

The 12 Days of California Labor & Employment Series – Day 5 “Salary History Clarifications”

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It's the end of the year and while everyone is busy, employers in California should be aware of new laws and regulations that go into effect on January 1, 2019. In the spirit of the season, we are using the next “12 days of the holidays” to blog about one California law a day and that law's impact on California employers. On the fifth day of Christmas, my Labor and Employment attorney gave to me—five golden rings and AB 2282.

Last year, [we updated you on AB 168](#), which prohibited an employer from seeking salary history information from a job applicant. AB 168 took effect as of January 1, 2018 and throughout the year it was evident that several parts of the bill needed to be clarified. As such, AB 2282 was enacted.

As noted above, AB 168 prohibited an employer from seeking salary history from a job applicant. The question was raised as to who qualifies as an “applicant.” Per AB 2282, an “applicant” is an individual who seeks employment. It does not refer to a current employee who may be seeking a new position and/or promotion. AB 168 also requires an employer to provide a pay scale for the position in which the applicant applied, if a reasonable request is made. “Pay scale” is defined in AB 2282 as the salary or hourly wage range, exclusive of bonuses or equity ranges. “Reasonable request” has now been defined to mean a request after an applicant has completed an initial interview.

AB 2282 also clarified what an employer may ask an applicant in regards to salary. Although they cannot ask for salary history information, an employer may ask about salary expectation for the position. An applicant is still allowed to volunteer any information they wish to regarding their salary, compensation and/or benefit history.

California employers should already be in compliance with AB 168. As of January 1, 2019, employers should also ensure that their human resources staff and/or employees involved in the application review and interview process are aware of the clarifications in AB 2282. And, if a California employer has not reviewed their job applications to ensure compliance with both laws, they should certainly do so.

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Topics

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