

Alert: Inquiries into Pay History Prohibited

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Beginning January 1, 2024, employers, employment agencies, and labor organizations are prohibited from inquiring into, considering, or requiring the disclosure of the pay history of an applicant for employment for the purpose of determining wages, salary, earnings, benefits, or other compensation for that applicant. The general prohibition against inquiring into the pay history of an applicant does not apply if the job applicant's pay history is a matter of public record under federal or state law, unless the employer, employment agency, or labor organization sought access to those public records with the intent of obtaining pay history of the applicant for the purpose of determining wages, salary, earnings, benefits, or other compensation for that applicant.

The new rule does not prevent an applicant from disclosing pay history for the purposes of negotiating wages, salary, benefits, or other compensation. Such disclosure must be voluntary and without asking, encouraging, or prompting. If an applicant for employment voluntarily and without asking, encouraging, or prompting discloses pay history to a prospective employer, employment agency, or labor organization, nothing will prohibit the employer, employment agency, or labor organization from considering or acting on that voluntarily disclosed salary history information to support a wage or salary higher than initially offered by the employer, employment agency, or labor organization.

See Minn. Stat. 363A.08, subd. 8(b) and (c).

If you would like assistance assuring best practices in this area, please contact your attorney at Moss & Barnett.

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