

Client Alert

October 2017

New York City Salary History Law to Take Effect on October 31, 2017

Last May, Mayor Bill de Blasio signed Intro. 1253-A to become Local Law 67 (the so-called “Salary History Law”), which prohibits New York City employers from asking job applicants (full-time, part-time, and interns) or their current or former employers about an applicant’s compensation and benefits history. Employers are also prohibited from searching public records for an individual’s wages or salary. **Local Law 67 takes effect October 31, 2017.**

Next Steps

Now is the time to confirm that questions regarding salary and wage history are removed from applications and that recruiters, HR personnel, and interviewing managers are aware that questions about past and current salary are no longer permitted. Employers may still ask, verbally or in writing, the candidate’s expectations regarding salary and benefits (or a proposed range) or if the candidate would forfeit any unvested equity or deferred compensation if they resigned from their current employer. Further, questions regarding objective indicators of an applicant’s work productivity, such as revenue or profits generated, sales, production reports, or books of business are still allowed. If the candidate discloses current compensation, a New York City employer may use that voluntary disclosure (and verify its accuracy) in determining the salary and benefits to offer. However, an employer may not use salary information that it receives from a third-party, such as a recruiter, to determine the salary or benefits to be offered.

Update on New York State Paid Family Benefits Leave Law

The New York Workers’ Compensation Board has finally released Paid Family Leave forms for use when the New York Paid Family Leave Benefits Law (“PFL”) **takes effect on January 1, 2018.** While the law

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does not require employers to use the state forms, they provide detailed instructions for employees seeking PFL to:

- [Bond with Newborn, a Newly Adopted or Fostered Child](#)
- [Care for a Family Member with Serious Health Condition](#)
- [Assist Families in Connection with a Military Deployment](#)

The Board also released a [form for temporary or part-time employees](#) (i.e., those working less than 26 consecutive weeks or part-timers working less than 175 days in 52 weeks) that are eligible to opt-out of paid family leave coverage and the deductions. In addition, while virtually every employer must provide PFL to its regular employees, it released forms ([form 1](#) and [form 2](#)) for exempt employers that wish to voluntarily provide coverage to its employees.

Next Steps

With a little over two months until the law takes effect, employers should ensure that their leave policies (e.g., existing paid time off, personal leave, and FMLA policies) and benefit claims procedures conform with the new PFL and that written policies are updated to include PFL information. Those responsible for administering leave should be trained on compliance and coordination with other policies. Payroll managers should be prepared to deduct the modest employee contribution (not to exceed \$1.65 per week) that will fund PFL. Finally, employers should confirm that they have secured insurance coverage for PFL (most typically, coverage for PFL will be added to an employer's existing disability benefits policy).

For questions regarding the Salary History Law taking effect on October 31, 2017, the New York Paid Family Leave law taking effect on January 1, 2018, or any other employment question, please contact the Olshan attorney with whom you regularly work or the attorney listed below.

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