Pay Transparency in Roundup

Keeping Up with the Patchwork of Laws

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November 18, 2026

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Webinar Format

→ Participant phone lines are **muted**

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DCI: Data Driven – Client Focused

Our Mission

Advancing non-discrimination and fairness in the workplace by implementing merit-based and skill-focused employment practices.

Our Vision

We believe every person deserves equal opportunity and fair treatment in the workplace and beyond.

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How DCI Can Help



Compliance

- VEVRAA and Section 503 AAPs
- Mandatory job listings
- State affirmative action and non-discrimination
- EEO-1 and VETS-4212 reports
- DOL compliance review support
- State pay reporting
- Pay transparency
- Proactive guidance on regulatory change



Selection and Assessment

- Job analysis
- Selection procedure development and validation
- Expert evaluation/bias audit of HR systems, including artificial intelligence



Workforce Analytics

- DEI risk mitigation
- EEO disparity analyses
- Damage calculations
- Non-discrimination in employment plans
- Reduction-in-force analyses
- Barrier analyses



Pay Equity and Compensation

- Pay equity studies
- EU Pay Transparency
- Pay compression studies
- Wage gap studies
- Job architecture development
- Market benchmarking
- Pay band creation
- Executive compensation reviews
- Bonus program reviews



Litigation Support

- Consulting expert in applied research in class action litigation
- Testifying expert in case strategy, expert reports, & sworn testimony
- Expert reviews of AI-based hiring procedures

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Pay Transparency Basics

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What is Pay Transparency?

The practice of sharing information about compensation.

- Job Posting Disclosure
- Disclosure Upon Request
- Internal Posting / Promotional Notice Requirements
- Salary History Bans
- Pay Data Reporting / Equal Pay Certifications
- Wage Discussion Protections

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Pay Transparency

Focus on Information and Process

- Do people know and understand how they are paid?
- Salary ranges, pay bands, compensation philosophy, promotion criteria

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Pay Equity

Focus on Outcomes and Fairness

- Are people being paid fairly?
- Often evaluated through statistical analysis, cohort review, and examination of compensation decisions

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The Two-Sided Coin of Pay Transparency

Benefits	Risks
Recruiting Efficiency	Compression and Inversion
Candidate Trust	Loss of Negotiation Flexibility
Employer Brand	Competitive Intelligence Exposure
Internal Equity Discipline	Exposure Without Remediation
Retention	Multi-State Administrative Burden
Litigation Posture	Remote Work Complexity

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Common Misconceptions



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How Transparent Should Employers Be?

