

Understanding Your Right to Pay Equity in New York!

What Workers and Employers Need to Know About New Pay Transparency Laws in New York?

New York City, Westchester County, Ithaca, and New York State recently passed groundbreaking pay transparency legislation. New York City's law went into effect on November 1, 2022, and [New York State's law](#) goes into effect on September 17, 2023. These new laws provide a critical tool to help achieve pay equity and are having a transformative impact on advancing pay transparency laws and practices across the country. This Q & A provides an overview for workers and employers alike on what the laws in New York City and New York State require, why are these laws needed, and how workers and employers can use this law to their benefit.

What does an employer need to do to comply with the new requirements?

NY City: Employers with four or more employees and employers of domestic workers must include a good faith wage/salary range in any advertisement for a job, promotion, or transfer opportunity for any position that can or will, at least in part, be carried out in New York City. Employers must include the minimum and maximum salary 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 the employer honestly believes at the time they are listing the job advertisement that they are willing to pay the successful applicant(s). [See the NYC Commission's Fact Sheet for more information.](#)

NY State: Employers with four or more employees must include a good faith compensation range and job description, if one exists, in any advertisement for a job, promotion, or transfer opportunity that can or will be physically performed, at least in part, in NY, including opportunities that may be performed outside the state but report to a supervisor, office, or other works site in New York. Under the law, a good faith range includes the minimum and maximum annual salary or hourly range of compensation that the employer in good faith believes to be accurate at the time of the posting.

Which employers have to comply and does the law apply to remote work opportunities?

NY City: The law applies to employers with four or more employees, or one or more domestic workers so long as one of the employees works in NYC. The law applies if a covered employer is posting an opportunity that can or will be done in New York City, including remote work opportunities. The law also applies to employment agencies and recruiters regardless of their size, but it does not apply to temp agencies.

NY State: The law applies to employers with four or more employees if they are posting a position that can or will be physically performed, at least in part, in New York as well as remote opportunities that can be performed outside the state but report to a supervisor, office, or other work site in New York.

What can I do if an employer does not follow the pay transparency requirements?

NY City: Failing to disclose minimum and maximum salary is a form of employment discrimination. Any member of the public who identifies a violation of the law can file a complaint to the NYC Commission on Human Rights. If you are a current employee and seek to allege a violation of this law against your employer, you may also be able to file a civil lawsuit.

NY State: Any member of the public who identifies a violation of the law can file a complaint with the NYS Department of Labor, which can investigate and issue penalties. Covered employers are subject to a sliding scale of civil penalties up to \$3,000 for repeated violations.

Why are pay disclosure laws important?

There is a significant gender and racial pay gap in New York that is worse for women of color and pay secrecy has contributed to and perpetuated these gaps. Under our pre-existing scheme of pay secrecy, workers typically applied for, interviewed for, and negotiated salaries without knowing the compensation or compensation range for the position and employees typically carry out their jobs without knowing what their colleagues are earning, with women often being paid significantly less than male colleagues for doing the same or substantially similar work. Pay secrecy has made it almost impossible to identify problematic disparities and allowed employers to set pay behind closed doors in an ad hoc fashion, often based on gender and racial bias, and without thoughtful, equitable, or consistent compensation schemes and without accountability. Pay secrecy especially disadvantages women and people of color, who historically have earned less due to discriminatory practices, have less leverage, and are thus in a weaker position to negotiate higher salaries without information about compensation rates. Research conducted in jurisdictions that have enacted pay transparency provisions and among employers who have adopted transparent pay practices shows that pay transparency laws do in fact help reduce the gender pay gap. ⁱ

How does pay transparency address the gender and racial pay gap?

- By requiring employers to disclose compensation ranges up front, employers are encouraged to set salary based on objective qualifications, experience, competencies, and job expectations instead of individualized and subjective assessments, which we know to rely on implicit gender and racial biases and salary expectations.
- These laws will give jobseekers (women and people of color in particular) more leverage in the hiring process by arming them with basic information, so they do not continue to undersell themselves in negotiations.
- Pay transparency can combat occupational segregation by giving jobseekers (women and people of color, in particular) basic information they need about what jobs are worth to pursue and move into higher paying industries.
- Pay disclosure also drives fairer employment practices, making it harder for employers to set exploitative wages behind closed doors and giving employers an incentive to set salary in a way that is more fair, efficient, and accountable.

