



SCHOOL & COLLEGE LEGAL SERVICES OF CALIFORNIA

*A Joint Powers Authority
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LEGAL UPDATE

December 27, 2017

To: Superintendents/Presidents/Chancellors, Member Community
College Districts

From: Carl D. Corbin *CDC*
General Counsel

Subject: Applicant Salary History
Memo No. 30-2017(CC)

On October 12, 2017, the Governor approved Assembly Bill (“AB”) 168, which is codified at Labor Code section 432.3.¹ Effective on January 1, 2018, private and public employers in California must comply with the following requirements:

1. An employer shall 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;
2. An employer shall not, orally or in writing, personally or through an agent, seek salary history information, including compensation and benefits, about an applicant for employment; and
3. An employer, upon reasonable request, shall provide the pay scale for a position to an applicant applying for employment.

However, the following exceptions apply:

1. This [law] shall not apply to salary history information disclosable to the public pursuant to federal or state law, including the California Public Records Act or the federal Freedom of Information Act. The obtained information may be used as a factor in determining salary if it is supported by at least one bona fide factor other than sex, race, or ethnicity;

¹ Available at: https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180AB168.



2. Nothing in this [law] shall prohibit an applicant from voluntarily and without prompting disclosing salary history information to a prospective employer; and
3. If an applicant voluntarily and without prompting discloses salary history information to a prospective employer, nothing in this [law] shall prohibit that employer from considering or relying on that voluntarily disclosed salary history information in determining the salary for that applicant; however, there should be at least one bona fide factor other than sex, race, or ethnicity supporting the salary determination.

While a violation of this new law is not a misdemeanor,² employers that violate this new law are subject to monetary penalties under the Private Attorneys General Act (“PAGA”).³

Please contact our office with questions regarding this Legal Update or any other legal matter.

The information in this Legal Update is provided as a summary of law and is not intended as legal advice. Application of the law may vary depending on the particular facts and circumstances at issue. We, therefore, recommend that you consult legal counsel to advise you on how the law applies to your specific situation.

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² Like other violations applying to impermissible procedures associated with applicants – see Labor Code section 433.

³ http://www.labor.ca.gov/Private_Atorneys_General_Act.htm.