

APRIL 2022

Employment Alert

New York City's Salary Transparency Law

Ruofei Xiang, Associate | Mazzola Lindstrom LLP

New York City employers will be required to include the minimum and maximum salary range for the position advertised for a job, promotion, or transfer opportunity pursuant to a new law scheduled to take effect on May 15, 2022. This law applies to both external and internal job postings seeking full-time and part-time employees, interns, domestic workers, independent contractors, and other category of workers protected by the New York City Human Rights Law ("NYCHRL"). Salary includes base wage or rate of pay, regardless of the frequency of payment. Employers with four or more employees, with at least one employee who works in New York City, are covered by this law. Employment agencies are also covered, regardless of size. The expected pay range must be disclosed when advertising for a position that can or will be performed, in whole or in part, in New York City – whether from an office, in the field, or remotely from an employee's home. The law does not require employers to disclose benefits or other forms of compensation.

Employers must provide a salary range that the employer in good faith believes it would pay for the position. Employers will not be able to simply state that compensation shall be commensurate with experience or provide an overbroad or open-ended salary range (for example, "\$15 per hour and up" or "maximum of \$50,000 per year"). If there is no flexibility in salary range, the minimum and maximum salary may be identical (for example, "\$20 per hour" or "annual salary of \$100,000").

The failure to comply with the rule shall constitute an unlawful discriminatory practice, subjecting the employer to penalties of up to \$250,000.

A bill proposing amendments is currently pending before the New York City Council. The amendments would change applicability of the law to only employers with 15 or more employees and would include a carve-out for positions that are not required to be performed, at least in part, in New York City. The amendments would push out the effective date of the law to November 1, 2022.

Currently, the salary transparency law is set to take effect on May 15, 2022. Employers may get a reprieve on the effective date if the bill is passed. Nonetheless, employers in New York City should take steps now so that they are prepared to comply with the new law, including assessing good-faith salary ranges for each position, reviewing and editing job descriptions that will be advertised after the new law's effective date, revising HR-related documents that include salary representations, and examining internal policies and practices that may conflict with the law.

We also encourage employers to perform internal audits so as to align current employee salaries with the salary ranges of the same or similar positions that will be posted after the new law takes effect.

Regardless if you are an employer or employee, if you need assistance navigating how this new law impacts your business practices, please do not hesitate to contact us. For more information go to www.mazzolalindstrom.com