

EMPLOYMENT AT WILL

EMPLOYMENT AT-WILL

In New York, unless an employer and employee agree that their relationship is for a definite term, the law presumes that the relationship is at-will. Summarizing New York law, the Court of Appeals stated in 2003 that:

The traditional common law rule undergirding employment relationships, which we adopted in *Martin v. New York Life Ins. Co.* is the presumption that employment for an indefinite or unspecified term is at-will and may be freely terminated by either party at any time without cause or notice.

There are two important consequences to this. First, the employment at-will doctrine gives an employer a nearly unfettered right to discharge an employee.

Second, if the relationship is at-will, the employer may unilaterally change the terms and conditions of an employee's employment. In *General Elec. Tech. Servs. Co. v. Clinton*, the Third Department announced the principal:

Case law dictates that when parties have an employment contract terminable at will, the contract can be modified and different compensation rates fixed without approval of the other party since the dissatisfied party has a right to leave his employment.

The presumption that an employment relationship is at-will may be rebutted by a showing that the employer agreed to an express limitation on the right to terminate. However, an employee who attempts to show an agreement limiting the employer's right to terminate at-will confronts an "explicit and difficult pleading burden". An explicit disclaimer of a contractual relationship will cause dismissal of a claim for breach.

An employer's right to terminate may also be limited either by statutory proscription or if there exists a constitutionally impermissible purpose. However, New York does not recognize the tort of wrongful discharge; there is no exception for claims that discharge violates a public policy not specifically set forth by a statute.

INDEPENDENT CONTRACTORS

KEY INDEPENDENT CONTRACTOR CONCERNS

Watch out for potential indicators of misclassification:

- Independent Contractors (ICs) doing the same work as employees
- ICs doing work for which other businesses use employees
- ICs performing production work
- ICs without staffing freedom
- ICs without other customers

INDEPENDENT CONTRACTOR REVIEW

CRITERIA	COMPANY RESPONSE
1. Instructions. Do you have the right (whether or not that right is exercised) to make the worker comply with your instructions on when, where and how he or she must work?	
2. Training. Do you train a worker (on your premises or the worker's) by requiring him or her to work with someone experienced or by having him or her attend meetings or via correspondence?	
3. Integration. Are the worker's duties an integral part of your operation? Is the worker's function necessary to your business?	
4. Services rendered in person. Do you require the worker to provide the services personally, or can he or she delegate them to someone else?	
5. Hiring/Firing. Do you hire, fire and pay the worker's assistants? (If the worker contracts to provide both labor and materials and is responsible only for the ultimate product, this tends to show independent contractor status.)	
6. Relationship. Is there a continuing relationship between the worker and yourself? Are services performed frequently (although irregularly)?	
7. Hours. Do you set hours during which the individual must perform the work?	
8. Full-Time. Must the worker devote all of his or her time to your job? (Independent contractors can work when and where they please.)	

CRITERIA	COMPANY RESPONSE
<p>9. On premises. Must the worker work on your premises, especially if the work could be performed elsewhere? (Or do you have the right to designate times, or otherwise control the time and place of performance?) The IRS says that the <i>absence</i> of this factor does not necessarily negate an employee relationship.</p>	
<p>10. Ordering. Do you have the right to set the order in which services are performed whether or not you exercise that right?</p>	
<p>11. Reports. Do you require the worker to give you written or oral reports?</p>	
<p>12. Hourly, weekly or monthly pay. Do you pay the person by the hour, week, or month? (A worker might still be an independent contractor and be paid by the job or on straight commission, but could be paid monthly or weekly so as to spread out contract payments.)</p>	
<p>13. Expenses. Do you pay the worker's business or travel expenses?</p>	
<p>14. Tools and materials. Do you provide the worker with tools or materials?</p>	
<p>15. Right to fire. Do you have the right to fire the worker? (There can be a tricky distinction between controlling workers via the threat of firing if they do not follow your instructions [employee status], and having the right to terminate a contract because the contractor has not performed according to specifications.)</p>	
<p>16. Worker's right to terminate. Can the worker quit at any time?</p>	

REMEMBER:

Answering "YES" to the rest of the questions tends to show independent contractor status for a worker.

