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July 8, 2026

New York New-Hire Reporting Requirements for Independent Contractors Paid $2,500 or More

Most New York nonprofit organizations are aware that New York State has a new-hire reporting requirement for employees. However, it is not widely known that the reporting obligation applies if the organization enters into an arrangement to pay over $2,500 to an independent contractor.[1] This means that even organizations with no traditional payroll relationship to a contractor may still have a reporting duty.

The report must generally be made to the New York New Hire Reporting Center within 20 days from the hiring date. The reporting system is part of the State Directory of New Hires, which may be used by New York Child Support Services to identify which organizations have an obligation to withhold payments to a contractor in connection with the contractor's child support obligations.

Penalties may be assessed for noncompliance. The Department of Taxation and Finance says the penalty is $20 multiplied by the number of employees not timely reported and $20 multiplied by the number of false or incomplete reports filed.

It is a best practice to build new-hire reporting into contractor onboarding procedures. Organizations that regularly retain consultants, speakers, artistic personnel, trainers, or other service providers should consider implementing a checklist that flags any independent-contractor arrangement over $2,500 for prompt reporting review.

The new-hire requirement is just one of several compliance obligations that may apply when an organization retains an independent contractor. Others may include:

- The obligation to enter into a written contract with particular provisions, and to pay the contractor promptly, if the contractor will be paid at least $800 over a 120-day period.[2]
- Protections against harassment.[3]
- A prohibition on retaliating against independent contractors who file a report concerning unlawful or dangerous activity by the organization.[4]

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[1] NY Tax Law § 171-h (effective Jan. 1, 2022).
[2] For more information, see NYS Department of Labor, Freelance Isn't Free Act, and NYC Department of Consumer and Worker Protection, Freelance Isn't Free Act.
[3] See Lawyers Alliance, Keep Up With Changes to NYS and NYC Anti-Sexual Harassment and Discrimination Law (2020).
[4] See Lawyers Alliance, New Law Imposes Broader Whistleblower Anti-Retaliation Obligations on New York Employers (2022).

Lawyers Alliance is grateful to our Legal Extern Isaiah Kramer and Legal Counsel Jonal Hendrickson for their work on this legal alert.

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