# Engage PEO Client Alert: New York

## Notice of Electronic Monitoring, Salary Range Disclosure, Expanded Sexual Harassment Protections

**What's New**: Effective May 7, New York State employers will be required to notify employees of any electronic monitoring they will be subjected to, and effective May 15, New York City employers will be required to disclose minimum and maximum salary for advertised jobs, promotions or transfer opportunities. In addition, Governor Kathy Hochul signed into law several pieces of legislation that protect New York State employees against sexual harassment and retaliation, with effective dates of March 16 and July 14.

**What Employers Should Do**: New York State and New York City employers should familiarize themselves with these laws and implement policies and procedures that ensure compliance in their workplaces. Clients with questions or concerns about any of the content in this alert should contact their Engage HR Consultant.

### NEW YORK STATE EMPLOYERS MUST PROVIDE NOTICE OF ELECTRONIC MONITORING

On May 7, 2022, New York State employers will be required to provide employees with written notice, upon hire and via workplace posting, of electronic monitoring that employees will be subjected to. Additionally, employers must obtain a written paper or electric acknowledgment prior to monitoring employees' use of phones, emails, and internet use. New York employers do not need to provide such notice to existing employees, but a notice must be posted in the workplace. Notice is not specifically required in employee handbooks, but you may want to make a reference to the electronic monitoring in your Employee Handbook – especially if you have remote employees in New York.

Engages recommends that New York employers begin to prepare the necessary notice forms and acknowledgments for new employees, and postings for existing employees.

### NEW YORK CITY SALARY RANGE DISCLOSURE

On May 15, 2022, New York City employers are required to disclose the minimum and maximum salary for every position in any advertisements for a job, promotion, or transfer opportunity.

Employers with at least four employees or at least one domestic worker are covered by the law. Owners and individual employers count towards the four employees, and employers are covered if at least one employee works in New York City.

Job Postings subject to the law include those for jobs, promotions, and/or transfer opportunities that would be performed in New York City. The NYC Commission on Human Rights Guidance defines "an 'advertisement'" as "a written description of an available job, promotion, or transfer opportunity that is publicized to a pool of potential applicants," regardless of the medium by which it is advertised. This

includes “postings on internal bulletin boards, internet advertisements, printed flyers distributed at job fairs, and newspaper advertisements.”

Employers must include the maximum and minimum salary (the range cannot be open-ended) that the employer believes in good faith they are willing to pay for the job, promotion, or transfer opportunity at the time of the posting. If an ad covers multiple jobs, promotions, or transfers, then it should “include salary ranges that are specific to each opportunity.”

The salary range includes the base wage or rate of pay, regardless of the frequency of payment. However, it does not include “other forms of compensation or benefits offered in connection with the advertised job, promotion, or transfer opportunity.”

More information is available in the NYC Commission on Human Rights’ recent guidance.

**NEW YORK STATE SEXUAL HARASSMENT PROTECTIONS EXPANDED**

Governor Hochul recently signed into law protections against sexual harassment and retaliation for private and public employees. The new law prohibits employers from releasing the personnel file(s) of an employee in retaliation for the employee opposing or complaining of discriminatory practices carried out by the employer or testifying or assisting in a proceeding against the employer. The law “establishes that the release of personnel records to discredit victims of workplace discrimination counts as a retaliatory action under the Human Rights Law, …which expressly prohibits all forms of retaliation against complainants.” Personnel files may be released where the employer is complaining, responding to a complaint, or participating in a civil or criminal action or other judicial or administrative proceeding.

Additionally, Governor Hochul enacted a law that requires the Division of Human Rights to establish a confidential toll-free hotline for complaints of workplace sexual harassment. The hotline will connect complainants and “experienced pro bono attorneys who will help make them aware of their legal rights and advise them on the specifics of their individualized cases.” This law is effective July 14.

Lastly, Governor Hochul enacted legislation that extends the Human Rights Law protections to all State and public employers, i.e., “anyone service in the executive, judiciary, and legislative branches – including the staff of elected officials or judges.”

More information regarding these legislative developments is available here.