

## **Show Me the Money: New York City's Pay Transparency Law Delayed Until November 1, 2022**

On January 15, 2022, the New York City Council (the Council) enacted a [law](#) requiring employers in the city with four or more employees to disclose the expected salary range on internal and external job listings beginning on May 15, 2022.

On March 24, 2022, the Council introduced a proposed [amendment](#) to the salary transparency law. The Council held a hearing on April 5, 2022, and on April 28, 2022, the Council [amended](#) the law, with a new effective date of November 1, 2022. Mayor Eric Adams signed the amendment into law on May 12, 2022.

Significantly, the law makes it an unlawful employment practice for covered employers to advertise a "job, promotion, or transfer opportunity" without stating the minimum and maximum annual salary or hourly wage for the position in the advertisement. Notably, the stated salary range may extend "from the lowest to the highest annual salary or hourly wage the employer in good faith believes at the time of the posting it would pay for the advertised job, promotion or transfer opportunity."

In anticipation of the November 1, 2022, effective date, the New York City Commission on Human Rights issued updated [guidance](#) on the Council's new salary range disclosure law.

### **To Whom Does the New Law Apply?**

All employers that have four or more employees *or* one or more domestic workers are covered by the law.

Significantly, owners and individual employers count toward the total of four employees. Further, the four employees do not need to work in the same location, and they do not all need to work in New York City; as long as one of the employees works in New York City, the workplace is covered. However, the law does not apply to positions that cannot or will not be performed, at least in part, in the city of New York.

While employment agencies regardless of their size are covered by the new law, temporary help firms seeking applicants to join their pools of available workers are not covered. Despite this fact, employers who work with temporary help firms must follow the new salary transparency law.

### **Which Job Listings Are Covered?**

Any advertisement for a job, promotion, or transfer opportunity that can or will be performed in New York City, in whole or in part, is covered by the new law. "Advertisement" is defined as a written description of an available job, promotion, or transfer opportunity publicized to a pool of potential applicants. Such advertisements are covered regardless of the medium in which they are disseminated.

Covered listings include postings on internal bulletin boards, internet advertisements, printed flyers distributed at job fairs, and newspaper advertisements.

Further, the law does not prohibit employers from hiring without using an advertisement, and does not require employers to create an advertisement in order to hire. However, if an employer does choose to advertise, it must comply with the law's disclosure requirements.

### **What Information Must Be Included in the Job Advertisements?**

Employers must state both the minimum and maximum annual salary or hourly wage they in good faith believe, at the time of the posting, they are willing to pay for the advertised job, promotion, or transfer opportunity.

"Good faith" means the salary range employers honestly believe, at the time they are listing job advertisements, that they are willing to pay the successful applicant(s). The salary range cannot be open-ended.

Salary includes the base wage or rate of pay, regardless of the frequency of payment. Salary does not include other forms of compensation or benefits offered in connection with the advertised job, promotion, or transfer opportunity, such as insurance, severance pay, overtime pay, and paid or unpaid time off work, among others.

### **What Are the Penalties for Noncompliance?**

A civil penalty will not be assessed for a first complaint alleging a violation of the salary transparency provision, provided that the employer shows they have fixed the violation within 30 days of receiving notice of the violation. Covered employers may have to pay civil penalties of up to \$250,000 for an uncured first violation of the new law, as well as for any subsequent violations.

**When Must Companies Comply?** Employers have until November 1, 2022, to comply with the new salary disclosure law.

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