

Did You Know...

NYS employers must pay the cost of cleaning and maintaining required employee uniforms for certain employees?

Employer Risks and Exposures

Editor's Note: This is Part II of a two-part series on employee uniforms. Part I addressed what is considered a "required" employee uniform and an employer's responsibility for purchasing employee uniforms.

Federal Regulations

The federal Fair Labor Standards Act (FLSA) allows employers to make deductions from an employee's wages for the cleaning and maintaining of required uniforms, if the deduction does not bring the employee's hourly pay below the federal minimum wage rate. Thus, an employee who is paid at the current federal minimum wage could *not* have any deductions taken from his/her paycheck for the cost of cleaning and maintaining uniforms.

New York State Regulations

New York State labor regulations do not permit deductions from an employee's wages for the cleaning and maintaining of required uniforms. In addition, the regulations require an employer to clean and maintain required employee uniforms, if the cost would reduce an employee's hourly pay below the NYS minimum wage rate. An employer may either provide a laundry service or reimburse covered employees in specified amounts (per the applicable NYS Minimum Wage Order) for the cost of laundering the uniforms themselves.

In accordance with the NYS Minimum Wage Orders for the Miscellaneous, Building, Hotel, and Restaurant Industries, when an employer requires covered employees to launder their own uniforms, the employees must be paid the following amounts based on the number of hours worked:

Number of Hours Worked During Workweek	Reimbursement Effective 1/01/05	Reimbursement Effective 1/01/06
More than 30	\$7.45	\$8.40
More than 20 but not more than 30	\$5.90	\$6.60

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If an employer provides a laundry service but a covered employee voluntarily elects to clean his/her own uniforms, the employer is not normally required to reimburse the employee so long as the employer's offer to launder the uniforms is *genuine* and *practical*.

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 NYS Department of Labor would consider it an illegal deduction to deduct the cost of uniform cleaning from an exempt employee's or outside sales person's 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).

An employer that violates NYS labor regulations may be assessed a penalty 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 cleaning policy to ensure compliance with federal and NYS uniform regulations. Any employees who wear required uniforms and are paid at the NYS minimum wage rate should be reimbursed for uniform cleaning (per the rates listed above) or offered a laundry service. For those employees who are paid at slightly above the NYS minimum wage rate, you will need to calculate whether the cost of laundering uniforms would reduce their hourly pay below the NYS minimum wage rate.

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.

If you have questions or for more information about the federal and NYS regulations pertaining to employee uniforms, contact *AMTEK's* Human Resource Hot Line at **1.800.457.8829.**

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

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