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New York State Pay Transparency Law Takes Effect

September 15, 2023

Effective September 17, 2023, employers in New York State are required to list a salary range for all advertised jobs and promotions. Governor Kathy Hochul signed legislation (S.9427-A/A.10477) in December 2022 and later signed amendments to the legislation (S.1326) in March 2023 (collectively, the "Legislation") to clarify its requirements and applicability. The Legislation is most commonly referred to as the *New York State Pay Transparency Law* and will become New York State Labor Law Section 194-b.

The Legislation requires all employers with four or more employees to:

- List "the compensation or range of compensation" for all advertised jobs, promotions or transfer opportunities that will be performed, at least in part, in the state of New York; and
- Disclose "the job description for such job, promotion or transfer opportunity, if such description exists."

The scope of advertised jobs, promotions or transfer opportunities covered by the Legislation is broad and includes any "written description of an employment opportunity" that is made available "to a pool of applicants for internal or public viewing, including electronically…"

Employers are required to list the compensation or range of compensation that the employer "in good faith believes to be accurate at the time of the posting." The Legislation defines range of compensation as "the minimum and maximum annual salary or hourly range of compensation for a job, promotion or transfer opportunity."

Both salaried, hourly and commission-based positions are covered by the law. The law also extends to remote or hybrid work opportunities that may physically be performed outside of New York but will report to a supervisor, office or other work site in New York. Institutions of higher education in New York State should keep in mind that student employment opportunities will be held to the same legal requirements. An employer who fails to comply may be subject to investigation by the New York State Department of Labor Commissioner and responsible for civil penalties for violating the law.

Employers must ensure that any forthcoming job postings adhere to the new requirements and should also review and consider updating any pre-existing job postings.

Please note that this is a general overview of developments in the law and does not constitute legal advice. Nothing herein creates an attorney-client relationship between the sender and recipient. If you have questions

regarding this alert, please contact Brian Selchick (BSelchick@cullenllp.com) at (518) 788-9426 or Nicole Donatich (NDonatich@cullenllp.com) at (516) 396-9116.

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