CRITERIA	COMPANY RESPONSE
17. Investment. Does the worker invest in facilities, such as an office, that are not typically maintained by employees? (Home offices require special scrutiny - warns the IRS.)	
18. Profit or loss. Can the worker incur a profit or loss as a result of his or her work (in addition to the profit of payment for the work)? A contractor should bear an economic risk due to investments or liabilities other than the risk that he or she won't be paid.	
19. More than one job. Does the worker work for more than one business at a time? (Note, however, that the IRS says that a worker could be an employee of numerous service recipients.)	
20. Service available to general public. Does the worker offer services to the general public on a regular basis?	

WAGE AND HOUR

Wage and Hour Issues:

- Overview of Fair Labor Standards Act and New Regulations
- Violations of Fair Labor Standards Act
- Use of interns and volunteers
- Payment to employees when business is closed due to weather conditions
- Requiring employees to reimburse Agency for loss of equipment
- Written notice of pay rates for new hires

FAIR LABOR STANDARDS ACT

Under the FLSA employers must pay "any non-exempt" employee (those not specifically exempted from the rules) overtime pay at a rate not less than 1 1/2 times the employees regular pay rate for hours worked in excess of 40 in a work week. Overtime pay is not required for employees who qualify for one of the exemptions enumerated below.

Some employers wrongly believe that simply labeling an employee as "salaried" is sufficient to justify classifying the employee as "exempt" under the FLSA and, therefore, not eligible for overtime pay. It is true that any employee must be paid on a salary basis in order to qualify for the "white collar" exemption but it is not true that salaried status is all that is required; other criteria specified in the statute must also be satisfied before the exemption will apply. A salaried employee who does not satisfy the other requirements is not exempt and therefore must be given overtime pay for hours worked in excess of 40 in a workweek.

One of the most important, and often the most misunderstood, of the FLSA exemptions is the one that applies to "white-collar" employees--i.e., those individuals whose salary status and job duties qualify them as executive, administrative, or professional employees.

OVERVIEW OF FLSA REGULATIONS

Let's take a quick look at some of the major regulations:

1. There is only one general test for each exemption. The old long and a short test do not exist.
2. The regulations specifically list dozens of job classifications that generally do or do not qualify as exempt under any of the white-collar exemptions.
3. The minimum salary requirement is \$455 per week (\$23,660 annually) exclusive of board, lodging, and other facilities.
4. There is a provision that allows employers to deny overtime to "highly compensated" employees. This exemption applies to employees who:
 - a) Make at least \$100,000 per year in total annual compensation, including at least \$455 per week paid on a salary or fee basis;
 - b) Perform office or non-manual work; and
 - c) *Customarily and regularly perform any one or more of the exempt duties or responsibilities of an executive, administrative, or professional employee.*
5. Employers are allowed to suspend an exempt employee for workplace misconduct in one-day increments.
6. The regulations contain a "safe harbor" provision limiting liability for employers that fix improper deductions from an exempt employee's pay.

THE EXECUTIVE EXEMPTION TEST

The DOL'S exempt duties test for executives provides that, to be exempt from overtime pay, an executive employee must:

1. Make at least \$455 per week on a salary basis, exclusive of board, lodging or other facilities;
2. Have the primary duty of management of the enterprise in which he is employed or a customarily recognized department or subdivision thereof;
3. Customarily and regularly direct the work of at least two other employees or their equivalent; and
4. Have the authority to hire or fire other employees, or their suggestions and recommendations about the hiring, firing, advancement, promotion, or any other change of status of other employees must be given particular weight.

The Primary Duties Test: An exempt executive must have the primary duty of management of the enterprise or one of its customarily recognized departments or subdivision. The regulations provide a long list of activities that may constitute "management of the enterprise." They include:

- Interviewing, selecting, and training employees;
- Setting and adjusting rates of pay and hours of work;
- Directing the work of employees;
- Maintaining production or sales records for use in supervision or control;
- Appraising employees' productivity and efficiency;
- Handling employee complaints and grievances;
- Disciplining employees;
- Planning the work;
- Determining the techniques to be used;
- Apportioning the work among employees;
- Determining the type of materials, supplies, machinery, or tools to be used or merchandise to be bought, stocked, and sold;
- Controlling the flow and distribution of materials or merchandise and supplies; and
- Providing for the safety of employees or property.

THE ADMINISTRATIVE EXEMPTION TEST

Administrative employees must meet the following criteria in order to be exempt:

1. They must make at least \$455 per week on a salary or fee basis, exclusive of board, lodging, or other facilities;
2. They must have the primary duty of performing office or non-manual work that is directly related to the management or general business operations of the employer or its customers; and
3. Their primary duty must include the exercise of discretion and independent judgment with respect to matters of significance.

