

9 May 2017

Practice Group:

*Labor, Employment
and Workplace Safety*

NYC Employers Will Soon be Banned from Inquiring about Salary History

By George Barbatsuly and Laura Scully

On Thursday, May 4, 2017, New York City Mayor Bill de Blasio signed a bill prohibiting New York City employers, both public and private, from asking job applicants about their salary history. This legislation, amending the New York City Human Rights Law, will go into effect October 31, 2017, 180 days following its enactment.

Under the new law, City employers are barred from making inquiries about salary history not only to applicants, but also to applicants' past or present employers, or to past or present employees or agents of such employers. In addition, employers may not run searches of publicly available records for purposes of learning applicants' salary history. The law makes it an unlawful discriminatory practice for City employers to ask about applicants' salary history or to set their compensation during the hiring process based on their salary history.

Nonetheless, in certain situations, the law allows employers to discuss with applicants their expectations about salary as well as to consider and verify salary history if applicants voluntarily disclose it. The new law also has certain exemptions, including for internal transfers or promotions, and for certain positions with public employers determined through collective bargaining.

Individuals can bring a complaint with the New York City Commission on Human Rights and the Commission itself can bring a complaint against employers for alleged violations of this law. Among other remedies, the Commission can award compensatory damages as well as impose civil penalties of up to \$250,000 in certain circumstances against non-compliant employers. Aggrieved applicants can also bring a complaint in court (unless they have already filed a complaint with the Commission regarding the challenged practice), and the court can award a range of remedies, including attorney's fees and costs to the prevailing party as well as punitive damages.

Covered employers should carefully review their hiring procedures and documents, including job application forms, to ensure compliance with the law. They should likewise assess any internal policies regarding compensation and benefits for new hires.

Authors:

George Barbatsuly

george.barbatsuly@klgates.com
+1.973.848.4104

Laura Scully

laura.scully@klgates.com
+1.973.848.4079

NYC Employers Will Soon be Banned from Inquiring about Salary History

K&L GATES

Anchorage Austin Beijing Berlin Boston Brisbane Brussels Charleston Charlotte Chicago Dallas Doha Dubai Fort Worth Frankfurt Harrisburg Hong Kong Houston London Los Angeles Melbourne Miami Milan Munich Newark New York Orange County Palo Alto Paris Perth Pittsburgh Portland Raleigh Research Triangle Park San Francisco São Paulo Seattle Seoul Shanghai Singapore Sydney Taipei Tokyo Warsaw Washington, D.C. Wilmington

K&L Gates comprises approximately 2,000 lawyers globally who practice in fully integrated offices located on five continents. The firm represents leading multinational corporations, growth and middle-market companies, capital markets participants and entrepreneurs in every major industry group as well as public sector entities, educational institutions, philanthropic organizations and individuals. For more information about K&L Gates or its locations, practices and registrations, visit www.klgates.com.

This publication is for informational purposes and does not contain or convey legal advice. The information herein should not be used or relied upon in regard to any particular facts or circumstances without first consulting a lawyer. Any views expressed herein are those of the author(s) and not necessarily those of the law firm's clients.

© 2017 K&L Gates LLP. All Rights Reserved.