

Update on Salary History Laws: The Ban Expands to Westchester, NY

May 04, 2018 | Blog | By [Brie Kluytenaar](#)

VIEWPOINT TOPICS

- Employment, Labor & Benefits

RELATED PRACTICES

RELATED INDUSTRIES

Following in the footsteps of neighboring jurisdictions such as [New York City](#), Albany County, and [Massachusetts](#), on April 10, 2018, [Westchester County enacted legislation](#) to ban inquiries into a job applicant's salary history. The stated purpose of the law is to halt the perpetuation of the gender wage gap and to assist older workers and others returning to the workforce after a long hiatus.

Westchester County's salary history ban goes into effect on **July 9, 2018**. The law amends the Westchester Human Rights Law, which covers employers with four or more employees.

Pursuant to the new legislation, an employer, employment agency, labor organization, and any agent thereof is prohibited from:

- relying upon wage history received from any current or former employer of the individual to determine the wages for such individual, unless voluntarily disclosed by the prospective employee **to support a higher wage than offered by the employer**;
- requiring that a prospective employee disclose information about the employee's own wages from any current or former employer (whether orally or in writing, as a condition of being interviewed, being considered for an offer of employment, or as a condition of employment). If the prospective employee has disclosed wage information to support a wage higher than offered by the employer, the employer may confirm prior wage information post-offer, so long as the employer has the prospective employee's **prior written authorization** to do so; and
- retaliating against someone for exercising his or her rights under this law, including opposing any act or practice. In addition, an employer may not refuse to hire or otherwise retaliate against an employee or prospective employee based upon prior wage or salary history.

Individuals alleging violations of Westchester's Human Rights Law may file a complaint with the Westchester County Commission on Human Rights, which has exclusive jurisdiction over such claims, within one year of the alleged discriminatory conduct.

Damages available under the County law include reinstatement, back pay, unlimited compensatory damages, costs, reasonable attorney's fees, and punitive damages (capped at \$10,000 per aggrieved individual).

Westchester County employers and staffing companies should review and update their pre-employment practices, including employment applications and interviewing procedures, to comply with this new law. In addition, employers should ensure that any third parties they use to facilitate the hiring process are not obtaining and/or communicating such information in violation of the law.

Authors



Brie Kluytenaar, Associate

Brie Kluytenaar is a Mintz attorney who practices labor and employment law. She handles arbitrations, prepares witnesses, and counsels clients on legal strategies related to employment issues. Brie has represented clients in state and federal court as well as various administrative bodies.