Primary Duties: In general, many exempt administrative employees assist executives with their company's management or general business operations but don't have sufficient authority to qualify as exempt executives themselves. The first prong of the administrative exemption requires an employee's primary duty to be performance of work that is directly related to the management or general business operations of the employer or its customers. To meet that requirement, an employee's work must be related to assisting with the running or servicing of the business. That includes, for example:

- Tax, finance, accounting, budgeting, auditing, and insurance;
- Purchasing and procurement;
- Advertising, marketing, and research;
- Safety and health;
- Quality control;
- Personnel management, human resources, employee benefits, and labor relations;
- Public relations and government relations;
- Computer network, Internet, and database administration; and
- Legal and regulatory compliance.

Discretion and Independent Judgment: An administrative employee's primary duty must include the exercise of discretion and independent judgment with respect to matters of significance. In general, the exercise of discretion and independent judgment involves: (1) comparing and evaluating possible courses of conduct, and (2) acting or making a decision after the various possibilities have been considered.

This implies that the employee has authority to make an independent choice, free from immediate direction or supervision, but it doesn't mean she must have unlimited authority. The fact that an employee's decisions may be reviewed, revised, reversed, or otherwise aren't acted upon doesn't necessarily mean she isn't exempt; nor does the fact that a number of employees perform the same or similar work.

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The phrase "with respect to matters of significance" refers to the level of importance or consequence of the work performed.

In deciding whether an employee exercises discretion and independent judgment with respect to matters of significance, some factors to consider include whether the employee:

- Has authority to formulate, affect, interpret, or implement management policies or operating practices;
- Carries out major assignments in conducting the operations of the business;
- Performs work that affects business operations to a substantial degree, even if the employee's assignments are related to operation of a particular segment of the business;
- Has authority to commit the employer in matters that have significant financial impact;
- Has authority to waive or deviate from established policies and procedures without prior approval;
- Has authority to negotiate and bind the company on significant matters;
- Provides consultation or expert advice to management;
- Is involved in planning long - or short-term business objectives;
- Investigates and resolves matters of significance on behalf of management; or
- Represents the company in handling complaints, arbitrating disputes, or resolving grievances.

THE PROFESSIONAL EXEMPTION TEST

The regulations split off professional exemption into separate, easy-to-follow sections for learned professionals, creative professionals, teachers, lawyers and doctors, and computer employees. **Both the learned professionals and the creative professionals must be paid at least \$455 per week on a salary or fee basis, exclusive of board, lodging, or other facilities.**

Learned Professionals: Under the test for learned professionals, the only requirement (besides salary) is that the employee must: Have the primary duty of performing work that requires knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction.

In an effort to clarify the "professional duties" test, the regulations split it out into three separate requirements:

1. *The employee must perform work that requires advanced knowledge.* This means work that is predominantly intellectual in character, and that includes the consistent exercise of discretion and independent judgment.
2. *The advanced knowledge must be in a field of science or learning.* This includes only occupations that have a recognized professional status. It does not include occupations in the mechanical arts or skilled trades, which may require knowledge of an advanced type but are not in a field of science or learning.
3. *The advanced knowledge must be customarily acquired by a prolonged course of specialized intellectual instruction.* The exemption also applies to employees who have substantially the same knowledge level and perform substantially the same work as degreed employees, but who attained their knowledge through a combination of work experience and intellectual instruction.

Creative Professionals: The test for creative professionals requires employees to have a primary duty of performing work that requires invention, imagination, originality, or talent in a recognized field of artistic or creative endeavor. This exemption does not apply to work that can be produced by a person with general manual or intellectual ability or training.

NOTE: A recognized field of artistic or creative endeavor includes such fields as music, writing, acting, and the graphic arts. Some examples of exempt creative professional include actors, musicians, composers, conductors, soloists, novelists, and some journalists.

Doctors, Lawyers, and Teachers: There is no minimum salary requirement for doctors, lawyers, or teachers. This means that, assuming they perform the duties required of them under the professional exemption, they are exempt from overtime pay under the FLSA regardless of how much or how little money they make.

THE SALARY BASIS TEST

Remember, to be exempt an employee must be paid on a “salary basis”. Exempt employees must generally be paid a set salary that cannot be reduced because of variations in the quality or quantity of their work. They **MUST** be paid their full salary for any week in which they:

1. **PERFORM WORK** – regardless of how many hours or days they work; or
2. **ARE READY, WILLING, AND ABLE TO WORK** but are not able to do so because no work is available.

