

# The Growing Pay Transparency Trend and How Employers Should Prepare: Part 2

## Labor & Employment Law Update

on January 6, 2023

On December 21, 2022, New York Governor Kathy Hochul signed into law a statewide pay transparency bill, Senate Bill S9427A, that will take effect September 17, 2023. New York's Pay Transparency Law requires employers with four or more employees to disclose compensation or range of compensation to applicants and employees when posting any opportunities for hire, promotion, or transfer. The law defines "range of compensation" as the minimum and maximum annual salary or hourly range of compensation for a job, promotion, or transfer opportunity that the employer in good faith believes to be accurate at the time of the positing of an advertisement.

The law mandates that employers maintain and disclose the following information:

1. History of compensation ranges for each job, promotion, or transfer opportunity; and
2. Job descriptions for such positions, if descriptions exist.

Employees or applicants may file an administrative complaint if they believe that they have been aggrieved by a violation of the Pay Transparency Law, and violators are subject to civil penalties.

New York's recent passing of a state-wide pay transparency law joins the growing trend of state and local transparency laws, covered previously on our blog in September 2022.

Takeaways:

As we previously mentioned, we expect pay transparency laws will continue to be enacted throughout the country. With that in mind, employers should take the following steps:

- Establish and review pay levels for each position, confirm salary ranges, and ensure that pay ranges are consistent across gender, race, and national origin;

- Review job postings and notices of promotion or transfer, and confirm that they are compliant with any existing pay transparency laws in effect where you operate;
- Incorporate necessary hiring disclosures for hiring practices internally and for third-party recruiters;
- Establish policies and procedures for recordkeeping of pay data;
- Train managers to ensure that the organization is not taking any actions that could be deemed as limiting employees' rights to discuss their pay or retaliating against employees for having these types of discussions;
- Develop a strategy to resolve current employees' complaints of pay disparity that provides concrete reasons for the disparity (i.e., years of experience) and future opportunities for increased pay, with the goal of limiting employee departures; and
- Keep your eyes and ears open for new pay transparency laws where you operate.

We will continue to monitor for additional guidance on New York's Pay Transparency Law, as well as similar laws in other jurisdictions, to keep you abreast of this growing trend.

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