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Did You Know...

Employees cannot generally be required to purchase required employee uniforms?

Employer Risks and Exposures

Editor's Note: This is Part I of a two-part series on employee uniforms. Part II will cover the cleaning and maintenance of employee uniforms.

Depending on the nature of your business, employees may be required to wear uniforms on the job for health or safety concerns, comfort, or to present an identifiable appearance for customers and/or the public. The term “uniform” generally refers to clothing associated with a specific employer because it has an emblem, logo, or distinctive color. It may also refer to any specific type and style of clothing that an employer requires its employees to wear at work or that is required to comply with a government regulation. Whether an employer or an employee is responsible for purchasing an employee uniform depends on several factors as described below.

Ordinary Clothing

If employees are required to wear “ordinary” or non-uniform clothing that may also be worn off the job (e.g., basic black or khaki pants and a white shirt), employers do not generally have to purchase the clothing. Sometimes, however, determining whether employer required clothing is considered ordinary or non-uniform clothing is not clear-cut. The Department of Labor will usually take into consideration whether the clothing must be purchased at a specific store, if the average clothing store carries the item, and if the clothing must conform to very specific criteria, such as a certain type of collar or length of sleeves.

Federal Regulation

The Fair Labor Standards Act (FLSA), which covers most employers, allows employees to pay the cost of purchasing uniforms, as long as the cost does not reduce the employee’s wages below the federal minimum wage or cut into overtime compensation.

New York State Regulation

Employees are not allowed to purchase required employee uniforms. New York State labor regulation does not permit employers to take deductions from

employees' wages for the purchase of required uniforms nor can employees be required to reimburse the employer in cash or by separate transaction. If employees are required to purchase their own uniforms, they must be reimbursed for the cost no later than their next paycheck.

NYS uniform regulations do not apply to certain groups, including public sector employees, certain highly paid exempt employees, outside sales persons, and farm workers (separate regulations apply to farm workers). However, the Department of Labor would consider it an illegal deduction to deduct the cost of purchasing a uniform from an exempt employee's or outside sales persons' pay or through a separate transaction.

Compliance

Because the uniform requirements under federal and New York State regulations differ, private sector employers in NYS must follow the NYS regulations because they are more restrictive (i.e., benefit employees more).

Violations can result in an employer being required to reimburse affected employees for back pay for up to two years (three years if a willful violation), liquidated damages, attorney's fees, and court costs.

An employer that violates NYS labor regulations by taking improper employee deductions for the purchase of required employee uniforms may be assessed penalties of up to \$1,000 for the first violation, up to \$2,000 for a second violation, and up to \$3,000 for a third or subsequent violation.

Avoiding Disaster

Carefully review your uniform and dress code policies to ensure compliance with federal and NYS uniform regulations. Make sure it is your organization's policy to purchase all required employee uniforms.

Note: This eNews is only meant to provide an overview of the federal and New York State regulations pertaining to employee uniforms. Depending on the State an employee works in, industry, employee classification, and other factors, differing rules may apply.

Contact *AMTEK's* Human Resource Hot Line at **1.800.457.8829 if you have any questions regarding how the uniform regulations pertain to your organization.**

This HR eNews is not intended to render legal advice but is meant for general informational purposes only.

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