

NEW YORK STATE 2019 PAY EQUITY LAWS

In 2019, New York State passed two key laws to help close the gender wage gap: a ban on employers asking for, or relying on salary history to set pay rates and a prohibition on employers' paying employees less based on a broad range of characteristics beyond sex if they perform "substantially similar work" as their colleagues who are not in that protected class.

SALARY HISTORY BAN

- **This law applies to all employers in the State, including public employers.**
- **Employers are prohibited from:**
 - **Relying on** an applicant's salary history in determining whether to make a job offer or when setting salary.
 - **Asking an** applicant or current employee for their salary history as a condition of being interviewed or as a condition of employment or promotion.
 - **Seeking** salary history from an applicant or current employee's former or current employer, including an agent (e.g. a recruiter), or from another employee.
 - **Retaliating** against an applicant or current employee for not sharing salary history information or filing a complaint.
- **Applicants and employees can:**
 - **Voluntarily** provide salary history information so long as it is without prompting from the employer.
- **Employers can:**
 - Confirm wage or salary history **only** at the time an offer of employment with compensation is made to the applicant, an applicant provides salary history information to support negotiation of a wage or salary higher than initially offered by the employer.
- **The law goes into effect January 6, 2020.**

EQUAL PAY FOR SUBSTANTIALLY SIMILAR WORK

- **This law applies to all private employers in the State.**
- **Employers are prohibited from:**
 - Paying employees with status within one or more protected classes less than an employee without status within the same protected class or classes

for equal work or “substantially similar work” based on a composite of skill, effort, and responsibility, and performed under similar working conditions.

- For instance, an employer cannot pay a housekeeper and a janitor differently if they perform “substantially similar work.”
- **“Protected class”** includes age, race, creed, color, national origin, sexual orientation, gender identity or expression, military status, sex, disability, predisposing genetic characteristics, familial status, marital status, or domestic violence victim status.
- **Employers can:**
 - Pay employees differently only if that difference is based on:
 - A seniority system;
 - A merit system;
 - A system which measures earnings by quantity or quality of production; or
 - A bona fide factor other than status within one or more protected classes, such as education, training, or experience. This factor must job-related and consistent with business necessity and cannot be derived from a wage differential based on status within a protected class.
- **The law goes into effect October 8, 2019.**

If you have questions about your rights under these laws, call A Better Balance’s free, confidential legal hotline at 1-833-NEED-ABB (1-833-633-3222).