

Publications

Columbus, Ohio Prohibits Asking Applicants Their Salary History

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Recently, the City of Columbus joined a growing number of states and municipalities that have passed laws prohibiting employers from inquiring into a job applicant's salary history. In Ohio, Toledo and Cincinnati currently have such ordinances.

The Columbus ordinance covers all employers located within the city that have 15 or more employees, and it applies to both the employer and its agents like job placement or referral agencies. The ordinance broadly prohibits employers from asking an applicant about their salary history, asking the applicant's current or former employer, or conducting a search of publicly available records to obtain the applicant's salary history. An "applicant" is a person applying for employment that will be performed within the city's geographic boundaries and whose application will be solicited, received, processed, or considered in whole or in part in Columbus.

Under the ordinance, it is an "unlawful discriminatory practice" for an employer to:

- inquire about an applicant's salary history – meaning the applicant's current or prior wage, benefits, or other compensation;
- screen applicants based on their current or prior wages, benefits, compensation, or salary history, including that an applicant's salary history meet minimum or maximum criteria;
- rely solely on an applicant's salary history when deciding whether to extend an offer of employment or when deciding an applicant's salary, benefits, or other compensation; and
- refuse to hire or otherwise disfavor, injure, or retaliate against an applicant who does not disclose his or her salary history.

Employers may still ask applicants about their salary, compensation, and benefits expectations. Employers also may inquire into objective measures of the applicant's productivity such as revenue, sales, or other production reports.

The ordinance's prohibitions do not apply if another federal, state, or local law specifically authorizes reliance on salary history to determine employee compensation for a particular position. Nor do the prohibitions apply to internal transfers or promotions with a current employer; to voluntary disclosures by the applicant; to positions for which salary or compensation are set by collective bargaining; or to applicants who are re-hired by an employer within three years after leaving the employer.

The ordinance takes effect on March 1, 2024. Once effective, failure to comply with its prohibitions permit an applicant to file an administrative complaint with the Columbus Community Relations Commission. An employer who violates the ordinance may be subject to civil penalties of \$1,000 to \$5,000. Contact your Vorys lawyer if you have questions about pay equity laws, salary bans, or other pre-employment inquiries.