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Department
of Labor

PAY TRANSPARENCY LAW

for Employers

New York State's Pay Transparency Law (New York State Labor Law Section 194-b) requires private employers with four (4) or more employees to include a range of pay for all advertised job, promotion, or transfer opportunities. This fact sheet is intended to help employers navigate the new law and meet its requirements.

NYS PAY TRANSPARENCY LAW

- As of September 17, 2023, the New York State Pay Transparency Law requires all job, promotion or transfer opportunities advertised by an employer to include a salary, hourly rate, or range of pay.
- This law applies to employers with four (4) or more employees.
- This applies to all job, promotion or transfer opportunities that will be physically performed, at least in part, in New York State.
- The law also applies to opportunities performed outside New York State that report to a supervisor or office in New York State.
- Any remote or telecommuting opportunities that will report to a supervisor, office or worksite in the state of New York are covered by this law, regardless of whether the employee will be working from home outside New York State.
- If an employee's physical presence in New York State is only for occasional work-related purposes, such as a meeting, a conference, or communicating with employees based in New York State, that would not be enough activity to be considered a job performed in New York State.
- Under this law, employers are prohibited from retaliating against employees who discuss their compensation with coworkers.

ADVERTISEMENTS COVERED BY THIS LAW

- Advertisements require a range of pay regardless of how or where they are posted.

- This law covers any job posting shared with more than one person and made available internally or to the public.
- Covered posting mediums include but are not limited to: newspaper ads, printed flyers, social media posts, website postings, anything sent to an electronic mailing list, and emails sent to a pool of more than one applicant.
- Opportunities are covered whether posted by the employer directly or on the employer's behalf by a third-party such as through a job-listing website.
- Employers are not responsible for any postings that are re-posted or "scraped" by a third-party website without their consent.
- If an employer requires more space to include full range of pay information, they may post it in a separate location, as long as the information is still available free of charge and easily accessible. For instance, posting on social media with a link to the full job posting on the company's website.

HOW TO DRAFT A PAY RANGE

- A pay range must include a minimum and maximum annual salary or hourly rate of compensation for a job, promotion, or transfer opportunity that the employer in good faith believes to be accurate at the time of the posting.
- If the employer does not plan to offer a range, but instead plans to offer a single fixed rate, such as \$30 an hour, the fixed rate must be listed.
- A pay range cannot be open-ended. For example, "\$20+ an hour" is not allowed.
- A range of pay cannot include other forms of compensation or benefits such as employer provided insurance, paid leave or retirement savings. However, employers are encouraged to disclose such benefits separately.

- If compensation for an opportunity is completely commission based, employers must state that clearly when advertising the opportunity.
- The law specifies employers must make a good faith effort to determine range of pay.

GOOD FAITH EFFORT

- A good faith pay range is one that an employer legitimately believes they are willing to pay **at the time of the advertisement's posting**.
- Employers should consider factors such as the job market, current employee pay levels, hiring budget and the experience/education levels they are willing to accept from the candidate in determining a good faith range of pay.
- An employer may adjust the range of pay in an advertisement after collecting additional information during the hiring process.

HOW TO DRAFT A POSTING FOR MULTIPLE LOCATIONS OR OPPORTUNITIES

- A range of pay must be for single opportunity and location/region.
- Postings that include multiple possible locations or multiple opportunities at different levels of seniority must include a separate pay range for each location or opportunity.
- For example, if an employer is using one post to seek three Plant Manager positions in three different counties, the employer must post a range for each location:

PLANT MANAGER LOCATION	RANGE OF PAY
Westchester County	\$100,000 - \$125,000
Erie County	\$75,000 - \$90,000
Clinton County	\$75,000 - \$90,000

TEMPORARY HELP FIRMS

- This law does not apply to temporary help firms seeking to hire workers to perform work or services for other organizations.
 - Employers seeking to hire workers through a temporary help firm must include a range of pay.
- However, any advertisement for an opportunity to work directly for the temporary help firm, for instance as the Executive Director, must include a range of pay.

JOB DESCRIPTIONS

- All postings for a job, promotion or transfer opportunity must contain a job description when available.
- An employer must create a job description except in the limited circumstance where the title conveys the job duties.
- When the job title clearly conveys the duties for the job, for instance, dishwasher, a job description is not required.

WHAT THIS LAW DOES NOT DO

- This law does not require employers to create a posting for every available job, promotion, or transfer opportunity.
- This law does not require employers to use a specific medium for advertisements.