

Employment, Labor and Benefits Alert: New York DOL Reverses Course: Employers No Longer Required To Use Its Official Form for New Hires

12/4/2009

By [Jennifer B. Rubin](#), [James R. Hays](#) and [Gregory R. Bennett](#)

As we addressed [in a recent Client Alert](#), as a result of amended provisions of New York Labor Law §195, employers are now obligated to notify new employees, in writing and at the time of hire, about certain information concerning the terms and conditions of employment. Despite the fact that amended §195 only requires that a new-hire's acknowledgement *conform to* any content/form requirements the New York Department of Labor (DOL) might establish, the DOL broadly interpreted its authority under the statute and issued guidelines requiring employers to obtain new-hires' acknowledgements as well as an official form. At the time the DOL issued this guidance and form, we opined that the DOL [exceeded its authority](#).

It appears that the DOL has come to the same conclusion, as its [recent guidance](#) concerning this issue advises employers that "No particular form is required. Employers may create their own forms, or use and/or adapt a sample form available [on the DOL's website]."

What Employers Should Do

As we advised previously, offer letters to New York employees must contain the [required information](#) going forward. Sending offer letters with this information is good practice, even aside from avoiding the prospect of statutory penalties for noncompliance with §195, because such letters minimize the possibility of a future disagreement concerning the terms and conditions of employment. However, employers no longer are required to use the form posted on the DOL site.

If you have any questions regarding the subject covered in this Alert, or any related issue, please feel free to contact one of the attorneys listed below or any of Mintz Levin's Employment, Labor and Benefits practice attorneys.

Andrew J. Bernstein

(212) 692-6742

AJBernstein@mintz.com

Richard H. Block
(212) 692-6741
RHBlock@mintz.com

James R. Hays
(212) 692-6276
JRHays@mintz.com

David R. Lagasse
(212) 692-6743
DRLagasse@mintz.com

Jennifer B. Rubin
(212) 692-6766
JBRubin@mintz.com

Michael S. Arnold
(212) 692-6866
MArnold@mintz.com

Gregory R. Bennett
(212) 692-6842
GBennett@mintz.com

Jessica W. Catlow
(212) 692-6843
JCatlow@mintz.com

Jennifer F. DiMarco
(212) 692-6260
JFDiMarco@mintz.com

David M. Katz
(212) 692-6844
DKatz@mintz.com