



New York State Department of Labor

Eliot Spitzer, Governor

M. Patricia Smith, Commissioner

July 12, 2007

[REDACTED]

AMENDED

Re: Request for Opinion
Vacation Policy
File No.: RO-07-0070

Dear [REDACTED]:

I have been asked to respond to your letter of July 5, 2007 to which you attach a five page, single-spaced document described as a "time off vacation policy." You ask if someone from the Department of Labor Counsel's Office "can review this new policy, before [you] submit it to [your] co-workers for signature." You did not describe the intended purpose of this "review."

Please be advised that the Department of Labor Counsel's Office provides legal advice and counsel only to the Commissioner of Labor and her agents. As a courtesy, this office will provide opinions to the general public in the form of interpretations of specifically referenced sections of the New York State Labor Law as applied to specific factual situations.

You have not asked for such an opinion, but, instead, have apparently asked this office to provide you with legal advice and counsel in the form of a general "review" of a proposed vacation policy. As this office cannot provide such service to you, I suggest that you consult private counsel of choice in regard to this matter.

As a matter of general law, please note that while there is no provision of federal or New York State Law that requires an employer to give paid time off to an employee, New York State Labor Law §198-c provides that an employer who is a party to an agreement to pay or provide benefits or wage supplements (which would include paid time off) to an employee, but who fails, neglects or refuses to abide by such agreement, is guilty of a misdemeanor. It is well settled that, "All that is required by section 198-c is that an employer abide by the terms of his agreement to provide benefits," (*Glenville Gage Co., Inc. v. Industrial Board of Appeals*, 70 AD2d 283, 286 (3rd Dept. 1979), *aff'd* 52 NY2d 777 (1980)).

Very truly yours,

Maria L. Colavito, Counsel

By: Jeffrey G. Shapiro
Senior Attorney

JGS:
cc: Carmine Ruberto

Phone: (518) 457-4380 Fax: (518) 485-1819
W. Averell Harriman State Office Campus, Bldg. 12, Room 509, Albany, NY 12240