

Keeping you informed...



LAMB & BARNOSKY, LLP
ATTORNEYS AT LAW

MEMORANDUM

TO: OUR CLIENTS

FROM: LAMB & BARNOSKY, LLP

RE: LABOR AND EMPLOYMENT LAW CHECKLIST

DATE: MARCH 5, 2014

With winter soon coming to a close, we wanted to take this opportunity to provide you with a sample “Spring cleaning” checklist for auditing some best practices within your personnel/human resources department.

Employee Handbook and Policies

Yes No

- Do you have an employee handbook/personnel policies manual or similar document?
- Have you distributed the handbook/manual to your employees and had them acknowledge in writing their receipt of it?
- Is your handbook in compliance with current law?
- Have you prepared and implemented legally required and/or best practice-type policies; *e.g.*, computer use and/or social media policies?
- Are your current practices and procedures consistent with your policies; *e.g.*, have you provided training required by your policies?

Postings

Yes No

- Have you displayed all required posters?
- Have you confirmed that you are not displaying posters containing information about which you have no obligation to post?

Notices

Yes No

- Have you timely issued your employees' W-2 forms?
- Have you timely issued wage notice forms required by the New York Wage Theft Prevention Act?
- Do you have a procedure in place for distributing the Notice of Healthcare Exchange form to new employees?

Wage and Hour Issues

Yes No

- If applicable, have you updated your payroll system to incorporate the increased New York minimum wage?
- Have you properly classified your employees as exempt or non-exempt for purposes of the Fair Labor Standards Act?
- Have you confirmed that you have completed I-9 forms for all of your employees?
- Have you complied with all applicable prevailing wage laws?
- Have you properly classified your staff as employees or independent contractors?

Patient Protection and Affordable Care Act (“Obamacare”)

Yes No

- Have you started analyzing your workforce to determine which employees are and are not full-time?

- Have you designated periods for the look-back measurement method?

- Have you determined whether required health insurance contributions are “unaffordable” for any of your full-time employees?

Workforce

Yes No

- Do your pre-employment applications comply with federal and New York State law?

- Do your job descriptions accurately reflect the work that is expected to be performed and which of these duties are “essential functions” of the job?

- Have you properly implemented job evaluation procedures?

- Have you confirmed that relevant deadlines have been met for renegotiating or terminating employment contracts or collective bargaining agreements?

- Are all of your employees’ terms and conditions of employment memorialized in a resolution, letter of understanding, contract or collective bargaining agreement?

- Are appropriate employees covered by legally enforceable non-compete and/or confidentiality agreements?

- Do you have written agreements with independent contractors?

Workforce (continued)

- Have your employees who are on leaves of absence received appropriate documentation with regard to their rights and responsibilities (*e.g.*, COBRA, FMLA paperwork, Civil Service Law Section 71 or 73 notice [if applicable])?

This is a non-exhaustive list of issues that should be addressed by your human resources or personnel department with, if appropriate, the assistance of counsel. Please contact us if you have any questions regarding the information contained in this memorandum.

THIS MEMORANDUM IS MEANT TO ASSIST IN GENERAL UNDERSTANDING OF THE CURRENT LAW. IT IS NOT TO BE REGARDED AS LEGAL ADVICE. THOSE WITH PARTICULAR QUESTIONS SHOULD SEEK THE ADVICE OF COUNSEL.

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