

Connecticut Publishes Guidance Regarding Disclosure of Salary Range for Vacant Positions

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The Connecticut Department of Labor has published [guidance](#) regarding the state’s “An Act Concerning the Disclosure of Salary Range for a Vacant Position,” which goes into effect on October 1, 2021.

In reviewing this guidance, employers should be mindful that it does not constitute legal advice and is non-binding. A court may have a different interpretation of the law’s provisions.

The guidance reiterates that the law applies to any employer *within the state* using the services of one or more employees for pay, even if those employees are located outside the physical confines of the state.

With respect to covered employees, the Department of Labor considers remote employees working outside the Connecticut as covered by the law if they are working for or reporting into an employer within the state.

With respect to national employers, however, the Department of Labor does not interpret the law to cover employees who report to a physical location out of the state, even if the employer also has a location within Connecticut.

The guidance acknowledges that there is no definition of “applicant” in the law and advises employers to interpret the term broadly. The Department of Labor has defined “applicant” as “any individual who applies for a job” and cautions employers that they may not adopt their own definition of “applicant.”

The guidance also discusses what must be included in the wage range. Consistent with how “wages” are defined under Connecticut law, the Department of Labor states that, “[g]enerally, discretionary pay does *not* constitute wages,” and therefore, “such compensation is not required to be disclosed to an employee or applicant.” Non-discretionary bonuses and commission plans must be disclosed as part of the wage range, however.

The guidance further addresses employers’ concerns about the breadth of the required disclosures. Under the law, an applicant can only request the wage range for the position to which that applicant is applying. According to the guidance, “The employer is not required to provide the applicant with information concerning the amount of wages paid to any other employees.” While employees may ask other employees about their wages, and are protected from retaliation for doing so, an employer is not required to disclose the wages paid to other employees.

Finally, the guidance reiterates that an applicant or employee may file a civil action within two years of the date of any alleged violation of the law. Available remedies include compensatory damages, attorney’s fees and costs, punitive damages, and any

other relief that a court deems “just and proper.” Additionally, any person who alleges a violation of the law may file a complaint with the Labor Commissioner. The Labor Commissioner may assess civil penalties against an employer, but cannot seek damages for the applicant or employee if a violation is found.

Connecticut employers should continue to review their practices regarding disclosure of wage ranges to ensure compliance by October 1, 2021. Please contact a Jackson Lewis attorney with any questions about the law or your company’s compensation practices.

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