There have long been several exceptions to this “no-pay docking” rule, most of which have to do with employee absences. These exceptions are discussed below.

DEDUCTIONS FROM PAY

Exempt employees are paid on a salary basis and, in general, must be paid their full salary for any week in which they perform work. Their pay may be reduced only in the following circumstances:

1. Employees who are absent for at least a full day because of sickness or disability will not be paid for that day unless they have accrued benefits under our paid time off, vacation, sickness, or disability policy. Their pay will not be reduced if they are absent for less than a full day because of sickness or disability.
2. Employees who take leave under the Family and Medical Leave Act will not be paid for that time unless they have accrued benefits under our paid time off, vacation, sickness, or disability policy. Their pay will be reduced by the hours missed even if it is less than a full day.
3. Employees who are absent from work for at least a full day for personal reasons other than sickness or disability will not be paid for that day. If an employee is absent for less than a full day for personal reasons, his or her pay will not be reduced.
4. Employees who are absent from work for jury duty, attendance as a witness at a trial, or temporary military leave will have their pay reduced by the amount of payment they receive if any in the form of jury fees, witness fees, or military pay. Their pay will not be reduced by the number of hours or days they are absent from work unless they perform no work in a given week.
5. If an employee violates a safety rule of major significance, his or her pay may be reduced in an amount to be determined by the company as a penalty for that violation.
6. Employees may be suspended without pay for other types of workplace misconduct, but only in full-day increments. Their pay will be reduced in an amount that is proportionate to the number of days suspended.
7. Employees who work less than 40 hours during their first or last week of employment will be paid a proportionate part of their full salary for the time actually worked.

FAIR LABOR STANDARDS ACT VIOLATIONS

The Fair Labor Standards Act (FLSA) rules are complicated and often confusing for employers. The top FLSA violations that get employers in trouble are:

- Misclassifying a nonexempt employee (often referred to as hourly employees) as salaried/exempt – paying someone a salary does NOT mean that person is exempt from overtime. It depends on the person's job duties and not the title or amount of pay.
- Not paying overtime to nonexempt employees for all hours worked, including unauthorized overtime – common mistakes include not paying for time worked before or after a scheduled shift (when an employee is setting up a workstation, checking emails, opening mail, etc.) and not paying for unauthorized overtime.
- Making improper salary deductions from exempt employees—typical oversights include deducting pay for business closures and deducting for partial days for time missed (can only be in full-day increments and only if PTO has been exhausted, so if, for example a person checks emails or comes in for half a day, they must get paid for the entire day.)

You need clear guidelines on how to comply with FLSA regulations.

USE OF UNPAID INTERNS AND VOLUNTEERS BY NONPROFIT ORGANIZATIONS

with the law. Having a learning curriculum or "game plan" is essential to satisfy As summer approaches more and more nonprofits will be utilizing the services of both volunteers and interns. Extreme caution must be exercised when utilizing such individuals. The rules for interns are fairly technical, but generally require the employer to meet the following criteria:

- The training , even though it includes actual operation of the employer's facilities, is similar to that which would be given in a vocational school
- The training is for the benefit of the trainee or student
- The trainees or students do not displace regular employees but work under their close observation
- The employer derives no immediate advantage from either the trainees or students, and on occasion the employer's operations may actually be impeded
- The trainees or students are not necessarily entitled to a job at the conclusion of the training period
- The employer and the trainees or students understand that the trainees or students are not entitled to wages for the time spent in training
- Any clinical training is part of an educational curriculum
- The trainees or students do not receive employee benefits
- The training is general, so as to qualify the trainees or students for work in any similar business, rather than designated specifically for a job within the employer offering the program. In other words, on completion of the program the trainees or students must not be fully trained to work specifically for only the employer offering the program
- The screening process for the program is not the same as for employment and does not appear to be for that purpose, but involves only criteria relevant for admission to an independent educational program
- Advertisements for the program clearly in terms of educational training, rather than employment, although the employer may indicate that qualified graduates will be considered for employment

From the above, it is clear that hiring an intern might set back the Agency's productivity because the law requires that the intern be there for educational reasons not as a replacement for anyone you could have hired. Therefore you have to devote a large part of your time to teaching the intern in order to be compliant the requirement of an educational program. You should design a curriculum of things you plan to teach the intern. You should not "hire" the intern with the use of the word "hire" or "employee" or

"employment" is counter-indicative of internship status; and finally you should distinguish between your interns and employees.

