

LABOR AND EMPLOYMENT LAW

INFORMATION MEMO

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Reminder: NYC Salary Transparency Law – Effective Nov. 1, 2022

New York City's new [Salary Transparency Law](#) will go into effect on Nov. 1, 2022. With this deadline for compliance fast approaching, we wanted to offer an update on the most recent [guidance](#) and interpretation to help our clients prepare for implementation of the new law.

First, while this is a New York City law, an employer does not need to have a brick and mortar presence in NYC to be covered. If an employer¹ has even one employee currently located in NYC (including remote workers), it is covered by the law.² However, not all postings are covered. The law does not cover postings for positions which cannot be performed, at least in part, within NYC (since remote work is covered, postings for remote or hybrid positions must be in compliance). Based on these criteria, advertisements for jobs, promotions and transfer opportunities are covered, whether for full- or part-time, interns, domestic workers, independent contractors and most other categories of employment.

An "advertisement" is defined as a "written description of an available job, promotion, or transfer opportunity that is publicized to a pool of potential applicants," and is covered whether posted internally or externally. However, the law does not create an affirmative obligation to create a posting/advertisement.

Under the law, an advertisement must include "the minimum and maximum salary" the employer believes "in good faith . . . at the time of the posting they are willing to pay for the advertised job, promotion, or transfer opportunity." Good faith is defined as the salary the employer believes at the time of the listing that they are willing to pay the successful applicant(s). While the range cannot be open-ended, if there is no flexibility in the salary for the position, the employer can simply state the salary or wage (e.g., \$20 per hour). Salary includes the annual base or hourly wage rate, without regard to frequency of payment, but does not include additional forms of compensation or benefits such as overtime, bonuses, PTO, etc.³

Only current employees may sue an employer directly for violations, but members of the public may bring complaints through the NYC Commission on Human Rights and the Commission may also initiate its own investigations. The Commission will not assess a penalty for an employer's first violation if the employer cures the offending posting within 30 days ([see #4](#)).⁴ Employers with uncured first violations and/or any subsequent violations may be required to amend advertisements and postings, pay monetary damages and incur civil penalties of up to \$250,000.

¹ With four or more total employees.

² The law also covers Employment Agencies of any size, employees or agents of employers and employment agencies, and employers of one or more domestic workers. Additionally, while Temporary Help Firms seeking applicants to join their pool of available workers are excepted from the law, employers must still be in compliance when working with such Firms.

³ These may be included at the employer's discretion, but are not required to be listed.

⁴ Employers may also seek review of the Commission's determination regarding their submission of proof of cure; more information and the procedure to do so is available at the same Question 4 link above.

While there is some ambiguity in the law and guidance as to whether the November 1 effective date will apply to postings created before that date, employers are advised to add good faith salary ranges to any open postings beginning as soon as possible. Employers may also wish to revisit their recruitment and/or promotion strategies, since word-of-mouth hiring and direct recruitment is still permitted under this law.

For more information, please feel free to reach out to [Seth Gilbertson](#), [Lisa Feldman](#) or the Bond [labor and employment](#) attorney with whom you are most frequently in contact.

