

Guidelines for Notice and Acknowledgment of Wage Rate(s) for Temporary Help Firms

These guidelines apply only to “temporary help firms,” not to other employers in New York State. Also, these guidelines apply only to individuals hired by such temporary help firms, not to individuals hired by other employers for temporary work.

For these guidelines, the term “temporary help firm” has the meaning given in Labor Law Section 916.5: “a business which recruits and hires its own employees, and assigns those employees to perform work at or services for other organizations, to support or supplement the other organization’s workforce, or to provide assistance in special work situations such as, but not limited to, employee absences, skill shortages, seasonal workloads, or to perform special assignments or projects.”

Effective April 9, 2011, Section 195.1 of the Labor Law requires all employers, other than government agencies, to give employees at the time of hire (before work is performed) notice of the following:

1. *the employee’s rate or rates of pay*
2. *the overtime rate of pay, if the employee is nonexempt from overtime regulations*
3. *the basis of wage payment (per hour, per shift, per week, piece rate, commission, etc.)*
4. *any allowances the employer intends to claim as part of the minimum wage including tip, meal, and lodging allowances*
5. *the regular payday*
6. *the employer’s name and any names under which the employer does business (DBA)*
7. *the physical address of the employer’s main office or principal place of business and, if different, the employer’s mailing address*
8. *the employer’s telephone number*

The Department of Labor recognizes that temporary help firms may not be able to supply all of the information required by Section 195.1 (specifically items 1-5 listed above) of the Labor Law, at the time of hire, because wages and paydays may vary by assignment. Therefore, the Department of Labor applies the following interpretations and guidelines of the notice requirements in Section 195.1 of the Labor Law for compliance by temporary help firms.

I. Time of Hire/Interview

At the time of the initial interview or hire, the temporary help firm must:

- A. Notify the applicant-employee, in writing, in English and the employee’s primary language of:
 - 1) the range of hourly wages he or she will likely earn based upon his/her qualifications and assignment suitability.
 - The potential hourly wages may not be excessively broad. Base them on a good-faith estimate of the typical wage earned by similarly qualified employees working at assignments similar to those for which the applicant-employee is eligible and likely to be assigned
 - 2) the designated payday, unless the designated payday cannot be established at that time.
 - If a fixed payday cannot be established at the time of hire/interview, inform the applicant-employee that the payday may vary depending upon the usual practice at the assignment and
 - 3) the employee’s rights, in general, to overtime compensation as contained in LS 51 Notice and Acknowledgement of Wage Rate(s) for Temporary Help Firms.

B. Obtain the signature of the applicant-employee on the Acknowledgement portion of form LS 51, give the applicant-employee a copy of the signed form, date it, and keep the original signed form in the employer's file for 6 years.

- The employer must have the employee sign a statement acknowledging receipt of the written notice in English and the employee's primary language. Employees must also acknowledge that they have properly identified their primary language to their employer. The employer must keep the signed and dated notice and acknowledgement for six years and provide a copy to the employee.
- The Department of Labor has prepared Notices and Acknowledgements in several languages. If the Department does not make a Notice and Acknowledgement available in a particular language, employers may provide notice to that employee in English only.
- Employers will not be penalized for errors in the dual language Notices issued by the Department of Labor.

II. Time of Specific Assignment

When a temporary help firm assigns an employee to perform work at, or provide services for other organizations, the temporary help firm must notify the employee, either verbally or in writing, of:

- The specific designated payday for the particular assignment
- The actual hourly rate of pay for the assignment and
- The overtime rate of pay he or she will receive; or, if applicable, inform the employee that the position is exempt from additional overtime compensation and the basis for the overtime exemption

Compliance with these guidelines does not relieve temporary help firms of their obligations under any other sections of the Labor Law.

Templates and separate guidelines have been developed by the Department of Labor for use by all other employers (LS 52). They are available on the Department's web site or in hard copy.

For additional assistance or information please contact the Division of Labor Standards office nearest you.

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