

# Salary Transparency in Job Advertisements

**Starting November 1, 2022, employers advertising jobs in New York City must include a good faith salary range for every job, promotion, and transfer opportunity advertised.**

The New York City Commission on Human Rights is a resource to help workers and employers understand their rights and obligations under the New York City Human Rights Law (NYCHRL). This document provides information regarding the salary transparency provisions of the NYCHRL, enacted on January 15, 2022, and amended on May 12, 2022.

## Does this new law apply to my job postings?

All employers that have four or more employees or one or more domestic workers are covered by the NYCHRL, including this new provision of the law. As with other provisions of the NYCHRL, owners and individual employers count towards the four employees. The four employees do not need to work in the same location, and they do not need to all work in New York City. As long as one of the employees works in New York City, the workplace is covered.

Employment Agencies are also covered by the new law, regardless of their size. As such, employment agencies must ensure that any job listings they promote or seek to fill comply with the new salary transparency requirements.

Temporary Help Firm Exception: The new law does not apply to temporary help firms seeking applicants to join their pool of available workers. Temporary help firms are businesses that recruit, hire, and assign their own employees to perform work or services for other organizations, to support or supplement the other organization's workforce, or to provide assistance in special work situations. However, employers who work with temporary help firms must follow the new salary transparency law.

## Which job listings are covered by the new law?

Any advertisement for a job, promotion, or transfer opportunity that would be performed in New York City is covered by the new law. An "advertisement" is a written description of an available job, promotion, or transfer opportunity that is publicized to a pool of potential applicants. Such advertisements are covered regardless of the medium in which they are disseminated. Covered listings include postings on internal bulletin boards, internet advertisements, printed flyers distributed at job fairs, and newspaper advertisements. The law does not prohibit employers from hiring without using an advertisement or require employers to create an advertisement in order to hire.

Covered employers should follow the new law when advertising for positions that can or will be performed, in whole or in part, in New York City, whether from an office, in the field, or remotely from the employee's home. Because the NYCHRL's protections extend to many groups of workers, postings are covered regardless of whether they are seeking full- or part-time employees, interns, domestic workers, independent contractors, or any other category of worker protected by the NYCHRL.

## What information must be included in covered job advertisements?

Employers must state the minimum and maximum salary they in good faith believe at the time of the posting they are willing to pay for the advertised job, promotion, or transfer opportunity. "Good faith" means the salary range the employer honestly believes at the time they are listing the job advertisement that they are willing to pay the successful applicant(s).

Employers must include both a minimum and a maximum salary; the range cannot be open ended. For example, "\$15 per hour and up" or "maximum \$50,000 per year" would not be consistent with the new requirements. If an employer has no flexibility in the salary they are offering, the minimum and maximum salary may be identical, for example, "\$20 per hour." Advertisements that cover multiple jobs, promotions, or transfer opportunities can include salary ranges that are specific to each opportunity.

Salary includes the base annual or hourly wage or rate of pay, regardless of the frequency of payment. For example, it would include an hourly wage of \$15 per hour or an annual salary of \$50,000 per year.

Salary does not include other forms of compensation or benefits offered in connection with the advertised job, promotion, or transfer opportunity, such as:

- Health, life, or other employer-provided insurance
- Paid or unpaid time off work, such as paid sick or vacation days, leaves of absence, or sabbaticals
- The availability of or contributions towards retirement or savings funds, such as 401(k) plans or employer-funded pension plans
- Severance pay
- Overtime pay
- Other forms of compensation, such as commissions, tips, bonuses, stock, or the value of employer-provided meals or lodging

Employers may include additional information in advertisements about frequency of pay, benefits and other forms of compensation offered in connection with the job, promotion, or transfer opportunity, even though that information is not required.

### **How will salary transparency protections be enforced?**

The Commission on Human Rights accepts and investigates complaints of discrimination filed by members of the public, including complaints alleging violations of the new salary transparency protection. The Law Enforcement Bureau also initiates its own investigations based on testing, tips, and other sources of information. In addition to filing complaints at the Commission, individuals with claims against their current employer can also file a lawsuit in civil court.

Employers and employment agencies who are found to have violated the NYCHRL may have to pay monetary damages to affected employees, amend advertisements and postings, create or update policies, conduct training, provide notices of rights to employees or applicants, and engage in other forms of affirmative relief. The Commission will not assess a civil penalty for a first complaint alleging a violation of the salary transparency provision, provided that the employer shows they have fixed the violation within 30 days of receiving the Commission's notice of the violation. Covered employers may have to pay civil penalties of up to \$250,000 for a uncured first violation of the new law, as well as for any subsequent violations. Information regarding the process for submitting proof of a fixed violation and appealing a civil penalty for a violation of the new salary transparency protection is available on the Commission's website.

### **What should I do if I have questions about these rights and obligations or would like to report discrimination?**

Call the Commission on Human Rights at (212) 416-0197 or visit [NYC.gov/HumanRights](https://nyc.gov/HumanRights). You can file a complaint, leave an anonymous tip, learn more about your rights and responsibilities, or sign up for a free workshop.