

# HRPRONewsletter

Human Resource Professionals Reaching Out

June 2017



## **New York Enacts Paid Family Leave Law**

On January 1, 2018, New York will have one of the most comprehensive paid-family leave programs in the country. The Paid Family Leave benefit will be funded through employee payroll taxes and administered by the state disability program. Although this law's effective date is January 1, 2017, the proposed regulations permit employers to begin the payroll deductions effective July 1, 2017. The rate of contribution for Paid Family Leave will be 0.126 percent of an employee's weekly wage, up to a maximum of \$1.63 per week (0.126 percent of the statewide average weekly wage of \$1,296). <http://www.jdsupra.com/legalnews/new-york-issues-updated-regulations-to-89552/>

## **Trump's Budget Proposal Has Major Cuts to Social Programs**

Trump's Budget Plan titled "The New Foundation for American Greatness" proposes balancing the budget by cutting \$1.7 trillion from social security safety net programs and Medicaid.

If the Medicaid savings in the Affordable Health Care Act (AHCA) pass, \$800 billion will be cut from Medicaid over the next decade. Core Social Security and Medicare Benefits will not be affected.

In addition, programs like food stamps (SNAP), Children's Health Insurance Program (CHIP), Social Security Disability Insurance (SSDI) and Temporary Assistance for Needy Families (TANF) will have major cuts. <https://www.gpo.gov/fdsys/pkg/BUDGET-2018-BUD/pdf/BUDGET-2018-BUD.pdf>

## **New York City Passes Salary History Ban**

On May 4, 2017, Mayor Bill de Blasio signed legislation that bans New York City employers from inquiring about a job applicant's prior salary history. The law's effective date is October 31, 2017.

The intent of the law is to reduce the chances that women and minorities will be prejudiced by prior salary levels and remedy pay disparities.

HR professionals will need to make critical changes to their hiring procedures and related employment documents. <http://www.jdsupra.com/legalnews/mayor-de-blasio-signs-nyc-ban-on-salary-75475/>

## **DOL Fiduciary Rule Expected to Become Retirement Investing Law**

According to Department of Labor ("DOL") Secretary Alexander Acosta, the retirement-savings regulation known as the DOL Fiduciary Rule will proceed as scheduled. This rule expands the "investment advice fiduciary" definition under the Employee Retirement Income Security Act of 1974 ("ERISA").

By June 9, 2017, retirement plan sponsors should ensure that any investment advice they provide to participants does not conflict with its advisor fees. The Fiduciary Rule will go into full effect on January 1, 2018.

The new rule will impact financial advisors, especially those who work on commission, such as brokers and insurance agents. By law, they will be required to provide full disclosure to clients before any contracts are signed or investment advice is offered.

Although the Fiduciary Rule is still under review, Mr. Acosta's decision against delaying the regulation's application start date ensures financial firms and advisers will be partially compliant by year end.

<http://www.investmentnews.com/article/20160405/FREE/160409960/historical-timeline-of-fiduciary-duty-for-financial-advice>

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### A Case for Building a Better Termination Process

In a unique turn of events, James Comey, former FBI Director, was terminated by President Donald Trump on May 9, 2017. From a human resource perspective, it is important to understand the manner in which Mr. Comey was fired and briefly discuss the way Mr. Comey should have been terminated properly.

**Communicate in person.** First and foremost, President Trump should have terminated the former FBI Director in person. Understand that today “in person” has a myriad of meanings, but when termination is concerned it is best face-to-face, whether in a meeting, over Skype or at least by phone. The President is of course a very busy man, but he could at least have written, called, or even emailed Mr. Comey to avoid any improprieties. Aside from it being unprofessional to end employment through other means, HR professionals never want anything to be misconstrued during the termination. However, the manner in which Mr. Comey found out that he was terminated from his post was through a news program on television while he himself was giving a speech to his colleagues at the FBI office in Los Angeles. This was both unprofessional of President Trump and shocking to Mr. Comey.

**Have a corrective action process.** Second, Mr. Comey’s situation, as it has been portrayed to the public, was never provided a warning about his performance as FBI Director. In an “at will” state like New York, employers and bosses are entitled to discharge whomever they see fit for whatever reason as long as it not for discriminatory reasons. However, as HR professionals, it is wise to have a corrective action plan. As the President indicated, one of the reasons for Mr. Comey’s termination was his handling of the Clinton email controversy. Was Mr. Comey advised or warned about his handling of the Clinton email? This is unclear. Furthermore, prior to his termination, none of the news outlets have reported that Trump had low confidence of the former FBI Director. In addition, Trump did not make Mr. Comey aware of any performance issues.

