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Pay Transparency:

What your business needs to know



Authors:

Tami Nutt, Sr Analyst

Sarah White, CEO, Head of Research

INTRODUCTION:

Gone are the days when companies could keep pay a secret, and governments are making sure they can't.

Historically, in the United States, the discussion around pay and compensation has been seen as a private matter you didn't share with friends and family - and rarely even with your boss outside of annual performance reviews. At some companies, simply talking with your co-workers about your pay is frowned upon.

This secretive nature around pay and comp has been seen by many as one of the remaining barriers in achieving true pay equity at work and in society.

More than a decade ago, online platforms like Glassdoor started the movement to create pay transparency by empowering employees to share their compensation at a specific employer for a particular role anonymously. More recently, young professionals questioned the norms of secrecy, pushed back against the anonymity of those sites, and went directly to social media platforms led by TikTok to openly share what they do and how much they get paid. Soon it expanded into employees of all industries, experience levels, and ages.

TikTok's on pay transparency and salary transparency have been viewed more than a billion times.

17

state and local governments currently have laws around pay transparency

But, the pressure around pay transparency came from more than just social change and employee pushback.

State and local governments recognized the negative impact of the lack of pay transparency and started questioning the reasoning behind the secrecy.

Initially, laws were passed making it illegal to ask for prior salary history, requiring companies to provide a candidate or employee with a salary range for a role if they request it at any time during the interview process, before eventually requiring that the salary range be publicly available before someone even decides to apply.

Inc. Magazine declared 2022 the "Year of Pay Transparency."¹

What started with a dream for a better future around transparency at work more than a decade ago transformed into a movement that is just getting started.

2022 may not be when pay transparency was founded or when so many started planting the seeds, but we started seeing the efforts pay off, both with regulations and social pressure.

Currently, 17 state and local governments have laws around pay transparency, with more coming in 2023.

WHAT YOU NEED TO KNOW ABOUT: PAY TRANSPARENCY

Pay transparency is having publicly available and clear salary ranges for all open positions and roles. It also expects the company will base its offer and compensation on that range and the candidate's prior experience - without regard to their previous salary.

Pay transparency allows all current and future employees to see a job's range before they apply for or negotiate an offer. It also provides for equal pay for equal work. It minimizes the former approach of "we pay you based on what you were making previously," which continues the underpayment of marginalized or underrepresented talent.

As early as 2016, we started seeing laws around the starting of pay transparency come to light in places like California and Maryland. These were mainly around no longer being able to ask a candidate about salary history as part of the application or interview process.

The specifics of the laws and regulations vary by state and locality, but as we move into a more remote-first work environment, what happens in one state affects even small companies. Many of these laws even apply to companies with fewer than five employees.

If you are a company of any size that is located in, hires employees in, or even posts a remote position online where someone from one of these states/localities may apply - you need to start following the guidelines for both compliance and best practice.

A43 Analyst Insight:

If you are a company doing any remote hiring or job advertising, you should be following all the laws around pay transparency - even if you are not located in that state or currently have employees in that state.

You can not simply say employees in a certain state are not able to apply.

A LOOK AT: PAY TRANSPARENCY LAWS

We are on track for nearly two dozen states and local regions to have pay transparency laws by the end of 2023, and we expect this to expand even further in 2024. Even if your organization is not currently required, you should prepare and plan (if not already following them).

Failure to follow the legal requirements can result in a company paying expensive fines, ranging from \$500-\$10,000 per citation up to \$250,000 for the first transgression, depending on the city or state's pay transparency penalties.

Here are some key cities and states with laws that are active or will be active shortly and their specific details regarding both in-state and remote workers.



January 1, 2021, Colorado

Employers located in Colorado, with employees in Colorado, or who have potential applicants in Colorado are required to include the pay or pay range and a description of benefits in open job postings.

The law raised questions about whether it applied to remote positions and if an employer could designate that it was not available for Colorado applicants to avoid including the salary information. The state clarified in July 2021 that yes, the law applies to remote positions that a Colorado resident could fill, and no, companies can't "opt out" by not considering Colorado residents. With over a 10% increase in remote roles over the past few years², this scope of regulation practically applied the state requirement nationwide to all companies with remote positions. And other cities and states have followed suit.



