Responding to pay transparency laws?
3 areas you must prioritize
What is pay transparency?

Pay transparency requires employers to disclose pay or pay ranges for a job or role — internally or externally. Some employers may be concerned that transparency about pay or pay ranges might trigger resentment or limit bargaining power during recruitment. But pay transparency can offer several benefits, including higher levels of trust and improved talent recruitment and retention.\(^1\) It’s also an essential step toward pay equity.

How pay transparency leads to pay equity

To address gender and racial pay gaps, states and local jurisdictions continue to enact pay transparency requirements. The hope is that increased transparency will make it easier to identify systemic pay inequities and empower job seekers and employees to demand equal pay. Addressing potential wage disparities at the start of employment can also help prevent an unjustified pay differential that can last throughout an employee’s career.\(^2\)

Responding to pay transparency laws?

3 areas you must prioritize

As you navigate pay transparency laws and expectations, focus on these three critical areas:

1. Recruitment
2. Retention
3. Compliance
1. **Recruitment: Pay transparency ups the ante**

**Pay transparency may require you to update your recruitment practices**

If you operate (or hire employees who live in) a state or locality where pay transparency laws have taken effect, your recruitment practices may need to change. For example, if you aren't including pay ranges in your job postings and operate in a jurisdiction requiring this disclosure method, you must publish the ranges to be compliant. Similarly, if you aren't providing pay ranges to employees upon request in a state or a locality requiring these disclosures, you must begin supplying the ranges to be compliant. Some state and local jurisdictions require disclosure of base pay ranges only, while others require a combination of base pay, other compensation and benefits information. Check your state and local requirements and talk to your compliance expert or attorney before making any changes. In some cases, not complying could mean fines, lawsuits, legal expenses and reputational harm.

**Educate your leaders on how you set pay ranges**

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**Expert insight**

“We need to remember that frontline leaders are human first. If the rationale behind pay transparency and pay ranges doesn’t mean anything to frontline leaders, it’s certainly not going to sound meaningful when they explain it to their teams.”

— Deb Hughes, senior vice president, transformation communications and change management, HR, ADP

Maybe you work for an employer with range-setting procedures, and your pay ranges are already set. These procedures are a good starting point, assuming they’re equitable and data driven. Ensure you know your organization’s range-setting methodology, the current ranges and where they’re stored and updated. Ensure your hiring leaders and other key talent acquisition stakeholders know as well. Depending on your state’s or locality’s requirements, you must include the ranges in your job listings or provide them to candidates or employees upon request.

On the other hand, if you don’t have procedures or ranges or your pay strategy has changed since they were established, look for a people analytics solution with compensation benchmarking. By giving you an overview of industry-specific pay ranges for specific job types, this information can help you create evidence-based, data-driven ranges and refine your range-setting procedures. **Be careful about setting excessively broad or narrow ranges.**

“How you present the ranges impacts the applicants you’ll attract. You don’t want to go too narrow, because you may get fewer applicants. If you go too broad, you may seem inauthentic. They should be ranges that you will pay in good faith.”

— Jason Delserro, chief talent acquisition officer, ADP
Recruitment:
Pay transparency ups the ante

Retention:
Pay transparency is a factor

Enabling pay transparency at your organization

Compliance:
It’s the bare minimum

What is pay transparency?

Range-setting varies by employer. It can be a complex process involving market research, cost-of-living analyses, budgetary reviews, internal equity considerations, a review of laws and regulations, minimums, midpoints and maximums and more. Instead of developing a headache, work with an external partner who can provide you with access to a vast pay database and compensation benchmarking tools. This information can help you simplify your range-setting procedures. Also, determine whether your talent acquisition solution lets you easily insert pay ranges into your job descriptions. This feature can be helpful when creating multiple listings.

Understand your competitive advantages

Remember you’re also competing with other employers disclosing their pay ranges. They’re trying to attract the same talent you are, and, in some cases, their ranges may be higher than yours. Re-educate your hiring managers on your benefits, perks, advancement opportunities and other strengths so they can upsell these if your pay ranges fall below candidate expectations. Invest in more attractive benefits if you don’t think yours will keep candidates from drifting. Promote non-monetary advantages that make you stand out, such as your culture, your people or your commitment to diversity, equity and inclusion (DE&I). Ask yourself: “What does this talent market want or need other than pay?” Satisfying these wants and needs can give you an edge when negotiating compensation packages with candidates. Still, pay is often non-negotiable, and some candidates will always choose higher pay over benefits, perks, culture and other offerings. Thankfully, compensation benchmarking can help you keep up with pay trends in your industry and ensure your pay is competitive.

