

NYC Approves Ban on Salary History Questions

On May 4, New York City Mayor Bill de Blasio signed a law prohibiting employers from asking job applicants to disclose their salary history during the hiring process. This new legislation follows a November 2016 law passed in New York City prohibiting salary history inquiries for government employees. Massachusetts, Philadelphia, and Puerto Rico have passed similar laws, and other cities and states are considering doing the same. New legislation is also being introduced at the federal level.

The New York City law takes effect on October 31, 2017, which means employers have about three months to prepare.

About the law

The law specifically states that employers cannot “rely on the salary history of an applicant in determining the salary, benefits or other compensation for such applicant during the hiring process, including the negotiation of a contract.”

The term “salary history” refers to current and prior salary information, and all other forms of compensation including benefits. All New York City employers will be prohibited from asking for this information from the applicant, from the applicant’s current or former employer, or from another employee or agent of that employer. They will also be prohibited from searching public records for salary information. However, any objective measures of the applicant’s productivity, such as revenue or sales, are outside the scope of the ban.

Key exceptions

Employers should make note of a few exceptions to the law:

- If an applicant “voluntarily and without prompting” discloses salary history, the employer can verify the salary history and use it to determine the applicant’s salary, benefits, or compensation.
- Employers can still ask the applicant about salary expectations, can discuss any unvested equity or deferred compensation that the applicant would forfeit by leaving his or her current job, and can inform the applicant about the position’s salary range.
- The ban does not apply when salary disclosure or verification is specifically authorized under federal, state, or local law.
- The law does not apply to current employees who are applying for an internal transfer or promotion.
- The law excludes public employees whose salaries are determined by collective bargaining agreements.

Next steps for employers

1. Make sure your hiring managers are trained to not ask questions about salary history. Instead, have them shift focus to the applicant’s salary expectations or the employer’s anticipated salary range.
2. Update your employment application by removing any questions concerning salary history.



3. Review your background check forms and phone screen and interview materials, to make sure they don't contain any questions about salary history.
4. Multistate employers should be aware of this new law as similar laws are gaining momentum in other jurisdictions.
5. If you are one of our full-service clients, we will help you review your employment application and provide you with some sample interview questions to ensure that you will be compliant with these new regulations. If you have any questions about how this new law affects your business, please [contact us](#).

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