

## NEW JERSEY

### Privacy and Wage History: What You Can and Can't Ask in New Jersey

Just because a practice has been permitted for decades doesn't necessarily guarantee it's set in stone. Effective January 1, 2020, New Jersey employers will no longer be allowed to ask potential employees for their previous salary history during the interview and consideration process.

How will the salary history ban impact your business? Here are a few things you need to know.

#### Prohibited Practices

[NJ A1094](#) bars New Jersey employers from the following actions:

- using salary history to screen applicants
- requiring salary history to satisfy specific criteria
- basing employment decisions on whether or not an applicant provides wage information

#### Notable Exceptions and Acceptable Actions

Background checks, excluding salary requests, remain an acceptable pre-employment action, and employers may consider an applicant's salary history if the information is shared freely, without prompting, or gained through publicly accessible channels as long as it isn't used to determine potential compensation. Once an employment offer has been extended, employers may confirm the applicant's salary history as long as they're given written authorization to do so. Employees seeking promotions or transfer opportunities are excluded from the new law.

#### Special Circumstances for Multistate Employers

New Jersey employers that also conduct business in other states can request salary history information on applications, but they must clearly state that New Jersey applicants are not required to respond.

#### Action Steps for New Jersey Employers

Before the end of 2019, employers should remove salary history questions from their application materials and train managers and human resources personnel not to request that information before extending an employment offer to potential employees. Violations range from \$1,000 initially to \$5,000 for a second offense and \$10,000 for each subsequent violation.