



# New Jersey Pay Equity

## **Statute**

- Diane B. Allen Equal Pay Act, N.J.S.A. § 10:5-12 et seq.
- Discrimination in Wages, N.J.S.A. § 34:11-56.1 et seq.
- Executive Order #1
- Jersey City Municipal Code § 148-4.1, as amended by municipal ordinance number 22-045
- Senate Bill 2310

## **Classes protected**

- Race, creed, color, national origin, nationality, ancestry, age, marital status, civil union status, domestic partnership status, affectional or sexual orientation, genetic information, pregnancy, sex, gender identity or expression, disability or atypical hereditary cellular or blood trait of any individual, or liability for service in the armed forces

## **Key language on pay discrimination**

- “No employer shall discriminate in any way in the rate or method of payment of wages to any employee because of his or her sex.”
- Unlawful employment practice “[f]or an employer to pay any of its employees who is a member of a protected class at a rate of compensation, including benefits, which is less than the rate paid by the employer to employees who are not members of the protected class for substantially similar work, when viewed as a composite of skill, effort and responsibility.”

## **Exceptions for pay disparities (including affirmative defenses)**

- Seniority system
- Merit system
- Differential based on one or more legitimate, bona fide factors other than the characteristics of members of the protected class (like training, education, experience, or the quantity or quality of production); the factor(s) are not based on, and do not perpetuate a differential in compensation based on sex or any other characteristic of a protected class; each of the factors is applied reasonably; one or more factors account for the entire wage differential; and the factors are job-related with respect to the position in question and based on a legitimate business necessity, where there is no alternative business practice that would serve the same business purpose without producing the wage differential

### **Prohibition on salary history inquiry**

- Public employers are prohibited from inquiring about an applicant's current or previous salary history
- Employers are prohibited from making salary history inquiries and considering salary history in determining salary, benefits, and other compensation

### **Anti-retaliation**

- Employers shall not discriminate against or discharge an employee for exercising her rights under this law
- Cannot take reprisals against an employee for requesting from, discussing with, or disclosing to another employee or former employee, a lawyer from whom the employee seeks legal advice, or any government agency, information related to employee compensation"

### **Wage Disclosure Requirements**

- For employers with a principal place of business in Jersey City and 5+ employees, any job posting circulating within the city must include a wage range.
- Senate Bill 2310 requires New Jersey employers with 10 or more employees over 20 calendar weeks that do business, employ workers, or take applications for employment in the state to comply with certain wage disclosure requirements for both promotional opportunities and employment listings.
- Starting June 1, 2025, employers will need to disclose the hourly wage or salary range and a general description of benefits and other compensation programs for which the employee would be eligible. This will need to be disclosed for each posting for a new job as well as transfer opportunities that are advertised externally or internally.
- For promotional opportunities, employers are required to make reasonable efforts to announce or post the opportunities to all current employees in the affected department prior to making a promotion decision, unless the decision is based on years of experience or performance.

### **Pay Transparency**

- Employers cannot take reprisals against an employee for requesting from, discussing with, or disclosing to another employee or former employee, a lawyer from whom the employee seeks legal advice, or any government agency, information related to employee compensation"
- Cannot require that an employee sign a waiver or agree not to make requests or disclosures concerning employee compensation as a condition of employment

### **Other Key Provisions**

- Penalties for non-compliance of Senate Bill 2310 include: \$300 for the first violation and \$600 for each subsequent violation.

## ***Key Contacts***

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## ***Pay Equity Team***

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