

New York City Joins Other Jurisdictions in Requiring Wage Disclosures, Signaling a Nationwide Trend of Pay Transparency Law

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New York City joined a growing list of other jurisdictions requiring salary disclosures in an effort to tackle pay inequity. Effective on May 15, 2022, the New York City Human Rights Law will require employers to disclose the “lowest to the highest salary the employer in good faith believes at the time of the posting it would pay” in advertisements for jobs, promotions or transfer opportunities. Failure to include the salary disclosures will be “an unlawful discriminatory practice.” The new legislation is available [here](#).

What Employers Are Impacted by the New Law?

The new law covers employers with four or more employees, including at least one employee in New York City. Notably, this threshold number includes independent contractors who work in furtherance of the employer’s business. The law explicitly excludes advertisements for temporary employment at temporary staffing firms, but temporary staffing firms are required to provide this information under the New York State Wage Theft Prevention Act.

Newly Published NYCCHR Guidance Addresses Some Key Questions

A recently [published New York City Commission on Human Rights \(NYCCHR\) Guidance](#) clarifies that the new law applies to any advertisement for a job, promotion or transfer opportunity that would be performed in New York City. In disclosing the salary range, the disclosure cannot be open-ended. For example, a disclosure stating that the position pays “\$15 per hour and up” or a “maximum of \$50,000 per year” would not be

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considered acceptable. The guidance further clarifies that “salary” must include the base wage or rate of pay, and include salary and hourly paid positions; the term does not include other forms of compensation or benefits, such as health, life or other employer-provided insurance, paid or unpaid time off (e.g., paid sick, vacation days, leaves of absence, sabbaticals), 401(k) contributions or employer-funded pension plans, severance pay, overtime pay, or other forms of compensation (e.g., commissions, tips, bonuses, stock, or the value of employer-provided meals or lodging).

Although the salary disclosure law is scheduled to become effective on May 15, 2022, a recently introduced bill that proposes an amendment to the new law may push the effective date to November 1, 2022. The bill also proposes several noteworthy changes, including:

- Excluding from the coverage of the law any employer that has fewer than 15 employees;
- Clarifying that the law does not apply to general notices that an employer is hiring without reference to any particular positions;
- Clarifying that the law does not apply to positions that are not required to be performed, at least in part, in New York City; and
- Clarifying that the law covers both hourly and salaried paid positions;

How Can Employers Begin Planning Now?

Covered employers should begin to review their job postings to comply with the new law. Any violation of the law could result in action by the NYCCHR, which may impose civil penalties of up to \$125,000 for violations and up to \$250,000 for willful violations. Employers should also consider conducting internal pay equity audits to ensure that there are no significant differences in compensation within job positions.

The new law is part of a growing trend of pay transparency in the United States. Colorado, for example, similarly requires employers to include salary ranges in job postings. Other states, such as California, Connecticut, Maryland, Nevada and Washington, require disclosures of pay ranges in certain situations.

If you have any questions about this new law, including how to develop a compliance plan, please contact [any one of Foster Garvey's Labor, Employment & Immigration attorneys](#) for assistance.