

Legal experts discuss new NY employment laws and regulations

■ BENNETT LOUDON

A trio of legal experts discussed new state labor and employment laws and regulations during a recent online event presented by the Rochester Business Journal and The Daily Record.

The virtual panel sponsored by Harris Beach Murtha and Phillips Lytle LLP included: Matthew Holmes, an associate at Littler; James R. O'Connor, a partner at



Ibrahim Tariq

Phillips Lytle; and Ibrahim Tariq, a partner at Harris Beach Murtha.

Effective in April, a new law prohibits the use of a job applicant's credit history, or their credit score, when making a hiring decision.

"If you institute background checks on new applicants ... make very sure that whatever background check company you're using, or if you're doing it yourself, you're being very careful to not get their credit score, their credit history," Tariq said. There are limited exceptions to the law, such as employers that are required by other laws to check an applicant's credit history. These would include em-

ployers in the financial sector and employers that possess sensitive client or customer information, like banking, and national security.

The law also includes an exception for employees who will have access to at least \$10,000 in third-party funds, or who have access to modify the digital technology and security infrastructure of a business.

"Before April 18, make sure that your practices and policies are in compliance with this new requirement," Tariq said.

In late January the federal Equal Employment Opportunity Commission revoked the guidance on anti-harassment published in 2024 by the Biden administration.

But the EEOC rescinding that guidance does not mean that enforcement around issues like gender identity has ended, Tariq said.

"When the federal government on the employment side tends to take its foot off the gas on certain elements of enforcement, you can be assured that New York state's enforcement is going to sort of make up for that balance," he said.

The most important part of the guidance that was rescinded had to do with trans identity status issues.

"That does not mean that New York state is not going to enforce those protections," he said.

For example, in a situation where an employee refuses to use a co-worker's pronouns for religious reasons the EEOC might say the employer must grant the religious accommodation request from that one coworker.

But New York state's Division of Human Rights, or Attorney General's office, will probably respond differently, Tariq said.

Those agencies would likely find that everybody in the workplace needs to abide by the pronoun usage for all employees, Tariq said.

In that sort of a situation, get your legal counsel involved, Tariq suggested.



James R. O'Connor

"You want to be very careful that you're not tripping on a hidden wire from either the EEOC or state Division of Human Rights," he said.

O'Connor explained New York's Trapped at Work Act, which was signed into law by Gov. Kathy Hochul in December, and amended

two months later. Initially, the law generally prohibited promissory notes with employees as a condition of employment, such as when an employer advances money to an employee, and the employee is required to repay the funds if they leave the company.

“The original version of the Act was, suffice it to say, ambiguous, at best. There were a lot of unanswered questions about the scope of... its reach,” O’Connor said.

The law was amended and signed by Hochul on Feb. 13 and takes effect on Dec. 19, 2026. The scope of the law has been narrowed and clarified. And there have been some additional exceptions, O’Connor said.

The original version of the law applied to any worker, including interns, externs, or independent contractors. The new version now applies only to employees.

Under the Act, employers cannot require, as a condition of employment, any such repayment obligation, unless it falls within one of five exceptions.

The law permits agreements that require reimbursement of tuition, and related educational costs. Employers can require an employee to pay for any property that the employer has sold or leased to the employee. Employers can require repayment of a bonus, or a relocation cost, stipend, or any other incentive not tied to specific job performance. Employers can require educational personnel to comply with sabbatical leave terms and return

to work agreements in relation to a sabbatical. And the fifth exception recognizes that there may be repayment agreements as part of a collective bargaining agreement.



Matthew Holmes

Holmes talked about two new laws requiring businesses to have policies in place addressing workplace violence. Employers now must provide a certification to public bidding authorities saying that their company has a policy that deals with gender-based violence in the workplace.

The law requires employers to create another policy that specifically addresses information on gender-based violence, and how it can impact people at work. The law requires employers to be proactive when they learn that employees might be struggling with issues of gender-based violence, Holmes said.

The law requires employers to have a written policy addressing gender-based violence. The state Office of Gender-Based Violence and Domestic Violence has created a lengthy template policy, but it includes definitions and requirements that are not found in the actual statute, Holmes said.

“Clients feel the need to adopt this rather expansive policy when our assessment of the law is that is not simply required,” Holmes wrote.

Employers must share information on what gender-based vio-

lence is, and what state agencies could help. It requires a workplace poster that will refer employees to the state domestic and sexual violence hotline. And the state’s template policy requires employers to refer employee survivors to services.

“There is a concern that employers aren’t taking an active approach when someone comes to them with domestic violence concerns, with just general violence concerns. And they are requiring employers to take a more active role in directing employees to take advantage of those services,” Holmes said.

At the end of 2025, Hochul signed a law that requires health-care facilities, which includes general hospitals and nursing homes, to develop workplace violence prevention programs. The law requires employers in those fields to go a step beyond training and have safety plans and procedures, Holmes said.

“You’ll actually have to conduct safety assessments. You’ll have to evaluate the risk and put that in writing and develop specific programs for dealing with whatever types of issues that develop as a result of those risk assessments,” Holmes said.

In jurisdictions of less than 1 million people, hospitals and nursing homes are required to have at least one off-duty law enforcement officer, or trained security personnel, somewhere on the premises at all times, he said.