**Confirm the facts before taking action.** Finally, the HR professional should make certain that termination is the only method left available for the employee. Terminating an employee is not easy and should never be taken lightly or done hastily. It is wise to have a thorough and complete investigation before terminating. If an investigation is

conducted sloppily, and not thoroughly, other employees and in this case, the American people, are going to question the premise of the termination.

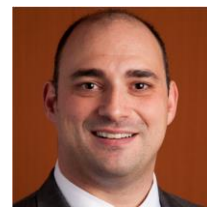
The termination of Mr. Comey was a debacle and Trump’s team did not expect America’s reaction. However, they could have avoided any conflict by following a proper human resource process. Properly advised, President Trump would not have terminated Mr. Comey or fired him in such a manner. Mr. Comey should have been given prior warnings about his performance and there should have been a fair and thorough investigation. A proper exit strategy for Mr. Comey should have also been in place. One should never “discover” that they are being fired through the grapevine or in Mr. Comey’s case, while addressing an audience of their peers through a newscast over the television. Learn from the mistakes of the Trump team and instead:

- Communicate in person
- Have a corrective action process and
- Confirm the facts before taking action

In this challenging situation, by following these simple HR guidelines, you can create an overall better experience for all parties involved.

*Opinions expressed in this article belong to Anthony Paradiso.*

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*Anthony received his Bachelors degree from Binghamton University and earned his Masters in Human Relations & Business from Amberton University.*

*He joined NYC SHRM in the beginning of the year and belongs on the HR PRO committee and looks forward to participating in more NYC SHRM events! Anthony is also heavily involved in New Jersey as the GSC-SHRM D & I Co-Chair. Please feel free to tweet Anthony @allthingzap*



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## The Importance of Workplace Attire Clarify Dress / Appearance Code

Flip flops, sunglasses, Bermuda shorts, and baseball caps. It's not a list of vacation clothes to pack but the clothing and accessories more employees are wearing to work during the summer months. "Proper attire" can be defined differently for each agency depending on their culture.

Although casual attire is more acceptable now, companies still need to clarify their summer casual dress code. What an employee wears to work can impact an organization's image, especially if the employee is going to represent the company at a client event.

Certain items are easier to communicate to workers than others. When companies want to communicate a special corporate image or want customers to easily identify their employees, they ask their staff to wear uniforms. If there are safety concerns for factory or healthcare workers, especially if they work with certain machinery, jewelry or loose-fitting clothing may be prohibited.

Certain items are difficult to communicate to employees. For instance, many companies have decided that multiple piercings or tattoos are not appropriate for their workplace or when employees interact with their customers. In those cases the policy must be very clear about what you will or will not allow (i.e. tattoos must be covered or only one earring per ear is allowable).

Conflicts arise when opinions regarding clothing "style" and "comfort" are questioned. Sometimes it could be a liability concern, as when high heels, open toe shoes or flip flops could create a safety hazard.

Dress and Appearance Codes should be amended to include protections that ban discrimination. As outlined in the Equality Act, protected characteristics listed includes age, disability, gender identity, gender reassignment, religion or belief, sex, or sexual orientation. Do not specify attire dos and don'ts by gender. If necessary, create a generic list for employee's to use as a guide. Religious coverings like a hijab or a kippot should be permissible attire.

Remember the following key points:

- Avoid unlawful discrimination in any dress code policy
- Have health and safety reasons for having certain standards and enforcing restrictions
- Apply policy guidelines equally to all employees, regardless of their gender.

Dress and Appearance Codes need to be an appropriate balance between an employer's rights and an individual's freedom. Remind employees that they represent the agency and their attire when they are with customers or at meetings reflects their professionalism.

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*Opinions expressed in this article belong to Ellen Hochstein.*

*Ellen Hochstein is a Program Associate at Goddard Riverside Community Center and Training Assistant/Data Analyst for the Jewish Board of Family and Children's Services. She received her Bachelors degree from Baruch College and earned her Masters in Labor Relations/Human Resource Management from New York Institute of Technology. Ellen volunteers for the HR-PRO Committee and the Organizational Development and Change Special Interest Group at NYC-SHRM.*

## Don't Let Liability Claims or Injury Give You the Summertime Blues

HR Professionals are faced with benefits, risk management and employee relations concerns which increase an employer's liability exposure. Now that summer is here, it is the perfect time to review your insurance and benefit policies to help to prevent the Summertime Blues.

