

To: CAMPS
From: Malkin & Ross
Re: Minimum Wage and Overtime Laws
Date: March 8, 2010

Effect of new notice requirement

There has been a recent amendment to the law which requires that every employer notify his or her employees at the time of hiring of the rate of pay and of the regular payday.¹ The law now requires that the notification be made in writing and that the employer obtain a written acknowledgment of receipt of this notice from each employee.² This acknowledgment must conform to any requirements established by the commissioner of labor of the state of New York and must be kept by the employer for 6 years.³ Furthermore, if the employee is eligible for overtime, the notice must state the hourly rate and the overtime rate of pay; if the employee is exempt from overtime requirements, the notice must state the specific exemption that applies. Employers need not use forms prepared by the Department of Labor; employers may create their own forms, or use or adapt the model forms prepared by the Department of Labor, which are available on the Department of Labor website

<http://www.labor.state.ny.us/formdocs/wp/ellsformsandpublications.shtm>).

Who is subject to minimum wage / overtime laws

Most employees must receive minimum wage and overtime pay for all hours worked over 40 in a workweek. However, staff counselors at children's camps are not subject to minimum wage and

¹ NY Labor Law § 195.

² L2009, Ch. 270, Senate Bill 3357, Assembly Bill 6962.

³ Guidelines for Written Notice of Rates of Pay and Regular Payday, NYS Dept of Labor Webpage, accessed Jan. 11, 2010, available at <http://www.labor.state.ny.us/formdocs/wp/LS52.pdf>.

overtime requirements.⁴ Also, anyone who works for a non-profit summer camp for not more than three months annually is not subject to minimum wage and overtime requirements.⁵

Therefore, support staff at a camp would only be exempt if they are working for a non-profit camp and do not work more than 13 weeks a year. Support staff at for profit camps are not exempt from minimum wage and overtime laws.

⁴ NY Labor Law § 651 (5) (l); 12 NYCRR 138-4.4 (c) (3); 12 NYCRR 142-2.14 (c) (8); 12 NYCRR 142-3.12 (c) (13); 12 NYCRR 143.1 (m).

⁵ NY Labor Law § 651 (5) (k); 12 NYCRR 142-3.12 (c) (14); 12 NYCRR 143.1 (n).