

Columbus, Ohio, Bans Inquiries Into Applicants' Salary History

By Patricia Anderson Pryor & Adair M. Smith

April 18, 2023

Meet the Authors



Patricia Anderson Pryor

Office Managing Principal
513-322-5035
Patricia.Pryor@jacksonlewis.com



Adair M. Smith

Associate
513-322-5030
Adair.Smith@jacksonlewis.com

Related Services

National Compliance and
Multi-State Solutions
Pay Equity

The City of Columbus joins Toledo and Cincinnati as the latest Ohio city to prohibit employers from asking prospective employees about past compensation.

Effective March 1, 2024, employers operating in Columbus may not ask about a prospective employee's wage or salary history.

What is Covered?

The new ordinance makes it an "unlawful discriminatory practice" for an employer to:

1. Ask about an applicant's salary history, which includes current or prior wages, benefits, or other compensation. Salary history does not include any objective measure of the applicant's productivity, such as revenue, sales, or other production reports.
2. Screen job applicants based on their current or prior wages, benefits, or other compensation.
3. Rely solely on the applicant's salary history in deciding whether to offer employment or in determining wages, benefits, or other compensation for the applicant.
4. Refuse to hire or otherwise disfavor, injure, or retaliate against an applicant for not disclosing salary history to an employer.

Employers may still discuss with applicants expectations as to salary, benefits, and other compensation.

Unlike Toledo and Cincinnati, Columbus does not require employers to share the pay scale for the position with applicants after a conditional offer of employment.

Who is Covered?

The new ordinance applies to all employers located within the City of Columbus that have at least 15 employees within the city. Covered employers include job placement and referral agencies and other employment agencies that operate on behalf of an entity that otherwise meets the definition of an "employer" under the ordinance.

An "applicant" is any person applying for employment within the geographic boundaries of the City of Columbus and whose application "in whole or in part, will be solicited, received, processed, or considered in the City of Columbus."

Exceptions

The Columbus ordinance does not apply to:

- Any actions taken by an employer under any federal, state, or local law that specifically authorizes reliance on salary history to determine an employee's compensation;
- Applicants for internal transfer or promotion with their current employer;
- A voluntary and unprompted disclosure of salary history information by an applicant;
- Any attempt by an employer to verify an applicant's disclosure of non-salary-related

information or conduct a background check, provided that, if such verification or background check discloses the applicant's salary history, such disclosure must not be solely relied on in determining the salary, benefits, or other compensation of such applicant during the hiring process, including the negotiation of a contract;

- Applicants who are re-hired by the employer within three years of the applicant's most recent date of termination of employment by the employer, as long as the employer already has past salary history data about the applicant from their previous employment;
- Employee positions for which salary, benefits, or other compensation are determined by procedures established by collective bargaining; and
- Federal, state, and local governmental employers, other than the City of Columbus.

Civil Penalties

The ordinance gives applicants the right to file an administrative complaint with the Columbus Community Relations Commission. Employers that violate the ordinance could face civil fines of up to \$5,000, dependent on number of offenses.

Next Steps for Employers

The ban on salary history inquiries continues to creep across the state and country. Even in jurisdictions that allow such inquiries, there are risks for employers. With remote workers and expanded geographical footprints, companies need to stay abreast of the changing laws on pay transparency and pay equity.

Beyond salary history bans, states like [California](#), [Colorado](#), [New York](#), and [Washington](#), and a handful of cities require pay information to be disclosed in job postings.

Jackson Lewis attorneys are available to answer inquiries regarding this new law and assist employers in achieving compliance with its requirements.

©2023 Jackson Lewis P.C. This material is provided for informational purposes only. It is not intended to constitute legal advice nor does it create a client-lawyer relationship between Jackson Lewis and any recipient. Recipients should consult with counsel before taking any actions based on the information contained within this material. This material may be considered attorney advertising in some jurisdictions. Prior results do not guarantee a similar outcome.

Focused on employment and labor law since 1958, Jackson Lewis P.C.'s 1,000+ attorneys located in major cities nationwide consistently identify and respond to new ways workplace law intersects business. We help employers develop proactive strategies, strong policies and business-oriented solutions to cultivate high-functioning workforces that are engaged and stable, and share our clients' goals to emphasize belonging and respect for the contributions of every employee. For more information, visit <https://www.jacksonlewis.com>.