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US: CINCINNATI ADOPTS SALARY HISTORY BAN

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8 Apr 2019*

Cincinnati has adopted an ordinance ([83-2019](#)) prohibiting the city government and private employers in the city with at least 15 employees from asking about or relying on job applicants' salary histories. The law — which amends the Cincinnati Municipal Code and aims to reduce gender pay disparity and discrimination — will take effect in March 2020. A council working group will be established to advise employers about the impact and implementation of the ordinance. To date, 14 states and 12 cities and other jurisdictions have passed legislation banning the use of salary history information.

KEY PROVISIONS

Highlights of the ordinance include the following:

- Employers are prohibited from:
 - Inquiring about job candidate's prior salary history, but they can discuss an applicant's salary and benefits expectations, including unvested equity or deferred compensation that would be forfeited or cancelled if he/she were to resign from current employment
 - Using an applicant's current or prior wages, benefits or other compensation or salary histories to screen candidates, or use an applicant's prior wages, compensation and benefits to satisfy minimum or maximum criteria
 - Relying on salary history to decide to offer a job to an applicant or to determine his or her salary, benefits or other compensation during the hiring process or the negotiation of an employment contract
 - Refusing to hire or retaliate against an applicant for not disclosing his or her salary history
- Employers will have to give applicants "upon reasonable request" a pay scale for the position when making a conditional offer of employment.
- The ban doesn't cover:
 - "Voluntary or unprompted" disclosure of salary history by an applicant
 - Internal employee transfers or promotions

- Initiatives taken by the employer to verify a candidate’s disclosure of information that is unrelated to their salary, including background checks
- Employees who are rehired by a company within five years of their most recent termination, provided that the employer already has prior salary history
- Salaries and benefits that are determined by collective bargaining
- Employers that have within the previous three years received certification — based on external review — that their hiring practices don’t include salary history (the working group is expected to publish more details about this exception)
- Violators — including companies, employment agencies, employees and agents — may be liable for compensatory damages, reasonable legal fees and other equitable relief. Lawsuits must be brought within two years of the date the alleged violation occurred.

RELATED RESOURCES

- [Ordinance 83-2019](#) (Cincinnati City Council, 13 Mar 2019)

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