



A Thousand Reasons to Get Pay Transparency Right



Pay Transparency Is Here (And Here To Stay)

In the past, many companies viewed the discussion of wages among employees as a threat to company culture. Employees who shared information about their own pay or sought information about other employees' pay might even be seen as troublemakers. More recently, however, federal and state authorities have turned their attention to supporting pay transparency and preventing employers from punishing employees who seek or share wage information. In the eyes of regulators – employees need more information to know if they are being treated differently than other employees on a protected basis.

These pay transparency efforts have focused on each step of the employment life cycle. For instance, **as the law currently stands in Maryland** :

- applicants for employment may seek (and employers must provide) the pay range for the position sought;
- employers are limited as to how and when they may request or consider an applicant's prior wage history during the hiring process;
- current employees may discuss or disclose their wages (subject to certain limits); and
- employers may not retaliate against applicants and employees who exercise these rights.

Other states and local jurisdictions have enacted similar requirements, and the National Labor Relations Act protects pay transparency for non-managerial employees at the federal level.

What's The Risk?

In Maryland, existing law already creates strong disincentives for violating pay transparency rules. Depending on the type of violation alleged, these include:

- civil claims brought by an employee or the Attorney General on their behalf;
- liquidated damages (effectively, double damages to punish the employer);
- attorneys' fees; and
- monetary penalties.

1,000 More Reasons To Comply?

If existing penalties were not enough of a deterrent, the Maryland Department of Labor (DOL) is [supporting legislation this General Assembly session](#) to strengthen employee protections. If passed, employers who retaliate against employees for "inquiring about rights and responsibilities" under pay transparency laws, filing related complaints with DOL, or participating in DOL enforcement efforts may be subject to a civil penalty of up to \$1,000 *for each employee* impacted. Employers who fail to pay such penalties when assessed can face *both* triple damages and punitive damages.

**This client alert is for informational purposes and is not legal advice.*

This Monday morning would be a great time to look at your company's approach to pay transparency. If you have any questions, **please contact our employment practice team members.**

Email Steve
Metzger

Email Brandon Wharton

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