

Job Applicant Pay History Inquiries Now Off-Limits in Illinois

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Labor and Employment

As of September 29, 2019, Illinois employers may not ask job applicants or their prior employers about salary history. The change comes after Illinois Governor J.B. Pritzker signed an amendment to the Illinois Equal Pay Act of 2003.

The New Requirements

The Illinois Equal Pay Act of 2003 made it illegal to pay employees differently on the basis of sex or the employee's status as an African American, subject to exceptions. The impetus behind the law is to address historic pay disparities for the same or substantially similar work. The amendment now takes the law a step further to address the practice of using pay histories of applicants to set wages (including benefits and other compensation). Specifically, the amendment makes the following additions to the Illinois Equal Pay Act of 2003:

- Employers, including employment agencies, may not screen out applicants on the basis of their current or prior wage history by setting a maximum or minimum wage level that applicants must satisfy.
- Employers may not request or require disclosure of an applicant's wage history as a condition of employment.
- More specifically, employers may not request or require disclosure of an applicant's wage history as a condition of being considered for employment, being interviewed, continuing to be considered for employment, or receiving a job offer.
- Employers may not seek the wage history of an applicant from any current or prior employer.

If an applicant voluntarily discloses his or her pay history this does not create a violation. However, the employer cannot then use the voluntarily disclosed pay history in consideration of employment, an offer of compensation, or setting future wages, benefits, and other compensation.

What Are Employers Permitted to Do?

While employers cannot look into the wage histories of applicants, they are still permitted to share salary and benefit information about the position the applicant seeks. Employers can also discuss salary expectations with applicants without running afoul of the law.

Employers with Illinois employees should review their recruitment and compensation practices, including paper applications and online forms, to remove any references and requests regarding an applicant's pay history. Further, human resources employees should be trained on appropriate recruitment procedures for Illinois employees.

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