November 1, 2022, New York City

Employers with 4+ employees located in NYC, with employees in NYC, or who have potential applicants in NYC (remote positions) are required to include the pay range in open job postings and for promotion and transfer opportunities.



January 1, 2023, Rhode Island

Employers with employees in Rhode Island must provide the pay range to applicants upon request.

Employers must provide the pay range to employees at the time of hire and promotion and upon request at any time during employment.



January 1, 2023, Washington

Employers located in Washington with 15+ employees must include the pay range and a description of benefits in open job postings. This requirement also applies to third parties (agencies) that post positions for the employer.



January 1, 2023, California

Employers with 15+ employees located in California, with employees in California, or who have potential applicants in California (remote positions) are required to include the pay range in open job postings. This requirement also applies to third parties (agencies) that post positions for the employer.

California companies also must provide current employees with the pay range for their current position if the employee requests it. The posting of pay ranges for open positions sparks questions from current employees about the pay range of their roles and stirs demands to expand the public sharing of pay information further. California preempted these calls by extending communication requirements to current employees.

California hosts the greatest number of civilian workers in the United States³, so the disclosure requirement for both pay range in job postings and the extension to current employees for any role dramatically expands the application of this form of pay transparency.

HOW YOUR COMPANY SHOULD RESPOND

Regardless of location, you should adopt pay transparency within your organization as soon as possible, especially if you have a remote workforce. This move will be a much easier process for some companies than others. Nearly 1:3⁴ companies today are not prepared for pay transparency requirements due to complex job architecture, lack of salary bands tied to roles, or a high volume of internal and external positions.

It is easy to say, "just add salary range on your job posts," but for large organizations, and many mid-size companies, it is much harder to execute than it seems.

How do you get started, regardless of your size?

Immediately

- Post compensation ranges on all existing and future job posts - even if temporary until the proper band and pay analysis is done.
- Educate your company on the requirements and the positive business impact of pay transparency and why steps will need to be taken to address it. This will include your executive team, legal team, hiring managers, human resources team, and, most importantly, your recruiting teams.
- Stop asking for salary/compensation ranges during interviews. Provide the range and confirm alignment with their expectations. Make sure to remove salary history questions from your online and paper applications and background check forms.
- Ensure that your internal promotions, transfers, or job changes are assessed based on the comp for their future role, not their current salary.

Soon

- Identify your pay bands - if you have them, fantastic! You are ahead of most organizations. If you don't, identify what a position pays and how someone gets to the different ranges.
- Identify any pay gaps or inequities. Today, there is a lot of technology focused on pay equity to simplify this process (we will have a full report in Q1 on this). Use this data to correct/adjust your internal pay inequities and ensure your new hires receive proper compensation in line with your current workforce.
- Some companies need a comprehensive compensation plan or job architecture redesign that formally structures pay ranges. This process can be long, but the move to pay transparency may mean these need to be formalized and communicated. It would be best to put a temporary plan in place in the interim.

PREPARING YOUR INTERNAL TEAMS

There has been a historical fear around pay transparency within organizations by company leaders and human resource teams. A challenge many HR leaders will face is helping others see the value and benefits of this for their organization.

Some common feedback we have heard about the downside of pay transparency is fewer applicants; it's easier for a competitor to know what you are paying so they can pay more, employees getting upset when finding out what new employees are paid, and higher turnover.

Few of these fears are based on data.

Educating your managers and company on the value of pay transparency and positive business impact will require you to understand and believe it fully. It will also require your company to take a hard look at areas they may not have been doing well at historically and correct them.

Beyond just your leaders, it is essential to communicate internally with your employees. How the company identifies the pay grade, determines the compensation offer, how it relates to current employees, and how workers can earn a compensation increase needs to be communicated to applicants and employees.

If, in this process, you realize pay inequity - share immediately that you recognize it and what steps are taking to correct it. Employees are far more forgiving with honesty than ignoring.

