



Cleveland Employers Must Prepare for City's New Pay Equity and Transparency Rules: Your Top Questions Answered + 5 Steps to Take Next

Insights

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Cleveland employers will soon need to include salary ranges in job postings and refrain from asking job applicants questions related to their salary history, thanks to a new ordinance adopted by the City Council last week. Ohio's second-largest city joins Cincinnati, Columbus, and Toledo – as well as other cities and states across the country – in adopting pay equity and transparency rules. We'll answer your top questions and give you five steps you should consider taking next.

What Happened?

The Cleveland City Council passed an emergency ordinance ([Ordinance No. 104-2025](#)) on April 28 that aims to address pay disparities based on gender and race. Under the new rules, which are discussed more in depth below, covered employers must provide the salary range or scale in job postings and must not inquire about a job applicant's current or prior salary.

The ordinance will take effect in **early November**, so long as Mayor Justin Bibb signs it by May 8 as expected. The specific effective date will be six months from the date that Bibb signs it.

Who Must Comply and Who Is Covered?

- The ordinance applies to private employers (as well as units of the city and certain employment agencies) that employ **15 or more** persons within the City of Cleveland.
- The new rules protect **anyone applying for employment** to be performed within the City of Cleveland and (whose application will be solicited, received, processed, or considered in the city), regardless of whether they are interviewed. Nearly all types of employment are covered (including, for example, temporary, seasonal, and part-time work), excluding work as an independent contractor.

What Are the New Restrictions and Requirements?

Cleveland's new ordinance will prohibit unlawful discriminatory salary history practices and require pay transparency in job postings, as further discussed below. First, here are two key terms to know:

- **“Salary”** includes a person’s financial compensation in exchange for labor, such as wages, commissions, hourly earnings, and other monetary earnings, as well as benefits.
- **“Salary history”** means an applicant’s current or prior salary – excluding any objective measures of productivity, such as revenue, sales, or other production reports.

Pay Equity Rules

Covered employers will be prohibited from:

- inquiring about the salary history of an applicant;
- screening an applicant based on their current or prior salary history, including requiring that an applicant’s prior salary history satisfy minimum or maximum criteria;
- relying solely on the salary history of an applicant (subject to limited exceptions) in deciding whether to offer them employment, or in determining the salary for such applicant during the hiring process, including the negotiation of an employment contract; or
- refusing to hire or otherwise disfavoring, injuring, or retaliating against an applicant for not disclosing their salary history.

Pay Transparency Rules

Covered employers will be required to provide the salary range or scale for potential employment in the notification, advertisement, or other formal posting that offers the opportunity to apply for employment.

Important Exceptions

The new rules provide certain important exceptions for employers.

- You can still discuss salary expectations with a job applicant – but you can no longer ask about the applicant’s past salary.
- The rules do not apply when an applicant voluntarily discloses salary history information, or when the applicant is a current employee seeking an internal transfer or promotion or a rehire whose past salary is already on record.
- You can still try to verify an applicant’s disclosure of information unrelated to salary or conduct a background check – but if doing so incidentally reveals the applicant’s salary history, you must not rely solely on that information for purposes of determining their salary during the hiring process.
- Positions covered by collective bargaining agreements and roles within federal, state, or local governments (excluding the City of Cleveland) are not subject to the new rules.

How Will the New Rules Be Enforced?

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Cleveland's Fair Employment and Wage Board (FEWB) will enforce the new rules, including by:

- **receiving and considering complaints** filed within 180 days of the alleged violation; and
- **assessing civil penalties** – **up to \$1,000** for first-time offenders and **up to \$5,000** for repeat offenders – if a violation is found and the complaint is not resolved.

Employers will have the ability to cure any complaints prior to the issuance of fines, and a two-tiered appeals system is available if a civil penalty is imposed.

5 Steps Covered Employers Can Take Now

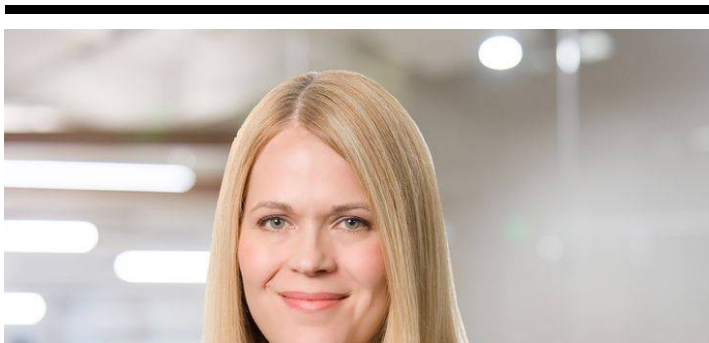
Before the Cleveland's new pay rules take effect later this year, you should consider taking the following steps:

1. **Clearly list pay range or scale** in all new employment postings.
2. **Review job application and background check forms** to ensure there are no questions regarding salary history.
3. **Train hiring team on conducting interviews** to ensure they do not inquire about an applicant's salary history.
4. **Review and update hiring policies** to remove references to salary history.
5. **Use criteria such as education, skills, and experience to set salary ranges**, and maintain records of how salaries are determined for each position posted.

Conclusion

Employers across the country should be prepared for heightened pay equity and transparency requirements at the state and local level. We will continue to monitor developments in this area and provide updates as warranted. Make sure you are subscribed to Fisher Phillips' Insight System to get the most up to date information direct to your inbox. If you have compliance questions, consult with your Fisher Phillips attorney, the authors of this Insight, any attorney in our Cleveland office, or any member of our Pay Equity and Transparency Practice Group.

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