



New Law Prohibits Private & Public Employers in California from Seeking or Relying on Job Applicants' Salary Histories

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Effective January 1, 2018, new legislation enacted in California will prohibit employers from:

1. Seeking past salary information, including compensation and benefits, about a job applicant; or,
2. Relying on information regarding an applicant's salary history as a factor in determining whether to offer an applicant employment or what salary to offer an applicant.¹

In addition, if a job applicant makes a reasonable request, employers will be required to provide the pay scale for the related position to the applicant.

The legislation, which proponents contend seeks to target the gender pay gap, builds on a provision of the California Equal Pay Act which provides that an employee's prior salary may not, by itself, be used to justify any wage differential between employees of the opposite sex performing substantially similar work, except under limited circumstances. Current law also bars employers from requiring employees to refrain from disclosing their rates of pay, and from discriminating against employees who do so.

This law will apply to all employers in California, including state and local government employers.

Employers should consult with experienced counsel and carefully review their hiring practices, pay structures, pay decision policies and procedures, and neutral job references policies to ensure compliance with this new law. Employers may also consider conducting a pay practices audit.

How Nossaman Can Help

Nossaman provides client-focused, high caliber, legal services that exceed our clients' expectations while

staying within their budgets. Our employment attorneys provide litigation, counseling, advice, and training services to private and public companies and public entities throughout California, as well as meeting their out-of-state-needs. The scope of our representation runs the full gamut from wage and hour class actions and audits to prosecuting misappropriation of trade secrets and defending wrongful termination claims. We have also been on the front line of e-discovery, privacy rights, cybersecurity, data breach, and workplace violence. We stay on top of emerging employment issues and are well prepared to counsel our clients on how to address and control complex employment-related issues.

¹However, employers may consider or rely upon any salary history information voluntarily disclosed by a job applicant without prompting, and the new law does not apply to salary history information disclosable pursuant to federal and state laws like the California Public Records Act or federal Freedom of Information Act.