### Alternative Work Arrangements / Flexible Schedules

- ✓ Are your non-exempt employees working longer days exposing you to Fair Labor Standards Act (FLSA) claims? Monitor employee time records and be vigilant about paying them appropriate overtime wages.  
<https://www.dol.gov/whd/regs/compliance/whdfs22.pdf>
- ✓ Is your employee selection process for alternate work schedule arrangements discriminatory? Audit all departments to document who is participating and/or was denied.

### Company Sponsored Social / Recreational Events

- ✓ Are you serving alcohol at an event? If yes, how are you limiting your exposure to DUI and negligence claims? Provide Uber and/or Taxi Cabs to ensure employees arrive home safely.
- ✓ Do you know that an employee injured during Company Sponsored Social / Recreational Activities (i.e. Corporate Challenge, Company Picnic Softball Game) may be compensable under state workers' compensation laws? Prior to these company sponsored events, have your employees sign waivers, written by legal counsel, to minimize reckless behavior,

### Insurance Types – Read and Understand the Coverage

- ✓ Do you know what your Commercial General Liability (CGL) Coverage is and what is covered under this policy?
- ✓ Does your Organization have an Employment Practices Liability Insurance (EPLI) policy to cover employee claims?
- ✓ Did your employer purchase a Directors and Officers Liability Insurance (D&O) policy to protect the Company and its individual directors and officers?

### Paid Time Off / Vacation / Unauthorized Absences

- ✓ Do your managers and supervisors understand how to administer their employee requests?
- ✓ How does your employer monitor the requests to ensure fair treatment of all employees affected?

Organizations and employees will continue to participate in activities that may potentially increase their exposure to a liability lawsuit. Human Resources Professionals need to be proactive by reviewing their insurance policies and establish strong risk management controls. Proactivity eliminates the Summertime Blues and can ensure everyone has a safe, happy summer.

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*Opinions expressed in this article belong to Celeste Schubert.*



*Celeste Schubert is Co-Chair of HR-PRO, Editor of the HR-PRO newsletter and a NYC-SHRM Board Member. Celeste received her Bachelors degree from SUNY Geneseo and earned her Professional Human Resources (PHR and SHRM-CP) certifications.*

*Celeste has extensive human resources and benefits administration experience and enjoys volunteering for non-profit organizations.*

**UPCOMING  
HR-PRO SEMINAR  
PROGRAM**

**LIGHT AT THE END  
OF THE TUNNEL SERIES**

2017 is the year where we address topics that cause confusion for many of us; raise great concern and make us feel like we are groping about in the dark for answers.

We want to show you that there are ways to work through it and that there is LIGHT AT THE END OF THE TUNNEL!

**Our Next Seminar is scheduled  
on October 13, 2017.**

**It's All About Sex, Baby!  
Understanding Gender in  
Today's Workplace.**

**October 13, 2017**

*Speaker: Niru Hegde, Associate,  
Employment & Labor Practice Group of  
Davis & Gilbert.*

Gender pay equity legislation, added pregnancy protections and the dissolution of Defense of Marriage Act are just a few of the issues where sex is a factor.

But this is just the tip of the iceberg - in NYS & NYC transgender, gender identification & LGBT rights, caregiver, familial status are all protected classes.

How do we tackle the challenges that may come with providing a gender neutral, equality focused workplace?

Understand who the law protects and how you can be proactive in approaching compliance, from handbook language to bathrooms.

**SAVE THE DATE  
HR-PRO 2017  
SEMINARS**

**October 13, 2017**  
Understanding Gender in  
Today's Workplace

**November 8, 2017**  
Workplace Violence Prevention

To register for seminars  
Contact  
Aleciah Anthony  
[aanthony@fpwa.org](mailto:aanthony@fpwa.org)

or call **212-801-1346**

All seminars are  
scheduled from  
9:00am to 12:00 PM  
and will be held at  
FPWA Office  
40 Broad Street  
5<sup>th</sup> Floor

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**ABOUT HR-PRO**

HR-PRO (Human Resource Professionals Reaching Out) is a joint program of the FPWA and NYC SHRM, the New York City Chapter of the Society for Human Resource Management (SHRM).

HR-PRO partners with FPWA to provide strategic and technical support to social service agencies with limited resources for addressing the myriad of human resources issues they face. HR-PRO is comprised of HR professionals who provide FPWA agencies with pro-bono consulting services in a wide range of HR areas such as strategic HR, staffing, compensation and benefits, performance management, record-keeping, leadership and teambuilding, health and safety, and much more.

HR-PRO has partnered with Davis & Gilbert who provides free legal advice for agencies who are receiving consulting services from HR-PRO.

