

## Philadelphia City Council Agrees to Salary History Inquiry Ban

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Philadelphia is poised to become the first city in the United States to ban salary history inquiries in the hiring process. The Commonwealth of Massachusetts made headlines in August 2016 when it enacted the country's first salary history inquiry ban. After Massachusetts's trailblazing legislation, several cities and municipalities have proposed similar legislation, with Philadelphia being the first to move forward towards enactment. Philadelphia's City Council has passed an Ordinance prohibiting employers from inquiring about prospective employee salary history, and the legislation is awaiting Mayor Jim Kenney's signature. The Ordinance will take effect 120 days from the date of enactment.

The legislation amends Philadelphia's Fair Practices Ordinance and makes it an unlawful employment practice for an employer to do any of the following:

- inquire about, or require disclosure of, a prospective employee's wage history,
- condition employment or consideration for an interview or employment on disclosure of wage history,
- retaliate against a prospective employee for failing to comply with a wage history inquiry, or for otherwise opposing unlawful conduct under the ordinance, or
- rely on the wage history from the prospective employee's current or former employer in making a wage rate determination, at any stage in the employment process, including the negotiation or drafting of an employment contract. The Ordinance provides an exception to this prohibition, in cases where the applicant "knowingly and willingly discloses his or her wage history to the employer."

The Ordinance provides an exception in cases where a federal, state or local law specifically authorizes the disclosure or verification of wage history for employment purposes.

The stated purpose of the new ordinance is to address persistent gender wage discrimination. Since women typically earn less than men, it is believed that basing wages upon an applicant's prior wage rate will perpetuate gender-based wage inequalities. The Ordinance is intended to address the gender wage gap by ensuring that salary offers are based upon job responsibilities, and not on the applicant's salary history.

Philadelphia employers should review their hiring practices now to prepare for the new legislation. Human Resources personnel should ensure that they, and any managers who are involved in the hiring and interview process, are made aware of the new prohibition on salary history inquiries.

Individuals aggrieved by an alleged violation will have the opportunity to file a complaint with the Philadelphia Commission on Human Relations, the agency tasked with enforcing the Fair Practices Ordinance. The Fair Practices Ordinance provides for remedies for unlawful employment practices, including equitable relief, compensatory damages, punitive damages, attorneys' fees and costs.

If you have questions or would like additional information, please contact Tanya Salgado ([salgadot@whiteandwilliams.com](mailto:salgadot@whiteandwilliams.com); 215.864.6368) or another member of our Labor and Employment Group.

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