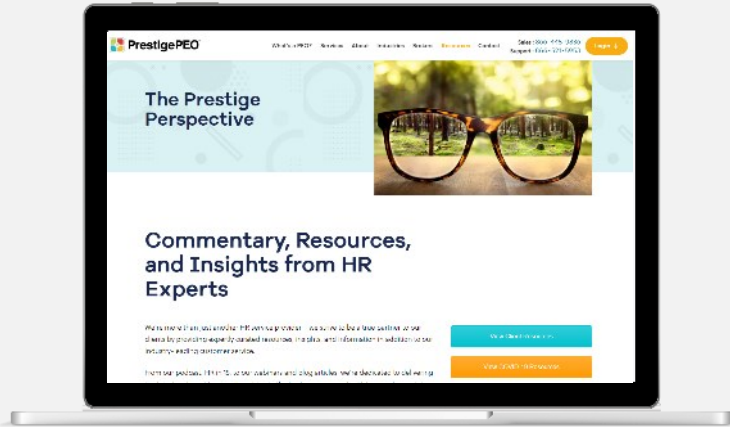
Minimum Wage Update

- Current:
 - \$15.00/hour for NYC, Long Island, and Westchester.
 - \$14.20/hour for the remainder of the state.
- Effective January 1, 2024:
 - \$16.00/hour for NYC, Long Island, and Westchester.
 - \$15.00/hour for the remainder of the state
- Effective January 1, 2025:
 - \$16.50/hour for NYC, Long Island, and Westchester.
 - \$15.50/hour for the remainder of the state.
- Effective January 1, 2026:
 - \$17.00/hour for NYC, Long Island, and Westchester.
 - \$16.00/hour for the remainder of the state.



QUESTIONS?

PrestigePEO Communications



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