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## US: NEW YORK EXPANDS EQUAL PAY LAWS, BANS SALARY HISTORY

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New York has expanded its equal pay laws to prohibit unequal pay based on the protected-class status of employees doing substantially similar work (2019 Ch. 93, [S 5428A](#)) and to forbid employers doing business in the state from asking applicants about their salary history (2019 Ch. 94, [S 6549](#)). [Signed](#) into law July 10, the measures build on two [executive orders](#) issued last year to eliminate the wage gap by prohibiting state entities from evaluating candidates based on wage history and requiring state contractors to disclose data on the gender, race and ethnicity of employees. The expanded equal pay protections go into effect on Oct. 8, 2019, and the salary history ban takes effect on Jan. 6, 2020 — 90 and 180 days after the governor's signing.

### EXPANDED EQUAL PAY PROTECTIONS

The unequal pay protections now extend beyond sex to include all characteristics protected from employment discrimination under New York law. Prohibited bases for discrimination include age, race, creed, color, national origin, sexual orientation, gender identity and expression, military status, disability, predisposing genetic characteristics, familial status, marital status, and domestic violence victim status.

Employees now must be paid equally not only for work that “requires equal skill, effort, and responsibility and ... is performed under similar working conditions” but also for “substantially similar work, when viewed as a composite of skill, effort and responsibility, and performed under similar working conditions.” However, employers still can vary pay rates to reflect a seniority or merit system, a system measuring earnings by quantity and quality, or another bone fide factor that is job-related and consistent with business necessity.

### SALARY HISTORY BAN

The statewide salary history ban will prohibit employers from:

- Requesting, requiring or seeking a prospective or current employee's salary or wage history as a condition for an interview, an offer of employment, or continued employment or promotion
- Relying on salary or wage history to decide whether to offer employment or what wages or salary to offer an applicant

- Retaliating against an applicant or a current employee for refusing to provide salary or wage history or against a prospective, current or former employee for filing a complaint with the Department of Labor

Applicants or employees will be able to voluntarily disclose their salary or wage history. Employers will be allowed to confirm the salary history of candidates who provide their prior salary when negotiating for higher compensation.

## RELATED RESOURCES

### Non-Mercer Resources

- 2019 Ch. 93, [S 5428A](#) (New York Senate, 10 Jul 2019)
- 2019 Ch. 94, [S 6549](#) (New York Senate, 10 Jul 2019)
- [Press Release](#) (Governor's Office, 10 Jul 2019)

### Mercer Law & Policy Resources

- [Colorado's New Pay Equity Law Takes Effect in 2022](#) (June 6, 2019)
- [US: Washington State Enacts Salary History Ban](#) (May 24, 2019)
- [US: Maine Employers Can't Ask Job Seekers About Salary History](#) (May 1, 2019)
- [US: Cincinnati Adopts Salary History Ban](#) (April 8, 2019)

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