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The Legal Landscape

Pay Transparency Laws and Regulations

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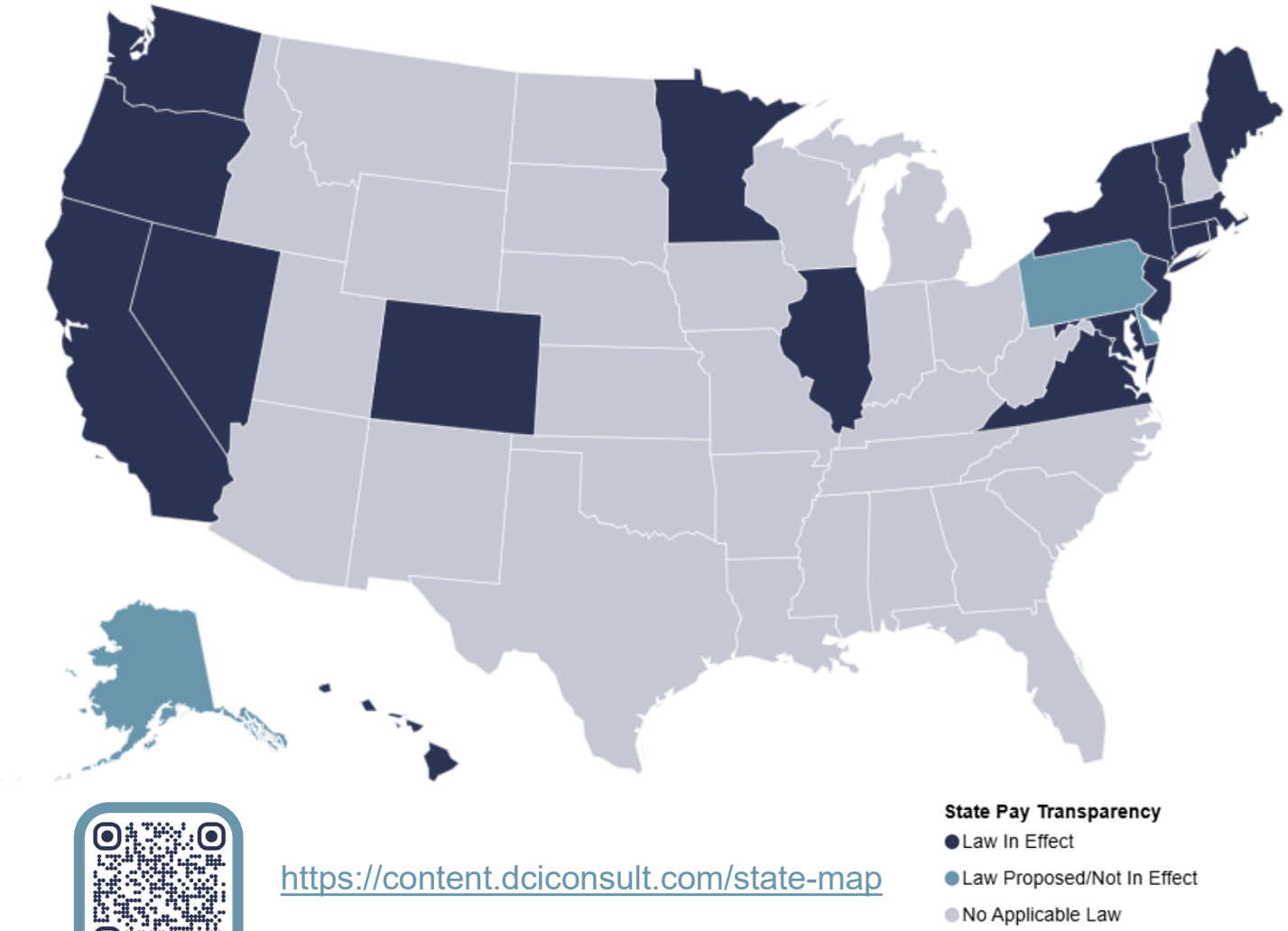
Federal Level

There really isn't a federal "pay transparency" law

- **National Labor Relations Act (NLRA)** – private sector employees have a right to discuss wages with coworkers ("concerted activity")
- **Equal Pay Act** – "Equal pay for equal work"
  - Lack of transparency is why many EPA violations go undetected
- **Title VII / EEOC position** – retaliating against employees for discussing compensation can support disparate treatment or retaliation claims
- **EO 11246 (now rescinded)** – included pay transparency nondiscrimination provision barring contractors from prohibiting employees from discussing pay
- **FAR Proposed Rule January 2024 (withdrawn)** – would have included salary history ban, disclosure requirements for salary, wage, and benefit info
- **EEO-1 Component 2 (2017-2018)** – Filed two years at once, then over

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The Patchwork: State Pay Transparency Laws



https://content.dciconsult.com/state-map

18 States with salary range disclosure laws

19 States with salary history bans

4 States with pay reporting requirements

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What if your state is not in the patchwork?

- Your organization may have actual operations in one or more of the states listed (California, Nevada, Colorado, etc.)
  - Offices, employees, or business activity in a covered state
- Remote/multi-state job postings may trigger coverage, regardless of employer's physical location
  - Coverage generally follows where the work is performed or where the role reports, not where the employer is located
  - One Colorado employee is enough on its own
    - Colorado's statute defines "employer" as anyone "employing a person in the state"
    - "Role not available to candidates in Colorado" loophole was tried and explicitly closed

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State Pay Disclosure Requirements

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Getting the Range Right



How do you actually build a salary range that holds up to scrutiny? What does the process look like when an employer has never had formal ranges before?

