



April 11, 2022

NYC Salary Transparency Law

On January 15, 2022, a new NYC law was enacted prohibiting employers from posting job listings without minimum and maximum salary information. The new law is set to take effect on May 15, 2022. On March 22, 2022, the New York City Commission on Human Rights issued a “fact sheet” providing guidance on the law. However, On March 24, 2022, the NYC Council took up a new bill that, if enacted, would significantly alter the new law.

Below is a summary of the new law and guidance, as well as how it could change under the current bill.

<p>Who is a covered employer?</p>	<p>Any employer that has four or more employees (or one or more domestic employees).</p> <p><i>(Note that under the proposed bill, only employers with 15 or more employees would be covered.)</i></p>
<p>How do employers determine if they have four or more employees?</p>	<p>Independent contractors and owners are counted as employees.</p> <p>The four employees do not need to work in the same location.</p> <p>Only one of the employees needs to work in NYC.</p>
<p>Are employment agencies covered?</p>	<p>Yes, they are covered regardless of size. This means that employment agencies must ensure that any job listing that they promote or seek to fill complies with the new salary transparency requirements.</p> <p>Temporary help firms seeking applicants to join their pool of available workers are not covered. However, employers who work with temporary help firms must follow the new salary transparency requirements.</p>
<p>Which job listings are covered by the new law?</p>	<p>Any advertisement for a job, promotion, or transfer opportunity that would be performed in New York City is covered by the new law. According to the guidance, covered employers should follow the new law when advertising for positions that can or will be performed, in whole or in part, in New York City, whether from an office, in the field, or remotely from the employee’s home.</p> <p>Covered listings include postings on internal bulletin boards, internet advertisements, printed flyers distributed at job fairs, and newspaper advertisements.</p>



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	<p>Postings are covered regardless of whether they are seeking full- or part-time employees, interns, domestic workers, independent contractors, or any other category of worker protected by the NYCHR.</p> <p><i>(Note that under the proposed bill, the following types of job postings would be excluded from the law’s scope: (1) employer posts that do not advertise for a specific position (general calls for applications), and (2) ads for positions that are not required to be performed in NYC (possibly covering remote positions)).</i></p>
What about word-of-mouth advertising?	The law does not prohibit employers from hiring without using an advertisement or require employers to create an advertisement in order to hire.
What salary information is required in job listings?	<p>Employers must state the minimum and maximum salary they in good faith believe at the time of the posting they are willing to pay. Employers must include both a minimum and a maximum salary; the range cannot be open ended. If an employer has no flexibility in the salary they are offering, the minimum and maximum salary may be identical.</p> <p>Advertisements that cover multiple jobs, promotions, or transfer opportunities can include salary ranges that are specific to each opportunity.</p>
What does “good faith” mean?	"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).
What should be included as “salary”?	According to the guidance, salary includes the base wage or rate of pay, i.e., hourly rate or annual salary.
Must the employer include other forms of compensation in salary?	<p>No. For this purpose, salary does not include other forms of compensation or benefits offered in connection with the advertised job, promotion, or transfer opportunity.</p> <p>In calculating the salary minimum and maximum, employers need not include employer-provided insurance, paid time off, retirement plan contributions, severance pay, overtime pay, bonuses, stock, commissions, tips, meals, lodging or other forms of compensation.</p> <p>However, employers are still permitted to include additional information about benefits and other forms of compensation in the job posting.</p>



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When must employers start complying?	May 15, 2022 <i>(Note that the proposed bill would move the effective date to November 1, 2022.)</i>
How will the new law be enforced?	The NYC Commission on Human Rights investigates complaints of discrimination. The Law Enforcement Bureau also initiates its own investigations.
What are the penalties under the new law?	Employers and employment agencies who are found to have violated the new law may have to pay monetary damages to affected employees and civil penalties of up to \$250,000. Covered entities may also be required to amend advertisements and postings, create or update policies, conduct training, provide notices of rights to employees or applicants, and engage in other forms of affirmative relief.

This alert is for general information purposes and should not be construed as legal advice. If you would like information about this alert, please contact one of the firm's attorneys:

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