



# Salary information will be required in New York City job postings

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Beginning Nov. 1, 2022, an employment agency, employer, employee or agent thereof will commit an unlawful discriminatory practice by advertising a job, promotion or transfer opportunity in New York City (NYC) without including the minimum and maximum annual salary or hourly wage for the position. The new law ([Int. No. 1208-B](#)) amending the NYC Human Rights Law (NYHRL) initially passed the NYC Council on Dec. 15, 2021. The measure became law on Jan. 15, 2022, after the mayor returned it unsigned. On March 22, 2022, the NYC Commission on Human Rights issued a [fact sheet](#) on the new law. On April 28, 2022, a bill ([Int. No. 0134-2022, Version A](#)) enacted by the NYC Council pushed back the effective date from May 15, 2022, and made other changes.

## Scope of the law

**Application.** All employers with four or more employees or one or more domestic workers in any location are covered, provided at least one employee works in NYC. Temporary staffing firms are exempt, since they already disclose this information in compliance with the state's Wage Theft Prevention Act. However, employers that work with temporary help firms must comply with the salary transparency requirements.

**Covered job listings.** Any written advertisement for a job, promotion or transfer opportunity that will be performed entirely or partly in NYC is covered. This includes jobs performed in an office, in the field or from the employee's home. Positions that cannot or will not be performed at least partly in NYC are not covered. The law applies regardless of how the advertisement is distributed (for example, posts on internal bulletin boards, internet advertisements, printed flyers at job fairs or newspaper advertisements). Covered advertisements include ones for "full- or part-time employees, interns, domestic workers, independent contractors, or any other category of worker protected by the NYCHRL." The commission's fact sheet clarifies that the law does not prohibit employers from hiring without using an advertisement or require employers to create an advertisement in order to hire.

**Included salary information.** The range for the listed minimum and maximum annual salary or hourly wage will extend from the lowest to the highest annual salary or hourly wage that the employer — in good faith — believes it will pay for the advertised job, promotion or transfer. The commission’s fact sheet emphasizes that the range cannot be open-ended. For example, “\$15 per hour and up” or “maximum \$50,000 per year” would not comply. The minimum and maximum salary may be identical if the position has no salary flexibility. Advertisements that cover multiple jobs, promotions or transfer opportunities can include salary ranges that are specific to each opportunity.

**Salary definition.** The law does not specify what is included in “salary,” but the commission’s fact sheet says the term covers “the base wage or rate of pay, regardless of the frequency of payment.”

Salary does not include other forms of compensation or benefits offered with the position, such as:

- Health, life or other employer-provided insurance
- Paid or unpaid time off, such as paid sick or vacation days, leaves of absence, or sabbaticals
- The availability of or contributions toward retirement or savings funds, such as 401(k) plans or employer-funded pension plans
- Severance pay
- Overtime pay
- Other forms of compensation, such as commissions, tips, bonuses, stock, or the value of employer-provided meals or lodging

Employers may but aren’t required to include this information.

**Enforcement.** The NYC Commission on Human Rights enforces the NYCHRL and may impose civil penalties of up to \$250,000 for unlawful discriminatory practices. The commission also may require employers found in violation 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. A first violation won’t trigger a financial penalty, and employers will have 30 days to correct the violation.

Current employees can bring a legal action against their employer for advertising a job, promotion or transfer without posting a minimum and maximum hourly wage or annual salary. Other individuals will not be able to sue an employer for violating the law.

## Next steps

The commission’s fact sheet and amendments have clarified the law’s application, and employers with positions in NYC now have more time to prepare for being transparent about pay in job postings by Nov 1, 2022. Here are some steps to consider.

## **Assess current programs across four key dimensions, and strengthen where necessary**

- **Job organization**

- Are jobs well defined? Well-defined roles can help ensure understanding of the pay for the nature of work.
- Are jobs organized into a meaningful and logically consistent framework? Ambiguity in the relative contribution of a role might make it difficult to understand the pay associated with the role.
- Do employees and managers know how to navigate their careers? Once job postings include pay ranges, current employees may want to understand how their career and pay opportunities compare.

- **Pay strategy**

- Does the organization have a compensation philosophy? A well-articulated rationale as to why the pay system is designed as it is, what skills or performances are rewarded, and how pay is delivered puts pay ranges into context.
- Are benchmark jobs and salary ranges up to date? Competitive pay ranges will ensure that posted ranges attract the right talent.

- **Pay equity**

- Is a robust statistical analysis used to identify and remediate disparities? Sharing pay ranges can carry risks if employees' actual pay relative to those ranges is not defensible from a human capital management perspective.
- Can pay decisions be soundly defended? Confidence that pay policies and practices mitigate inequities can help assure candidates and employees about pay equity.

- **Employee perception**

- How do candidates and employees view the organization? Understanding how the organization's value proposition is viewed is critical to ensuring pay ranges meet the expectations of candidates and employees.

## **Define pay transparency by answering key questions**

- What is the desired compensation story?
- What will be shared?
- With whom will the story be shared?

- How will the information be shared, and what is the desired reaction?
- Why is the compensation story important?

## Implement changes

- Create a digital platform where employees and external candidates can access salary information and explore career paths.
- Develop training toolkits and resources for managers and HR partners to ensure the compensation strategy is effectively and consistently communicated.
- Enhance performance management and coaching resources to include modeling tools that illustrate the earnings potential for various career opportunities.

## Share efforts beyond posting pay ranges

- Highlight key experiences and branded employee communication/messaging.
- Define broad external candidate messaging that is consistent with internal messaging.
- Create a communication playbook (including target audience, communication objectives for the audience, delivery vehicles, frequency/timing, challenges, metrics, etc.) to ensure clarity and transparency for all employees at various points of the journey.

## Measure effectiveness

- Survey candidates and employees to identify unmet needs and what aspects of the value proposition — including compensation — are most important.
- Conduct statistical modeling to see how employees' perception of pay affects outcomes (such as turnover).

## States trend toward pay transparency

In recent years, many states have enacted legislation requiring the disclosure of salary ranges and pay data. For example, in Colorado, each job vacancy posting has to disclose the hourly wage or salary, or the hourly wage or salary range, and give a general description of all benefits and other compensation offered. The implementation rules specify that this requirement does not apply to jobs performed outside of Colorado and job postings entirely outside of Colorado. California, Connecticut, Maryland, Nevada, Rhode Island and Washington also require employers to disclose — either voluntarily or on request — information about salary ranges for open positions or promotions. Other states, such as Massachusetts and New York, are considering similar legislation. For more information, see [Roundup: US employer resources on states' recent equal pay laws](#).

## Related resources

### Non-Mercer resources

- [Int. No. 0134-2022, Version A](#): Employers required to post minimum and maximum salary information (NYC Council, April 28, 2022)
- [Fact sheet](#): Salary transparency in job advertisements (NYC Commission on Human Rights, March 22, 2022)
- 2022 Law 32, [Int. No. 1208-B](#): Prohibiting employers from posting job listings without minimum and maximum salary information (NYC Council, Jan. 15, 2022)

### Mercer Law & Policy resources

- [Roundup: US employer resources on states recent equal pay laws](#) (April 26, 2022)
- [Colorado issues pay equity rules to implement law in 2021](#) (Nov. 17, 2020)

### Other Mercer resource

- [How to make the move to pay transparency](#)
- [The case for pay transparency](#) (February 2022)

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