

NEW YORK CITY EMPLOYERS MUST DISCLOSE SALARY RANGES IN JOB POSTINGS BEGINNING ON MAY 15, 2022

Hodgson Russ Labor & Employment Alert
April 5, 2022

On December 15, 2021, the New York City Council passed a bill that requires employers (and their agents) to state “the minimum and maximum salary” in each “advertisement” for a “job, promotion or transfer opportunity.” On January 15, 2022, that bill, which amended the New York City Human Rights Law (“NYCHRL”) to create Section 8-107(32) (the “Local Law”), became law when Mayor Eric Adams did not veto it. On March 22, 2022, the New York City Commission on Human Rights (“CCHR”) issued Guidance (the “Guidance”) concerning the Amendment.

Requirements of the New Law

The Local Law, which is currently scheduled to go into effect on May 15, 2022, will require New York City employers with four or more employees (or one or more domestic workers), to include the minimum and maximum starting salary for any “advertised job, promotion or transfer opportunity.” When establishing the minimum and maximum salary for a position, an employer must determine, in good faith, what it believes it would pay for the advertised job, promotion, or transfer opportunity at the time of advertisement.

Even though the Local Law does not define the term “salary” or state how salary must be stated in a job posting, the Guidance makes clear that employers must comply with the required disclosure, regardless of whether the position is exempt or non-exempt, with regard to any job that will be performed in New York City.

Even though the Local Law does not define the geographic scope of the salary range requirement, the Guidance provides that it applies to all postings for jobs physically located in New York City, whether or not the employee is working in an office, in the field, or from a home in New York City. Accordingly, all New York City employers and all employers advertising positions located in New York City, should disclose salary ranges in all job postings (including advertisements of internal promotion and transfer opportunities) for any job that will be performed in New York City.

Attorneys

Luisa Bostick
Joseph Braccio
Glen Doherty
Andrew Drilling
Ryan Everhart
Andrew Freedman
Peter Godfrey
John Godwin
Charles H. Kaplan
Karl Kristoff
Christopher Massaroni
Elizabeth McPhail
Lindsay Menasco
Kinsey O'Brien
Jeffrey Swiatek
Michael Zahler

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Enforcement

The new Local Law amends the New York City Human Rights Law. Accordingly, an employer's failure to include salary ranges in a job posting will constitute an unlawful discriminatory practice under the NYCHRL. Any violation of the Amendment could result in action by the CCHR, which may impose civil penalties of up to \$125,000 for violations, and up to \$250,000 if the violation were found to be willful, wanton, or malicious. In addition, employees may bring claims under the Local Law before the CCHR or in court, where the employee will have the right to a jury trial. In such proceedings, employees may be awarded back pay, and compensatory and punitive damages, as well as their attorneys' fees.

Revisions to the New Local Law

Even though the salary transparency law is set to become effective on May 15, 2022, a bill introduced in the New York City Council on March 24, 2022 would move the effective date of the new Local Law to November 1, 2022, would exclude employers with fewer than 15 employees from having to disclose a minimum and maximum salary or rate of pay, and would clarify a number of the Local Law's provisions. However, until such proposed revisions become law, employers must be ready to comply with the Local Law starting on May 15.

Next Steps for Employers

Before the Local Law goes into effect, employers should begin reviewing their current job advertisements (including internal promotion and transfer opportunities, listings on bulletin boards, business intranets, and on the internet) that are posted for positions physically located in New York City for employees and independent contractors. All such advertisements should be updated to include the minimum and maximum salary or rate of pay for each position. As explained above, such range must be established in good faith. Employers should consider documenting salary ranges for all positions with incumbents currently working in New York City to assist in making salary range determinations for open positions.

If you have any questions about this new Local Law requiring the posting of salary or rate of pay ranges, please contact [Charles H. Kaplan](#) (646.218.7513), [Monaliza Rainwater](#) (646.218.7542), or any other member of our [Labor & Employment Practice](#).