

DEPARTMENT OF INDUSTRIAL RELATIONS  
Division of Labor Standards Enforcement

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**Lilia García-Brower**  
*California Labor Commissioner*

February 13, 2023

Sent Via E-Mail

**Re: Information on New Pay Transparency Law Requirements  
(Labor Code Section 432.3 Amendments)**

Dear Employer:

The California Labor Commissioner's Office (LCO) is responsible for enforcing the Labor Code, including compliance with newly amended laws combating pay disparities. This letter seeks to inform and ensure that employers understand their new legal requirements and the potential consequences for non-compliance with state pay transparency laws and the Equal Pay Act. (Lab. Code §§ 432.3, 11975.)

Pursuant to the pay transparency laws under Labor Code Section 432.3, including recent amendments, an employer with 15 or more employees shall include the pay scale for a position in any job posting, and if that employer engages a third party to handle the job posting, the third party shall include the pay scale in the job posting. (Lab. Code §§ 432.3(c)(3), (c)(5).) The law applies to postings for jobs that may be filled or performed in California, either in-person or remotely.

In addition, all employers must:

- Not rely on the salary history information of an applicant for employment as a factor in determining whether to offer employment to an applicant or what salary to offer an applicant. (Lab. Code § 432.3(a).)
- Not seek salary history information, including compensation and benefits, about an applicant for employment. (Lab. Code § 432.3(b).)
- Provide the pay scale for a position to an applicant applying for employment, upon reasonable request by an applicant. (Lab. Code § 432.3(c)(1).)
- Provide the pay scale for the position in which the employee is currently employed, upon request by an employee. (Lab. Code § 432.3(c)(2).)
- Maintain records, open to inspection by the LCO, of a job title and wage rate history for each employee for the duration of the employment plus three years after the end of the employment in order for the LCO to determine if there is still a pattern of wage discrepancy. (Lab. Code § 432.3(c)(4).) If an employer fails to keep records in violation of this section, there shall be a rebuttable presumption in favor of the employee's claim alleging violations of these protections. (Lab. Code § 432.3(d)(5).)

An employer who violates Labor Code section 432.3, as noted above, may be subject to civil penalties of up to \$10,000 per violation, as determined by the LCO. (Lab. Code § 432.3(d)(4).)

As a reminder, the LCO also investigates complaints under the Equal Pay Act. (Lab. Code § 1197.5). The pay transparency laws referenced above are in addition to an employer's obligations under the Equal Pay Act. Together, these pay laws work towards combatting pervasive gender, race, and ethnicity-based pay disparities in the workplace. The Equal Pay Act prohibits an employer from paying its employees less than employees of the opposite sex, race, or ethnicity for "substantially similar work" when viewed as a composite of skill, effort, and responsibility. (Lab. Code §§ 1197.5(a), (b).) If the LCO finds an employer violated the Equal Pay Act, it may order the employer to pay the affected employee wages, and interest thereon, of which the employee was deprived by reason of the violation, and an additional equal amount as liquidated damages. (Lab. Code § 1197.5(c).) When the LCO-issued citation becomes final, it becomes an enforceable judgment against the employer in favor of the LCO. (Lab. Code §§ 98.74(b)(2), (d)(3).) Moreover, an employer who willfully refuses to comply with a final order pursuant to this section or who refuses to comply with an order to post a notice to employees or otherwise fails to cease and desist from the violation, in addition to any other penalties available, shall be subject to a penalty of \$100 per day for each day the employer continues to be in noncompliance with the order, up to a maximum of \$20,000. (Lab. Code § 98.74(e).)

If you have any questions or need additional information regarding California's Equal Pay Act and pay transparency laws, please refer to the [FAQs](https://www.dir.ca.gov/dlse/california_equal_pay_act.htm) on our website at: [www.dir.ca.gov/dlse/california\\_equal\\_pay\\_act.htm](https://www.dir.ca.gov/dlse/california_equal_pay_act.htm). You may also contact our Retaliation Unit at [retaliation@dir.ca.gov](mailto:retaliation@dir.ca.gov). For general information on the laws enforced by the LCO, you may call 833-LCO-INFO (833-526-4636) or contact our Business Engagement Program by email at [MakeItFair@dir.ca.gov](mailto:MakeItFair@dir.ca.gov).

Lastly, California law prohibits employers from retaliating against employees for exercising their rights under the Labor Code, including rights under California's Equal Pay Act and pay transparency laws. In addition to other appropriate remedies, employers who violate these laws are liable for a civil penalty of up to \$10,000 for each instance of retaliation. Corporations and limited liability companies are also subject to an additional civil penalty of up to \$10,000 for each instance of retaliation.

My office is committed to promoting compliance with workplace protections for vulnerable workers, which also levels the playing field and supports law-abiding employers. We hope to continue working with you in a strong partnership toward achieving these important goals.

Sincerely,



Lilia García-Brower  
California Labor Commissioner