OTHER EMPLOYERS DESIRE TO USE VOLUNTEERS TO ASSIST THEM IN THEIR PROGRAM

The use of volunteers is permitted by the Fair Labor Standards Act however there are certain legal traps to the proper use of volunteers as well.

An employee cannot volunteer their time to do the same work that they were paid to do. Thus, if you have a clerical employee stuffing envelopes, preparing material for distribution etc. that employee cannot volunteer his/her time to do the same thing. Time spent volunteering during an employee's normal working hours when volunteer work performed is similar to their regular working duties will be compensable time for which the employee must be paid. Of course an outside person, i.e. not an employee, who comes in to volunteer is not under any such restriction.

In cases of both interns and volunteers it is strongly recommended that an agreement be entered into between the Agency and the intern or volunteer which sets forth the fact that the individual is not expecting compensation and, in case of the intern, many of the criteria set forth above should be specifically stated in the agreement.

INCLEMENT WEATHER PAY PRACTICE

What to do when Mother Nature decides to interfere with your well-laid operating plans? Regarding pay practices, the Department of Labor opinion letters provide guidance for employers to follow in paying exempt employees during periods of inclement weather.

CLOSINGS:

Employers who elect to close during such periods must pay the weekly salary for an exempt employee during the closure. Thus, regardless of whether an employee was at work for the entire week, the employee should receive their non-fluctuating salary for the week. An employer may require an exempt employee to use accrued leave for days of absence during such a closure but the employer continues to be obligated to pay the full salary of the exempt employee, regardless of whether the employee has a leave balance. Thus, in the latter case, an employer may be required to advance leave.

CONTINUED OPERATIONS:

Employers who remain open during such periods must pay an exempt employee for any partial or whole day the employee reports to work during such periods; however, for days where an exempt employee elects not to report to work the employer is free to deduct accrued leave for such absences from the employee's leave bank. If the exempt employee is not yet eligible for accrued leave or has exhausted such leave, an employer may make reductions from pay for whole day absences.

An employer may not make partial-day deductions from exempt employee pay for less than a full day absence regardless of whether the employee has any accrued leave.

DEDUCTIONS FROM SALARY OR FROM PAY

Under the Fair Labor Standards Act paycheck deductions made by the employer are different for exempt and nonexempt employees. Nonexempt employees must be paid for hours worked while exempt employees must be paid their full salary rate with few exceptions.

In reference to salary permissible deductions, deductions from pay are permissible when an exempt employee:

- ❖ Is absent from work for one or more full days for personal reasons other than sickness or disability
- ❖ For absences of one or more full days due to sickness or disability if the deduction is made in accordance with a bona fide plan, policy or practice of providing compensation for salary lost due to illness
- ❖ To offset amounts employees receive as jury or witness fees or for military pay
- ❖ For penalties imposed in good faith for infractions of safety rules of major significance
- ❖ Or for unpaid disciplinary suspensions of one or more full days imposed in good faith for workplace conduct rule infractions

An employer is not required to pay the full salary in the initial or terminal week of employment, or for weeks in which an exempt employee takes unpaid leave under the Family and Medical Act.

Regarding salary qualification requirements, to qualify for exemption, employees generally must be paid at not less than \$455 per week on a salary basis.

Being paid on a salary basis means an employee regularly receives a predetermined amount of compensation each pay period on a weekly or less frequent basis. The predetermined amount cannot be reduced because of variations in the quality or quantity of the employee's work. An exempt employee must receive the full salary for any week in which the employee performs any work, regardless of the number of days or hours worked.

Exempt employees do not need to be paid for any workweek in which they perform no work.

If the employer makes deductions from an employee's predetermined salary, i.e. because of the operating requirements of the business, that employee is not paid on a salary basis. If the employee is ready, willing and able to work, deductions may not be made for time when work is not available.

NEW LABOR LAW CHANGES EFFECTIVE APRIL 9, 2011

A new NYS law imposes new notification requirements on employers and increases penalties for violations.

On hire and on or before February 1 of each following year, employers **must** give **written** notice to employees of their rates of pay, basis of pay rate, how the employee will be paid (hour, shift, day, week, salary, piece, commissions) any allowances claimed against the minimum wage (tip or meals, etc.) and the regular payday. The notice **must** be in **English and in the employee's primary language**.

Current law also **requires** that employers obtain a **written acknowledgement** that this information was in writing. The New York State Department of Labor has interpreted the law as requiring employers to provide **exempt employees with the basis for their exemption**.