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Salary History Ban Guidance



What's the most common process failure that you see? How do you build a compensation offer process that's defensible even when a candidate volunteers their prior salary?

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Local (City/County) Ordinances

State law isn't the only layer — some cities and counties go further, or fill a gap where the state hasn't acted

New York City	Jersey City, NJ	Ithaca, Westchester County & Albany County, NY	Cincinnati, Cleveland & Toledo, OH	Columbus, OH
Salary range in job postings (Local Law 32, predates NY's statewide law)	5+ employees; pay and benefits in job postings; fines up to $2,000	Their own local posting-disclosure ordinances	Salary history bans, despite no statewide Ohio law	Salary history ban only, no posting requirement

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State Pay Reporting Requirements

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States that Require Pay Reporting

California

- Private employers with 100+ employees (at least 1 in CA), separate Labor Contractor report
- "EEO-1 Component 2 Clone" – employee counts by race/ethnicity and sex by 12 pay categories and job categories (previously EEO-1 cat., now SOC cat.)
- W-2 Box 5 wages, hours worked

Massachusetts

- Private employers with 100+ employees in MA
- Workforce demographic data by race/ethnicity and sex across job categories (EEO-1)

Illinois

- **Equal Pay Registration Certificate** for private employers with 100+ employees in Illinois (renewal every 2 years)
- **Individual employee-level data** with race/ethnicity, sex, county of work, date of hire, total wages (W-2 Box 5), job/title changes, hours worked
- Certification statement

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States that Require Pay Reporting (Contractors)

- **New Jersey**
  - For state contractors only. No minimum employee count. No minimum contract value.
  - Qualifying services: report covers all employees (EEO-1 Component 2 Clone)
  - Public works: file certified payroll report covering employees employed in connection with contract
- **Minnesota**
  - Companies with 40+ employees and MN contracts >$100k must have a Workforce Certificate. This requires submitting a Workforce and Utilization Analysis that includes either the wage rate or salary range for each job title in the workforce (once every 4 years).
  - Companies with 40+ employees and MN Contracts >$500k require an Equal Pay Certificate (valid for 4 years). No wage data submitted, but subject to an audit at some point during 4-year term.

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In States Requiring Reporting

Know your deadlines

File any required pay reports by the published due date. These are hard deadlines with penalties and risks for noncompliance.

Build one data pipeline

Despite differences, CA and IL need hours worked, race/ethnicity, sex, job categories, and W-2 wages. Build once, report to both.

Analyze before you submit

Review data under privilege before sharing with any enforcement agency. Know what the numbers show, especially for IL individual-level data.

Watch your headcounts

Each state uses a different employee-count thresholds and methodologies. Small differences can make or break whether you're covered.

Treat reports as discoverable

What you submit can surface in an agency inquiry, FOIA request, or litigation. It is not confidential once filed.

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General Guidance

- Consider your organization's pay transparency philosophy
- Know your footprint
- Build one policy, not fifty
- Documentation is your defense!

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State-by-State Requirements at a Glance

	Salary Range Disclosure	Promotion Disclosure	Salary History Ban	Pay Reporting
California	✓		✓	By category
Colorado	✓	✓	✓	
Connecticut	✓	✓	✓	
Delaware	eff. 9/27		✓	
District of Columbia	✓		✓	
Hawaii	✓		✓	
Illinois	✓	✓	✓	Individual
Maine	✓		✓	
Maryland	✓		✓	
Massachusetts	✓	✓	✓	EEO-1 Report
Minnesota	✓		✓	By title (contractors)
Nevada	On request		✓	
New Jersey	✓	✓	✓	By category (contractors)
New York	✓		✓	
Oregon			✓	
Rhode Island	On request		✓	
Vermont	✓		✓	
Virginia	✓	✓	✓	
Washington	✓		✓	

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