

EMPLOYER FACT SHEET:

Protections Against Inquiries into Job Applicants' Salary History

Starting October 31, 2017, employers in New York City cannot ask about or rely on salary history during the hiring process. The law is aimed at disrupting the cycle of wage inequality for women and people of color and encouraging employers to set compensation based on qualifications.

Q. Does this new law apply to my business?

A. Yes. This new law applies to all employers in New York City, regardless of size. If you employ at least one employee in New York City, you must comply with this law.

Q. Who is protected?

A. Most applicants for new jobs in New York City are protected, except:

- Applicants for internal transfer or promotion with their current employer.
- Applicants for positions with public employers or which compensation is set pursuant to a collective bargaining agreement. However, City government agencies are prohibited from inquiring about or relying on job applicants' salary history pursuant to Mayoral Executive Order 21, signed on November 4, 2016.

Q. What is prohibited?

A. Employers cannot:

- Ask applicants questions about or solicit information about applicants' current or prior earnings or benefits, for example on job applications.
- Ask applicants' current or former employers or their employees about applicants' current or prior earnings or benefits.
- Search public records to learn about applicants' current or prior earnings or benefits.
- Rely on information about applicants' current or prior earnings or benefits to set their compensation.

Q. What is not prohibited?

A. Employers can:

- Make statements about the anticipated salary, salary range, bonus, and benefits for a position.
- Inquire about applicants' expectations or requirements for salary, benefits, bonus, or commission structure.
- Ask about objective indicators of applicants' work productivity in their current or prior jobs, such as revenue, sales, production reports, profits generated, or books of business.
- Make inquiries to applicants' current or former employers or search online to verify non-salary information, such as work history, responsibilities, or achievements. However, if this results in the accidental discovery of current or prior earnings or benefits, the employer cannot rely on this information in making salary or benefits decisions.
- Make inquiries about salary history that are authorized or required by federal, state, or local law.
- Verify and consider current or prior earnings or benefits **only if** offered voluntarily and without prompting by the applicant during the interview process.

Q. What are the consequences for employers who violate the law?

A. They may be required to pay damages, a fine, and/or be subject to additional affirmative relief such as mandated training and posting requirements.

To learn more about your responsibilities as an employer in New York City under the NYC Human Rights Law, visit NYC.gov/HumanRights. You can sign up to attend a training on the Law and access materials with helpful information on how to comply.



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