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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 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	<b>\$100,000 - \$125,000</b>
Erie County	<b>\$75,000 - \$90,000</b>
Clinton County	<b>\$75,000 - \$90,000</b>

## 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.