

Labor and Employment Alert: Suffolk County, New York, Prohibits Salary Inquiries

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Suffolk County, New York, has become one of the latest jurisdictions to prohibit employers from asking applicants about their compensation history. The law becomes effective on June 30, 2019. Within New York State, Suffolk County now joins New York City, Westchester County and Albany County in restricting salary inquiries. This law is part of a trend across the country with California, Connecticut, Delaware, Hawaii, Massachusetts, Oregon and Vermont adopting similar laws statewide.

It is now an unlawful discriminatory practice under the Suffolk County Human Rights Law for any employer or employment agency to inquire about a job applicant's wage or salary history, including the applicant's compensation and benefits. "To inquire" is defined as asking an applicant or former employer orally, in writing, or otherwise or conducting a search of publicly available records or reports.

Employers and employment agencies are further prohibited from relying on an applicant's salary history in determining the applicant's wage or salary amount at any stage in the employment process, including the offer or contract.

The law does not apply if an employer or employment agency is required by federal, state, or local law to verify salary for employment purposes.

The Suffolk County Human Rights Commission is responsible for enforcing this provision. The commission may impose civil penalties of up to \$50,000 for an unlawful discriminatory act, and up to \$100,000 if the violation is "willful, wanton or malicious," as well as award compensatory damages. An individual also may bring a civil lawsuit for compensatory damages, back pay, and attorney's fees.

Employers in Suffolk County should review their hiring policies and procedures to ensure they comply with these new requirements. Contact your Vorys lawyer if you have questions about pre-employment inquiries.