



New Jersey Enacts the Most Sweeping Pay Equity Law in the Country

Insights

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New Jersey Governor Phil Murphy just signed the Diane B. Allen Equal Pay Act, which was recently passed by the state legislature. His signature today means New Jersey's antidiscrimination law will soon be expanded to prohibit discrimination in pay on the basis of any of the protected categories recognized under state law.

Once the law goes into effect on July 1, 2018, it will be unlawful for a New Jersey 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." Similar to the federal Equal Pay Act, the law carves out specific legally permissible reasons for a different rate of compensation, including if the differential is based on a seniority system, merit system, or one or more legitimate bona fide factors other than the characteristics of members of the protected class. Additional information regarding the key provisions of the Diane B. Allen Equal Pay Act is available [here](#).

What makes this New Jersey law unique is that it provides protection to far more categories of individuals than the federal Equal Pay Act or any other state's equal pay laws. Whereas the federal law and most state laws apply only to women, New Jersey's law covers all protected classes recognized under the New Jersey Law Against Discrimination:

- Race
- Creed
- Color
- National origin
- Nationality
- Ancestry
- Age
- Marital status
- Civil union status
- Domestic partnership status

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- Affectional or sexual orientation
- Genetic information
- Pregnancy
- Sex
- Gender identity or expression
- Disability or atypical hereditary cellular or blood trait of any individual
- Service in the armed forces

In affording equal pay protections to these 17 categories of minority employees, New Jersey will soon have the strongest equal pay law in the country.

Conspicuously absent from the Diane B. Allen Equal Pay Act is a prohibition on inquiring about a job applicant's current or prior salary. While New Jersey law currently prohibits public employers from making such inquiries, there is no such prohibition on private employers. Despite its sweeping nature, New Jersey's new equal pay law bucks the trend that we have seen in other states, including California, Delaware, Massachusetts, and Oregon, and cities like New York City and San Francisco, which incorporated a salary history ban into their equal pay legislation. It remains to be seen whether New Jersey eventually will follow these other states and prohibit employers from asking about salary history.

For more information about how this legislation could affect your workplace, contact any attorney in our New Jersey office at 908-516-1050, your regular Fisher Phillips attorney, or a member of the Pay Equity Practice Group.

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