Are there benefits for business/employers?

Yes. Businesses, big and small, across the United States are moving towards a practice of disclosing compensation ranges in job advertisements, often voluntarily. Salary is one of the most important factors for candidates, and disclosing it gives employers a competitive advantage by making employers more attractive to workers. ⁱⁱ Disclosing salary eliminates inefficient hiring practices allowing candidates to apply only for those jobs that can meet their salary requirements. By eliminating unfair schemes, that breed resentment and result in higher turnover, disclosure allows employers to attract a better qualified applicant pool, increase trust, job satisfaction, employee engagement, worker productivity, retention, and profitability.ⁱⁱⁱ Even once-skeptical employers [are recognizing the significant benefits](#) of transparency, including attracting better candidates who are likely to stay longer, and many HR firms across the country are increasingly advising employers to get on board.^{iv} According to Payscale, “Pay transparency will be a part of any modern compensation plan, as the future is trending in this direction.” Companies that attempt to keep pay a secret will be at a competitive disadvantage compared to other employers and are likely to suffer reputational costs.^v

Endnotes

ⁱ Michael Baker et al., Pay Transparency and the Gender Gap (Nat'l Bureau of Econ. Research Working Paper No. 25834), https://www.nber.org/system/files/working_papers/w25834/w25834.pdf; Michael Baker et al., Can Transparency Laws Fix the Gender Wage Gap?, Harvard Business Review (Feb. 26, 2020), <https://hbr.org/2020/02/can-transparency-laws-fix-the-gender-wage-gap>; Maria Recalde & Lise Verterlund, Gender Differences in Negotiation and Policy (Nat'l Bureau of Econ. Research Working Paper No. 28183), https://www.nber.org/system/files/working_papers/w28183/w28183.pdf; Does Pay Transparency Close the Gender Wage Gap?, PayScale, <https://www.payscale.com/content/whitepaper/Pay-Transparency-ClosingGender-Wage-Gap.pdf> (last visited Mar. 8, 2022) (“The high-level results of this research show that when respondents agree that pay is transparent in their organization, the gender wage gap vanishes for women doing similar jobs to men when all compensable factors are adjusted.”).

ⁱⁱ Greg Lewis, This Job Description Heatmap Shows You What Candidates Really Care About (and What They Ignore), LinkedIn Talent Blog, <https://www.linkedin.com/business/talent/blog/talent-acquisition/jobdescription-heatmap>, 2018; https://worldatwork.org/workspan/articles/pay-transparency-remains-key-amid-atight-labor-market?utm_source=marketo&utm_medium=email&utm_term=workspanweekly_06212022&utm_content=mixed&utm_campaign=pub-workspanweekly&mkt_tok=OTM1LVVaVS03MTgAAAGFJVUyz9S-ip5XTofXxdP00XrXGTKvQ1Jfe0h7icf2um41EUFKeewm8mEv3kEWGL9c5sP4WHcqYpbxq00vn7GD7FzoKaFfJlHDEz7ZSdo11Q.

ⁱⁱⁱ Does Pay Transparency Close the Gender Wage Gap?, PayScale, <https://www.payscale.com/researchand-insights/paytransparency/#:~:text=Fortunately%2C%20when%20analyzed%20against%20pay,every%20%241%20a%20man%20earns> (last visited Mar. 8, 2022); Samantha Cooney, Should You Share Your Salary With CoWorkers? Here's What Experts Say, Time (Aug. 14, 2018), <https://time.com/5353848/salary-pay-transparencywork/>.

^{iv} Roy Maurer, More Employers Post Salary Ranges to Attract Workers, SHRM, <https://www.shrm.org/resourcesandtools/hr-topics/talent-acquisition/pages/salary-ranges-.aspx>, 2021

^v Does Pay Transparency Close the Gender Wage Gap?, PayScale, <https://www.payscale.com/researchand-insights/paytransparency/#:~:text=Fortunately%2C%20when%20analyzed%20against%20pay,every%20%241%20a%20man%20earns>.