

# Employment Alert: New York DOL Says that All Employers Must Use Its Official Form for New Hires, Despite Absence of Grant of Such Authority

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As we addressed in our [August 20, 2009](#) Client Alert, amendments to New York Labor Law §195 now obligate New York employers to notify new employees, in writing and at the time of hire, about certain terms and conditions of employment. Amended §195 also requires employers to obtain from each new employee a written acknowledgement confirming that he or she received the specified information. While amended §195 provides merely that such an acknowledgement must “conform to any requirements established by the [Labor] commissioner with regard to content and form,” the New York State Department of Labor (DOL) has broadly interpreted its authority and issued guidelines requiring employers to obtain new employees’ acknowledgements on its official form.

According to guidance the DOL issued recently concerning amended Labor Law §195, the notice employers are now obligated to provide to new employees “must be given on an official form from the New York State Department of Labor.” The official form also contains a space for employees to acknowledge receipt of the required information. Further, employers must maintain the employee’s signed acknowledgement for six years. The model notice and DOL guidance can be found [here](#).

It is likely that the DOL has exceeded its authority by requiring employers to use its official form, since amended §195 requires only that the employee’s acknowledgement *conform to* any content/form requirements the DOL might establish. Further, mandatory use of its official form unnecessarily inconveniences employers (*e.g.*, by forcing them to revise existing offer letters), without benefiting employees in any way.

## *What to Do*

While employment law practitioners in New York have asked the DOL to issue further guidance concerning the mandatory use of its form and other issues related to amended §195, any response from the DOL will likely take some time. In the meantime, we suggest that all New York employers utilize the DOL form and obtain the appropriate signed acknowledgement from new employees. We will keep you advised of any developments.

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*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.*

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