Employers **must maintain all** required notices, statements and acknowledgments for **six (6) years** as is the current requirement for payroll records. **Failure to provide the required notice within ten (10) business days of the employee's start date may bring a claim to recover \$50.00 for each workweek that a violation occurs. The employee may recover up to \$2,500 plus attorney's fees.**

There are also liquidated damages (penalties) for failing to pay wages, which are now **INCREASED to 100% of the wages due**, unless the employer is able to show it had a good faith basis that the method of payment was lawful.

In addition, the law **requires** employers to provide **wage statements** to their employees with **each paycheck** specifying:

1. Dates of the applicable pay period
2. Employee's name
3. Employer's name, address and phone number
4. Allowances, if any
5. Gross wages
6. Deductions
7. Net wages

For nonexempt employees, the statement **must** also include the applicable **regular and overtime pay rates**, in addition to the number of regular and overtime hours worked during the pay period. Violations can result in civil damages of \$100 for each workweek the violation occurred (not exceeding \$2,500) in addition to costs and reasonable attorney's fees.

The law also **strengthens** the Labor Law's **anti-retaliation protections** so that, "**any person**" found to **have engaged in unlawful retaliation must pay liquidated damages of up to \$10,000 along with costs and attorney's fees**. In addition, retaliation is now listed as a Class B misdemeanor.

NEW YORK STATE DEPARTMENT OF LABOR ISSUES GUIDELINES FOR WRITTEN NOTICE OF PAY RATES FOR NEW HIRES

The Department of Labor issued new model forms and guidelines on its website which can be found at:

www.labor.ny.gov/workerprotection/laborstandards/workprot/lshmpg.shtm.

YOU DO NOT HAVE TO USE THE DEPARTMENT OF LABOR FORMS but, if your forms do not meet its standards, the Department of Labor reserves the right to require the use of department-provided forms.

Even if you use a hiring letter, you must also use the new form.

SAMPLE OFFER OF EMPLOYMENT LETTER

TO BE TRANSCRIBED ON COMPANY LETTERHEAD

[Date]

[Salutation]

I am pleased to offer you the position of [title] in our [division or department.]

Should you accept our offer, your salary will be \$_____ per bi-weekly pay period [equivalent to \$_____ annually.] Your starting date will be _____
_____. You are **exempt** from overtime because you are a(n): (executive) (administrative)(professional) employee.

[ALTERNATE PARAGRAPH: Should you accept our offer, your starting rate of pay will be \$___ per hour; your overtime rate will be \$___ per hour. Your starting date will be _____.]

Pay day for all employees is _____ (insert day of the week or frequency of payment i.e. every other Friday or the 1st and 15th of each month).

As was discussed during the interview process, [Company] offers employees and their eligible dependents a variety of group health insurance benefits. Coverage under these programs commences on the first day of employment. Information about these programs and other Company benefits are contained in our employee handbook, a copy of which is issued during orientation on your first day.

Our offer is based on confidence that your employment with [Company] will be a mutually rewarding and enriching experience, but this offer does not constitute a contract of employment, nor does it guarantee employment for a defined period of time. In accordance with New York State law, employment at [Company] is employment at will.

I would appreciate your considering our offer and advising me of your decision by [date] by returning a signed copy of this letter; we will be unable to hold the offer open beyond this date.

Thank you for your interest in employment with [Company.] We look forward to hearing from you in the near future. In the meantime, if you have any questions about our offer or the Company more generally, please feel free to contact me.

Very truly yours,

ACCEPTED AND AGREED:

[Name]

[Title]

Signature

[INSERT NAME OF EMPLOYER – TRANSFERRED ONTO EMPLOYER
LETTERHEAD]

LABOR LAW SECTION 195(1)

NOTICE AND ACKNOWLEDGEMENT OF WAGE RATE, DESIGNATED PAYDAY,
HOURLY RATE PLUS OVERTIME

Employee Information:	
Name:	
Street Address:	
Apartment:	City:
State:	Zip Code:
Phone:	
Job Title:	

Your **rate of pay** is: _____ per hour.

Your **overtime rate of pay** is: _____ per hour.

OR

You are an **exempt** _____ (insert category) employee. You do **not** receive overtime pay. Your **salary** is: \$ _____

Payday for all employees is: _____

I hereby acknowledge that I have been notified of my wage rate or salary, overtime rate, and designated payday on the date set forth below.

Date: _____

Employee's Signature

A duplicate signed copy of this form is to be provided to the employee. Original must be kept by the employer.