

Alert | Labor & Employment



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New Jersey Joins Jurisdictions in Banning Salary History Inquiries for Applicants

On July 25, 2019, Acting Governor Sheila Oliver signed NJ A1094 (the “Law”), banning salary history requests in New Jersey. Consistent with the growing trend, New Jersey joins the ranks of many other cities and states that have enacted salary history bans to combat pay inequity.

Effective Jan. 1, 2020, New Jersey employers will no longer be able to inquire about a job applicant’s salary history, benefits, and other compensation during the hiring process. The Law makes it unlawful for an employer to: (1) screen a job applicant based upon the applicant’s salary history, including, but not limited to, the applicant’s prior wages, salaries, or benefits; or (2) require the applicant’s salary history to satisfy any minimum or maximum criteria.

Exceptions to the Law

There are several exceptions to the law. Employers may:

- Consider and/or verify salary history if an applicant voluntarily, without employer prompting or coercion, provides the employer with salary history;
- Request that an applicant provide the employer with a written authorization to confirm salary history, including, but not limited to, the applicant’s compensation and benefits, after an offer of employment has been made to the applicant that includes an explanation of the overall compensation package;

- Consider salary history information when considering an internal transfer or promotion;
- Consider salary history information that an employer has knowledge of due to the applicant's prior employment with that same employer;
- Act in compliance with any federal law that requires disclosure or verification of salary history for employment purposes or to determine an employee's compensation;
- Inquire about the terms and conditions of prior incentive or commission plans if the applicant is applying for a position with a commission or incentive compensation component, so long as the employer does not seek or require the applicant to disclose the applicant's earnings under any plans with a prior employer; and
- Communicate with applicants about wage or salary rates set for the job by collective bargaining agreements, the civil service law, or other laws, and pay the set rates if the applicant is hired.

Penalties for Violations of the Law

Employers who violate the Law will face civil penalties in an amount not to exceed \$1,000 for the first violation; \$5,000 for the second violation; and \$10,000 for each subsequent violation, collectible by the Commissioner of Labor and Workforce Development.

Employer Preparation for Jan. 1, 2020

Employers should review their hiring practices, job applications, interview guides and/or templates, recruiter instructions, and handbooks and modify their policies and procedures to ensure compliance with the Law. All persons responsible for interviewing applicants and hiring new candidates should be trained on the legal implications of these new hiring practices to prevent violations of the Law, the imposition of hefty monetary penalties associated with such violations, and the potential for exposure under the LAD.

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