

New York City Employers Will Soon Be Banned From Asking Job Applicants About Compensation History

On April 7, 2017, the New York City Council approved [legislation](#) that will ban almost all employers in New York City from (1) asking job applicants about their compensation history and (2) relying on a job applicant's compensation history when making a job offer or negotiating an employment contract, unless that applicant freely volunteers such information. Mayor de Blasio has not yet signed the bill, but he is expected to do so; once he does, the new legislation will become effective 180 days from that date. Job applicants who allege a violation of this provision may file a complaint with the New York City Commission on Human Rights or directly in court.

This law will even prohibit employers from conducting searches of publicly available records for the purpose of obtaining an applicant's salary history. Employers will be permitted, however, to ask about an applicant's salary and benefits expectations. Further, if a job applicant volunteers his or her compensation history, the law will not prohibit employers from verifying and considering such information.

The ban will also not apply to: (1) actions taken pursuant to any law that authorizes the disclosure or verification of salary history; (2) internal transfers or promotions; and (3) public employee positions for which compensation is determined pursuant to procedures established by collective bargaining.

New York City is not the first to pass such a law. In the last 8 months, Massachusetts, Puerto Rico, and Philadelphia have all implemented similar bans on questions about compensation history. Proponents of these laws argue that the bans will help erase pay inequity and will especially help those who have been historically underpaid. Opponents argue that such government action constitutes unconstitutional infringement on free speech rights.

In any case, New York City employers should put their Human Resources personnel, and any others involved in the hiring process, on notice about the imminent change in law. All employers, not just those with employees in New York City, should be mindful of the trend of lawmakers seeking to keep compensation history out of the hiring process and should expect this trend to continue.

If you have any questions about this Information Memo, please contact [Christopher J. Dioguardi](#), or any of the [attorneys](#) in our [Labor and Employment Law Practice](#), or the attorney in the firm with whom you are regularly in contact.



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