Wage Theft Prevention Act

The New York State Wage Theft Prevention Act (WTPA) went into effect April 9, 2011 and amends the notice of wage rate requirements and expands the civil and criminal remedies that are available when employers fail to comply with these provisions.

For more information on this New York State regulation, please visit the NYS Department of Labor WTPA FAQs. In addition for information that is Cornell specific, please see the FAQ’s below.

[accordion]

Q: Who is covered by the WTPA?
A: All new hires and current employees, with the exception of undergraduate and graduate student employees, to the University are covered by this law, including employees hired into regular (term and indefinite) non-academic, academic, temp, and casual positions.

Q: Does this law apply to undergraduate or graduate student employees?
A: No.

Q: How is Cornell meeting the requirements?
A: Offer letters are the mechanism we use to meet the new hire notice requirements. All offer letters shall include the rate of pay, frequency of pay, specific overtime rate for the job that is being offered and if you hold multiple jobs at Cornell how overtime is calculated (applies to Nonexempt hires). To aid in compliance, we have prepared an offer letter template. We must also allow the new hire to identify their primary language. Candidates hired via Workday recruiting will receive a task via the candidate portal (external candidates) or inbox (internal candidates) to indicate their primary language. If an offer letter is being provided outside of Workday, an additional page is included on the template for out of system offer letters where the hire can indicate primary language.

Q: What if the new hire indicates that their primary language is not English?
A: Notices need to be given in a worker’s primary language if the Department of Labor provides notice templates in that language. If a template isn’t provided, we are only required to provide the information in English. Templates are located on the Department of Labor website.

Q: An employee has identified a primary language other than English however NYS has not made a template available in the selected language. How do I respond to the employee?
A: To the extent that the NYSDOL does not provide a template in a particular primary language, the employer will satisfy the requirements of Section 195.1 by providing the notice to the applicable employee in English only.

Employers must receive signed acknowledgments from employees indicating that (1) the employee has received the notice, (2) the employee identified his or her primary language to the employer, and (3) the notice was provided in that primary language (unless the employee's primary language is other than one of the languages for which a template is available).
Q: Do I have to give a new notice every time a wage rate changes?

A: Except for the employers in the hospitality industry, notice is not required where there is an increase in a rate and the new rate is shown on the next payment of wages.
For any reduction of wage rate, an employee must be notified in writing prior to the reduction being implemented. Employers in the hospitality industry currently need to give a new notice every time a wage rate changes.

Q: If we hire someone who is currently on layoff status does the law apply?

A: Yes.

Q: If an employee is on short term layoff, and is returning to their same job with the same rate of pay do we have to send a new notice?

A: No. The intention with a short term layoff is that the individual will return to the same position at the same rate of pay upon the end of the short term layoff period.

Q: Does the law apply if someone holds an unpaid appointment?

A: No.

Q: What is the NYS definition of allowances for use with the Wage Theft Prevention Act?

A: For the WTPA, NYS has defined allowances as:

Allowances taken as part of the minimum wage (tip, meal and lodging deductions)