

Attention San Francisco Employers: New City Ordinance Prohibits Asking About or Considering an Applicant's Salary History

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Many employers routinely ask job applicants about their salary or earnings history, either in written job applications, during interviews, or during post-offer salary negotiations. Such activities will soon be prohibited in San Francisco. Earlier this month, the City's Board of Supervisors voted unanimously to ban employers from asking job applicants about their salary history or from considering such information in determining whether to hire an applicant or what salary to offer.

The stated purpose of San Francisco's "Parity In Pay" Ordinance, which will become operative on July 1, 2018, is to narrow the wage gap between men and women, the idea being that relying on past pay rates in setting current pay rates contributes to the gender wage gap by perpetuating wage inequalities. The Ordinance applies to any person applying for employment where the work will be performed within the geographic boundaries of San Francisco and whose application, in whole or in part, will be solicited, received, processed, or considered in San Francisco. (This includes applicants for temporary or seasonal work, part-time work, contracted work, and work through a temp agency.)

The Ordinance prohibits employers, including city contractors and subcontractors, from (1) directly or indirectly asking an applicant about his salary history, (2) considering an applicant's salary history in making hiring decisions, or (3) considering an applicant's salary history in deciding what salary to offer the applicant. However, if the applicant voluntarily and without prompting discloses his salary history, the employer may consider that information in setting the applicant's salary (although under California's Equal Pay Act, salary history by itself cannot be used to justify paying an applicant less for doing substantially similar work). Violation of these rules could expose employers to either monetary penalties or civil litigation.

Employers that have employees in San Francisco should review their application forms to ensure they are in compliance with the Ordinance, and they should also train employees who are involved in the interview and hiring process about the Ordinance's requirements. After the city's Office of Labor Standards Enforcement publishes [notices on the Ordinance](#), affected employers should also post the notices in every workplace in the city.

For more information please contact one of the lawyers listed below.