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NYC to Join Other Jurisdictions in Requiring Employer Pay Data Reporting

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After the NYC Council voted to override a veto by former Mayor Eric Adams, New York City will soon require large employers to report pay data by employee race, ethnicity, and gender.

NYC Pay Data Reporting Coverage and Requirements

As we previously reported, while these new requirement take effect immediately, covered employers—i.e., employers with 200 or more employees in New York City (including full-time, part-time and temporary employees)—will have some breathing room, as the City must first implement the process for the submission of such information.

First, the law requires that an agency be designated within one year of the law taking effect (i.e., by December 4, 2026), at which point the designated agency has one year to develop a standardized fillable form for covered employers to submit pay reports.

Within one year of the designated agency publishing the standardized form, and annually thereafter, covered employers must submit to the designated agency:

- A pay report that includes current information corresponding with the categories of information required by the Equal Employment Opportunity Commission (EEOC) in the EEO-1 “Component 2” reporting requirements for reporting years 2017 and 2018; and
- A separate signed statement confirming the submission and accuracy of the pay report.

As noted above, the NYC pay report will track pay data information that private sector employers with 100 or more employees, as well as certain federal contractors/subcontractors, were previously required to compile and submit to the EEOC as part of annual EEO-1 reporting requirements for years 2017 and 2018. This information included aggregate pay and hours-worked data across 12 pay bands broken out by job category and by race, ethnicity, and sex.

Component 2 pay data reporting has not been required as part of annual EEO-1 reporting since 2020, when collection of the 2018 data closed and the EEOC published a Federal Register notice reflecting it could not seek approval to continue Component 2 reporting. As such, the NYC law will effectively reinstate an obligation for those employers covered by the City law that has not existed for several years. It is further noted that the designated agency would be authorized to adopt modifications for the NYC pay report, which could include (but would not be limited to) inclusion of reporting options accounting for different gender identities beyond male and female.

How Pay Data Will be Compiled and Used

While employers will have an option to submit the pay report anonymously, the separate signed statement must identify the employer. Within one year after covered employers submit their pay reports, and annually thereafter, the designated agency will conduct a pay equity study and publish the data contained in the reports in the aggregate, and in a manner that does not reveal a covered employers' or employee's identifying information.

Penalties for Noncompliance

Violations of the law will subject employers to civil penalties, as follows:

- For the first offense, a covered employer will be subject to a written warning if the employer provides, within 30 days of the service of summons, documentation indicating that such violation has been cured. If the employer fails to provide such documentation, they will be subject to a civil penalty of $1,000; and
- For any subsequent offense, a covered employer will be subject to a civil penalty of $5,000.

The designated agency will also publish annually on its website a list of covered employers that fail to comply with the reporting requirements.

Other Pay Data Reporting Laws and Pending Bills

With the enactment of this new requirement, NYC will join a small—but potentially expanding—group of jurisdictions requiring employer pay data reporting.

California has required private employers with 100+ employees in total (and at least one employee in CA) to submit annual workforce pay and demographic data reporting to he California Civil Rights Department since March 2021 (with certain modifications over time). Reports are organized by establishment and include breakdowns by job category, pay band, race, ethnicity, and sex, along with hours worked. Employers face per-employee civil penalties for non-compliance.

Illinois began requiring private businesses with more than 100 employees in Illinois to obtain an Equal Pay Registration Certification, with the first certificate having been required by March 23, 2024 and continuing every two years thereafter. To obtain a certificate, employers must submit certain information to the Illinois Department of Labor, including (i) the employer's most recently filed EEO-1 report; (ii) a list of employees separated by gender, race, and ethnicity with employee-level data including county, dates of employment, and total wages; and (iii) a signed compliance statement meeting certain specifications.

And in a related requirement, effective as of February 2025, Massachusetts employers with 100+ employees in MA are required to annually submit to the MA state secretary copies of their EEO-1 report as submitted to the EEOC. Employers covered by the EEOC's EEO-3 (covering local referral unions), EEO-4 (covering state and local governments), and/or EEO-5 (covering public elementary and secondary school systems) reporting requirements are also required to submit to the MA state secretary copies of such reports on a biannual basis.

Looking ahead, the New York state legislature is currently considering a bill that would require employers bidding on state contracts to annually submit employee pay data broken down by job category, gender, race, and ethnicity, as well as the difference between pay averages in each category, to the New York State Comptroller.

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We will continue to monitor and report developments relating to this and similar pay data reporting laws.

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