

## **Guidelines Regarding Notice and Acknowledgment of Wage Rate/Temporary Help Firms**

Section 195(1) of the Labor Law [Effective October 26, 2009] provides as follows:

Every employer shall:

1. Notify his or her employees, in writing, at the time of hiring of the rate of pay and of the regular pay day designated by the employer in accordance with section one hundred ninety-one of this article, and obtain a written acknowledgement from each employee of receipt of this notice. Such acknowledgement shall conform to any requirements established by the commissioner with regard to content and form. For all employees who are eligible for overtime compensation as established in the commissioner's minimum wage orders or otherwise provided by law or regulation, the notice must state the regular hourly rate and overtime rate of pay.

Temporary help firms, by nature of their operations, are unable to disclose, at the time of hire, what hourly wage would be paid on all assignments since wages frequently change depending on the type of work and business to which the employee is assigned. In consideration of the special needs of temporary help firms, the Department will apply the following interpretations and guidelines with regard to compliance of temporary help firms with notice requirements set forth in Section 195(1) of the Labor Law:

For purposes of these guidelines, the term “temporary help firm,” has the same meaning as set forth in Labor Law Section 916(5), i.e. “a business which recruits and hires its own employees, and assigns those employees to perform work at or services for other organizations, to support or supplement the other organization’s workforce, or to provide assistance in special work situations such as, but not limited to, employee absences, skill shortages, seasonal workloads, or to perform special assignments or projects.”

**These guidelines shall apply only to “temporary help firms” and not to other employers in New York State. Moreover, these guidelines apply only to individuals hired by such temporary help firms not to individuals hired by other employers for temporary work.**

### I. Notice at Time of Hire/Interview

At the time of initial interview or hire, the temporary help firm shall:

- A. Notify the applicant-employee, in writing, of the range of hourly wages he or she may likely earn based upon his/her qualifications and assignment suitability. The potential hourly wages may not be excessively broad and should be based on a good faith estimate of the typical wage earned by similarly qualified employees who worked at

assignments similar to those for which the applicant-employee is eligible and likely to be assigned,

- B. Notify the applicant-employee, in writing, of the designated pay day, unless the designated pay day may not be established at that time. If a fixed designated pay day cannot be established at the time of hire/interview, the applicant-employee shall be notified that the pay day may vary depending upon the usual practice at the assignment.
- C. Notify the applicant-employee, in writing, of the employee's rights, in general, to overtime compensation as contained in the attached form.
- D. Provide the applicant-employee with the "Notice and Acknowledgement of Wage Rate(s) / Temporary Help Firms Pursuant to Labor Law § 195(1)" form developed by the Department of Labor, obtain the signature of the applicant-employee on the form, provide the applicant-employee with a copy of the signed form and retain the original signed form in the employer's files.

## II. Notice at Time of Specific Assignment

When a temporary help firm assigns an employee to perform work at or services for other organizations the temporary help firm shall notify the employee of:

- A. The specific designated pay day for the particular assignment;
- B. The actual hourly rate of pay for the assignment; and
- C. The overtime rate of pay he or she will receive or, if applicable, inform the employee that the position is exempt from additional overtime compensation and the basis for the overtime exemption.

Such notice may be given verbally or in writing.

## III. Statement with Each Paycheck

In addition to any other statements required by law, employees of temporary help firms must be furnished with a statement listing the following for each assignment they worked at along with each paycheck or paystub they receive:

- A. Number of hours worked, whether regular and overtime, reflected in the wages contained in the paycheck;
- B. Actual regular and overtime wage rate paid for the hours worked.

#### IV. Recordkeeping Requirements

Temporary help firms shall establish maintain and preserve for not less than six years the duplicate signed copy of the form obtained pursuant to Part I, Subsection D.

#### V. Compliance

Compliance with these guidelines does not relieve temporary help firms of their obligations under any other sections of the Labor Law.

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For additional assistance or information please contact the Division of Labor Standards office nearest you.

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(518) 457-2730

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**Binghamton District**  
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109 S. Union Street  
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<http://www.labor.state.ny.us>

**Notice and Acknowledgement of Wage Rate(s) / Temporary Help Firms**  
**Pursuant to Labor Law § 195(1)**

Section 195(1) of the Labor Law requires employers to provide written notice to employees, upon hiring, of their regular and overtime rates of pay. Since employees at temporary help firms rates of pay often vary for each assignment, this notice provides the expected ranges of pay he/she will receive. Employees will be notified of the actual rates of pay for each assignment prior to commencing work on each assignment.

<b><u>Temporary Help Firm</u></b>	<b><u>Applicant-Employee</u></b>
Company Name: _____	Name: _____
FEIN: _____	Street address: _____
Street address: _____	Apt.: _____ City: _____
City: _____ State: _____	State: _____ Zip: _____
Zip: _____	Phone: (_____) _____ - _____
Phone: (_____) _____ - _____	
Preparer's Name: _____	
Preparer's Title: _____	

**Wage range(s):** \_\_\_\_\_

*The wage range may not be excessively broad and should be based on the typical wages earned by similarly qualified employees who worked at assignments similar to those for which the applicant is eligible and likely to be placed with.*

**Designated pay day:** \_\_\_\_\_

*If designated pay day is unknown because it is based on the pay day of the organization assigned, state "unknown."*

I hereby certify that I have read the above and the information contained in this form is true and accurate to the best of my knowledge and belief. Any false statements knowingly made are punishable as a class A misdemeanor (Section 210.45 of the New York State Penal Law). I affirm that the above statements are true.

Date: \_\_\_\_/\_\_\_\_/20\_\_\_\_.  
[mm / dd / yyyy]

\_\_\_\_\_  
[Preparer's Signature]

**Rules Governing Overtime Pay in New York:**

Most employees in New York must be paid wages of 1½ times their regular rate of pay for all overtime hours worked over 40 per workweek. (44 hours for residential employees.) The number of hours worked is the total number of hours worked in all of the employee's assignments for the temporary help firm.

Some employees are not eligible to receive overtime wages of 1½ times their regular rate of pay for overtime. Those employees may instead receive overtime wages of 1½ times the minimum wage. Very few employees (mostly executive, administrative, or salaried employees) may not be eligible for overtime pay at all. Your employer will inform you of the overtime rate that will apply to a specific assignment when you receive it. If you are not eligible for overtime based upon your assignment, the employer will explain the reason why at that time.

I hereby acknowledge receipt of the above notice of wage rate, overtime rate, and designated pay day on the date set forth below.

Date: \_\_\_\_/\_\_\_\_/20\_\_\_\_.  
[mm / dd / yyyy]

\_\_\_\_\_  
[Applicant-Employee Signature]

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