Stop making pay a taboo topic.
No one is working for you simply because they like it.

3 OVERLOOKED BENEFITS OF: PAY TRANSPARENCY

1

Increased quality of applicants.

This one seems only relevant if you are a high-paying company, but it works for all companies. A quality applicant can provide the work you need to be done in a salary range you can pay.

If you get 100 superstars that you can't afford to hire - are they really quality applicants? The people who have applied to you already fit the comp range and chose to apply to you.

This means you can focus on skills and role match vs. determining compensation fit. Saving time during the hiring process and getting the right person hired quickly.

2

Productivity in Improved

A 2014 study found that workers who had the compensation range of their team shared achieved a 10% increase in productivity⁵. When people feel like they are an equal part of the team (not even the highest paid), they feel more valued and supportive of others they see as more likely to work at the same level.

3

It builds trust with your employees and increases retention.

With pay transparency comes pay equity. Most companies don't set out to marginalize a group, yet over time they do. This historically was because compensation was based on your last salary - not the current band. More recently, it was because employees that jumped positions saw more significant increases than those that stayed. Both could leave existing employees questioning their value and worth to the organization due to the uncertainty.

For many companies, the biggest pay equity gap is among their longer-term and newer employees. Pay transparency forces you to recognize where you may fall short with your existing employees and solve the issue before a competitor does.



CONCLUSION

While salary bands and candidate communications were "nice-to-haves" in the past, these are "must-haves" for businesses today. Social expectations and government regulations require this information to ensure that companies pay employees fairly and equitably.

The current campaign is part of a movement over the past few years seeking more equitable workplaces by digging into the practices - more than just the policies - that allow for inequity to occur and targeting those with regulations and public pressure. The target of compensation practices continues to grow around the applicant experience and expand to the employee experience.

Many HR technology solutions provide support for these pay transparency efforts. While extensive and in-depth statistical pay audits are helpful, they take time, and the laws (and penalties) are in place now. The technology offers a simpler and quicker solution, providing current pay ranges, reports on potential inequities, and next-step actions for correction. The solutions help companies meet immediate needs while better preparing for future requirements and goals, supporting a shift to proactive pay transparency.

The movement around pay transparency is growing in scope, location, and support. Companies of all sizes - regardless of where they are located - need to take action to meet candidate expectations and expanding compliance requirements.

Footnotes

1. <https://www.inc.com/anna-meyer/pay-transparency-linkedin-big-ideas-2022.html>
2. <https://www.forbes.com/sites/bryanrobinson/2022/02/01/remote-work-is-here-to-stay-and-will-increase-into-2023-experts-say>
3. <https://www.statista.com/statistics/223614/state-civilian-labor-force-in-the-us/>
4. <https://www.wtwco.com/en-US/News/2022/09/more-north-american-organizations-plan-to-disclose-pay-information-survey-finds> State of talent 2017. (2017).
5. <https://www.theatlantic.com/business/archive/2014/04/the-unexpected-benefit-of-telling-people-what-their-coworkers-make/360301/>

About The Authors



Aspect43 is a leading analyst, advisory & strategy firm - and the experts behind the biggest names in HR and Work Tech. Each year we conduct research with hundreds of organizations to help understand the needs, goals, and challenges they face to hire, manage and retain their workforce. This data-driven approach has helped more than 300 vendors & investment teams quickly identify and solve challenges impacting market alignment, customer satisfaction, user adoption, revenue, product gaps, brand impact, and investment.

Connect with them via their [website](#), [Twitter](#) and [LinkedIn](#).

Sarah White, Founder & CEO of Aspect43, is a leading analyst, consultant, and speaker in the area of work & how technology impacts employees. She is focused on improving the experiences of how we hire, manage and retain our workforce. Connect with her on [Twitter](#) and [LinkedIn](#).

Tami Nutt, HR Tech Sr. Analyst. Tami is a former practitioner with more than 15 years of HR experience and holds a law degree focused on Labor & Employment Law from Tulane Law School. She has a passion to make compliance complementary instead of complicated. Connect with her on [Twitter](#) and [LinkedIn](#).



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