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"Ask HR" Legal Alert

DATE: November 20th, 2023

FROM: Stephanie ("Cole") Adams, Esq.

RE: **NEW mandatory notice to employees upon termination or reduction of hours**

To all 3R's Members:

Effective November 13th, 2023, **all employers in New York State** (including quasi-governmental employers such as municipal public libraries, and not-for-profits such as museums) must include a **"Record of Employment"** form with any notice confirming separation of employment.

This form must also be provided if an employee's regular hours are reduced to below 30 hours a week.

This obligation applies regardless of whether employment was terminated or reduced due to resignation, expiration of an employment contract, mutual agreement, or termination with or without cause.

The "Record of Employment" form to be completed can be found here:
https://dol.ny.gov/system/files/documents/2023/11/ia12.3_0.pdf.

The law requiring this form be supplied is New York State Labor Law Section 590 (found here: <https://www.nysenate.gov/legislation/laws/LAB/590>).

A more extensive version of this guidance will be posted on "Ask the Lawyer" with a model policy by December 1, 2023.

I have a few suggestions for integrating this into current HR practices:

For those employers who maintain a checklist of items to complete when an employee leaves (return keys, terminate passwords, update website and social media access, etc), providing this form can be a new item on the checklist.

For those employers who must follow Labor Law Section 195(6)—which are all employers who are not governmental agencies—your organization is already obligated to confirm separation of employment in writing within five (5) days of the date of termination. For employers obligated to do this, the "Record of Employment" form's information regarding the last date of employment should be consistent with the information in the 195(6) letter.



In closing

On a personal note, I wish I had caught this obligation and sent this notice prior to the effective date! I can only say that based on my outreach to other labor law attorneys, in a year with significant Labor Law developments, this one flew a bit below the radar. I only happened to catch it when doing a line-by-line review of new laws on the New York State Assembly website (something I will now do on a biannual basis)

Thank you for your consideration of this guidance. It is an honor to serve your 3R's organization with the "Ask the Lawyer" service.

—Stephanie "Cole" Adams