

Legislative Update FEBRUARY 2019*

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NEW YORK STATE DEPARTMENT OF LABOR DECIDES NOT TO MOVE FORWARD WITH PROPOSED “EMPLOYEE SCHEDULING” REGULATIONS

The New York State Department of Labor has decided not to continue forward in the regulatory process with regard to its proposed regulations concerning employee scheduling.

The following statement concerning the proposed employee scheduling regulations has been posted on the New York State Department of Labor’s website:

Following a series of public hearings in late 2017, the Department of Labor issued proposed regulations to address what is commonly identified as "just-in-time," "call-in" or "on-call" scheduling.

Based on extensive feedback in the subsequent comment period, it was clear the Department's initial intent to support workers while being fair to businesses was viewed as a one-size-fits-all approach that was not appropriate for every industry. Comments on the revised rules, issued in late 2018, indicated that significant issues remained, and the revisions did not achieve the balance of certainty and flexibility for either workers or businesses.

At this time, due to the constraints of the regulatory process, the best course of action is to let this process expire and re-evaluate in the future, likely in concert with the Legislature, which would have a broader authority and better legal standing than Department of Labor regulations alone to balance the various needs of workers, businesses and industries.

In other words, the New York State Department of Labor has recognized the difficulty in proposing uniform regulations that would govern employee scheduling across the entire State, and has indicated that the New York State Legislature should be involved in establishing Statewide rules that will restrict the rights of employers to schedule and assign their employees. Notably, the Department of Labor took employers’ comments into consideration when reaching this decision.

Source: New York State Department of Labor

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