

Fall Back: Westchester's Pay Transparency Law Takes Effect on November 6, 2022

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On November 6, 2022, clocks will fall back an hour and in Westchester County, New York a [new law](#) requiring disclosure of salary ranges in job advertisements will take effect.

As we [previously reported](#), Westchester, located just north of New York City and home to numerous corporate campuses, recently enacted an amendment to its [local human rights law](#) to require employers to state a minimum and maximum salary in any “posting” for jobs, promotions, and transfer opportunities. This comes on the heels of a similar law in New York City that [took effect](#) on November 1, 2022.

Employers Covered

The Westchester law, like New York City's, applies, generally, to employers with four or more employees. Unlike New York City, Westchester's law does not count independent contractors or the business owner toward the threshold and it carves out an exception for family-owned businesses, where at least two-thirds of the employees are the children, parents, spouse, or close relatives of the owner. The Westchester Human Rights Commission has not issued guidance regarding the law. (In New York City, all it takes is one worker inside city limits to put an employer with enough employees on the hook).

Covered Positions and Postings

If a covered employer has an opening for a job that will (or arguably might) be performed in Westchester County, any advertisement or “posting” about it must comply with the salary range disclosure requirement. That is true whether the job is physically located at a work site, such as an office or in the field, anywhere in Westchester, or will be a remote position that an employee could perform from their Westchester residence. Applied literally, this means that ads for *any* remote position that could be applied for by someone who might live in Westchester will need to include salary range.

The law defines a “posting” as “as any written or printed communication whether electronic or hard

copy, that the employer is recruiting and accepting applications for a specific position.” This would include traditional newspaper ads, printed or emailed memoranda, electronic job board listings, LinkedIn advertisements, and other such recruitment tools.

Exclusions

The law does not apply to generic “help wanted” signs. It also excludes advertisements by temporary staffing agencies for non-specific positions (e.g., ads seeking workers to join a “temp pool”).

Penalties

The penalties for violating the salary transparency requirements are the same as those for other violations of the Westchester County Human Rights Law, and, unlike New York City, there is no opportunity for an employer to cure a violation. Any award of penalties or damages, however, would first be subject to the outcome of investigation and hearing procedures outlined in the [statute](#), which include conciliation opportunities.

The law provides for civil penalties up to \$125,000, which could be doubled for willful violations. An employer may also be liable for monetary damages to individuals aggrieved by the violation.

(Potentially) To Be Superseded by State Law

The law includes a sunset provision that would be triggered if New York State enacts a similar law. On June 3, 2022, the State legislature has passed a [bill](#) that, if enacted, would require all employers statewide to disclose “the compensation or a range of compensation” in any ad for a job, promotion or transfer opportunity. It has yet to be sent to the governor for signing, however. If and when this bill, or similar legislation, becomes law, it will supersede the Westchester law upon becoming effective. Either way, however, Westchester employers will remain obligated to abide salary transparency in their help wanted postings and advertisements.

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