

Tips for Complying With New Pay Transparency Laws Requiring Disclosure of Pay Ranges

Labor & Employment Workforce Watch

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Over 20 states and local jurisdictions have enacted pay transparency laws that are intended to address gender and other forms of bias in the pay received by women and minorities. Some jurisdictions require that companies provide salary or hourly pay ranges for open positions to candidates who ask for such information, and others prohibit companies from asking applicants about their current and past salary or pay rate. More recently, states and municipalities have begun enacting laws that address the content of ads and job postings, and they can be far more cumbersome for employers to comply with the laws' requirements, including:

- California (effective January 1, 2023)
- Washington State (effective January 1, 2023)
- Colorado (effective January 1, 2021)
- New York State (signed by the Governor in December 2022; effective September 2023)
- New York City (effective November 1, 2022)

These laws vary in terms of the specific disclosures that must be provided by employers in addition to ranges of salary and hourly rates for open jobs. Some states (Colorado and Washington) require disclosure of benefits and other compensation, such as bonuses, tips and stock options, being offered. Colorado also requires a description of health care, retirement, and paid time off benefits. New York State requires a job description to accompany the disclosure of the pay range.

Some of the new laws cover positions that may be performed remotely, in whole or in part, in those jurisdictions.

The ranges of penalties and the types of enforcement mechanisms available under the pay transparency laws vary greatly across jurisdictions, ranging from penalties as low as \$1,000 to as much as \$250,000. Some of the laws allow private lawsuits and some do not. For information relating to the specific penalties and whether there is a private right of actions permitted under these pay transparency laws, see our [December 2022 QuickStudy](#).

In light of the advent of these types of pay transparency laws, employers should consider the following measures to the extent they have employees in any cities or states covered by such laws, or allow positions to be performed remotely in whole or in part, to ensure company practices are compliant.

- Document (via email or other electronic record) and retain the reasons for the salary or hourly wage range being posted.

- Assume that virtually all remote positions can be filled by someone that resides in a state covered by one of the pay transparency laws.
- Avoid carving certain jurisdictions out of ads for remote roles. At least one state administrative agency has issued guidance that prohibits such efforts to circumvent a pay transparency law in that state, and other state and local agencies may follow suit.
- Before posting pay ranges and when considering what ranges to post, consider how the pay ranges match up with the pay rates of current employees and whether the posting will create morale or retention issues among existing workers.
- Avoid job postings for generic positions with wide pay ranges. Consider modifications to job titles to more closely align with pay differentials.
- If applicable, consider adding to the job posting or ad that “salary or hourly rates are dependent on location or other business factors.”
- Include in an ad or posting a list of one or more factors contributing to the range of compensation, such as experience and education.
- When posting for a remote position, consider using an abbreviated recitation of all forms of compensation and benefits to comply with those laws that require more extensive disclosures.
- Keep in mind that some laws cover more than traditional full-time employees (for example, the New York City law covers seasonal and part-time employees, interns, and even independent contractors).
- If applicable, consider requesting or insisting that a staffing company include in their postings or ads the same information that employers are required to disclose.

For a more detailed description of our tips on this topic, see our [December 2022 QuickStudy](#).

We anticipate more pay transparency laws will likely be enacted in other states or cities in the coming years, and state and local workforce agencies may issue new or updated rules, regulations, guidelines, and FAQs to assist employers on this topic. The above suggestions may be useful to enhance compliance with any new legislation.

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