Ensure your pay and range-setting procedures are equitable

Approximately 76% of workers would consider looking for a new job if they discovered an unfair gender pay gap at their organization.3

On average, 1 out of 3 workers surveyed as part of a recent ADP Research Institute (ADPRI) report believe their pay is unfair.4

Avoid basing pay or pay ranges on gender, race, ethnicity or similar characteristics. Instead, prioritize pay equity, which is the practice of paying employees with similar job functions comparably equal pay, regardless of gender, race, ethnicity or other statuses. Employers must also weigh other factors, like the employee’s education and work experience, job responsibilities and the organization’s long-term financial stability.5 Employers who implement equitable pay practices may be able to:

- Attract top talent
- Comply with equal pay regulations
- Reduce turnover
- Prevent lawsuits
- Improve employee productivity and morale

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To address pay inequity, conduct an internal pay equity analysis. Before analyzing the data, however, determine your pay audit goals and frequency. Consult with counsel before beginning an audit.

Use a people analytics solution to measure pay gaps by gender, race, ethnicity, job location and job title. You should also be able to estimate the cost of closing the gaps. The right solution will incorporate these metrics and make your analysis straightforward, delivering data-driven insights so you can substantiate proposed changes to pay. In the solution, you should be able to view the following:

- The number of employees who have potential pay gaps
- Pay gaps, down to dollars and cents — for example, 83 cents for every dollar
- The cost of closing pay gaps and tailored action plans for doing so

If you need help with pay equity, that's okay. You aren't alone and can make changes today. People analytics with pay equity insights can help you quantify the cost of closing pay gaps and help you improve pay equity across your organization.
Retention: Pay transparency is a factor

70% of employees across seven countries believe pay transparency is good for employee satisfaction.6

63% of employees prefer to work at a company that discloses pay information over one that does not.6

Your response to pay transparency may impact your retention rates

"I'm worried about the person below the midpoint of a range who asks, 'What does this say about me? What does this say about my performance?' This is why educating your hiring leaders is so critical."

—Jason Delserro, chief talent acquisition officer, ADP

Your turnover risk might be higher if you are less transparent about pay ranges and how pay is determined. Did you know that nearly half of employees (49 percent) feel they must switch companies to obtain a meaningful change in compensation?6 Additionally, a Visier survey found that 68 percent of employees would switch employers for greater pay transparency, even if compensation stayed the same.7 Citing an article from Nonprofit Quarterly, Meghan McAneny, writing for Deloitte, says pay transparency may help workers visualize long-term careers with their employers and, in turn, could inspire improved loyalty and retention.8 Logically, if a competitor posts a pay range higher than yours, regardless of whether you disclose your range, one of your employees may consider applying for the competitor’s job. That’s why ensuring your pay is competitive is essential. Benchmarking can help with that.

Include pay transparency in your employee communications plan

Have you thought about what to say to employees who ask about your pay transparency philosophy or pay ranges? Have you considered the employee who might ask why the posted range for their job exceeds their pay or why they’re at its midpoint or minimum?

“Pay transparency laws present some compliance challenges but are also an opportunity for thoughtful and prepared employers to have meaningful conversations with their employees about how pay decisions are made. A culture built on transparency can increase trust between employers and employees, eliminate suspicions and reduce unnecessary turnover.”

—Helena Almeida, vice president, counsel, ADP

Be ready to answer the following questions:

• How are pay ranges established?
• Are there geographic and market considerations?
• Is the pay range competitive with the open market?
• What data is used to determine market competitiveness?
• How does the company handle pay ranges for positions that can be performed remotely?
• Has the company evaluated the existing compensation structure to ensure no unjustified pay differences among current employees?
Don’t fear these inquiries. Recognize that these questions can occur at any time and, if initiated by an employee, should not be viewed solely as a request for more compensation but as a reasonable inquiry regarding company pay practices.

Focus on empathy, putting yourself in your employees’ shoes. Be open and kind. Fostering transparency involves encouraging safe, honest discussions about pay.

Still, you don’t want to have pay-related conversations if you’re not ready to discuss the subject matter using evidence to support your decision making. That’s why it’s essential to have pay data and compensation benchmarking at your fingertips. They can be an evidence-based reference point when discussing pay with employees. They can also help guide the adjustment of your organization’s ranges, salaries or wages.

**Allow employees to discuss their pay with each other**

For many years, with few exceptions, federal and state laws have prohibited employers from adopting policies restricting employees’ ability to discuss wages with other employees. For example, under the National Labor Relations Act (NLRA), most employees have the right to discuss their pay with other employees. Employees can discuss wages verbally or in writing, and policies prohibiting the discussion of pay are unlawful.

**Build pay transparency into your employer brand and culture**

Individuals who believe their pay is fair are **2.8x** more likely to be a promoter of their company’s talent brand than those who don’t. Managers who believe their pay is fair are **2.9x** more likely to be a promoter of their company’s talent brand than those who don’t.

Your culture and brand should align with pay transparency’s fundamental nature: pay equity. Rather than focusing solely on pay transparency, focus on pay equity in your company vision, employer value proposition (EVP) and DE&I initiatives. Most importantly, substantiate this commitment by continually tracking progress with people analytics. Otherwise, people may perceive your commitment as inauthentic.

**Expert insight**

“If you say pay transparency is important, but you don’t represent it that way, people aren’t going to think it’s important.”

— Deb Hughes, senior vice president, transformation communications and change management, HR, ADP

You can measure, track and improve pay equity with data.
Use data to track pay equity at your organization

If you’re not already using people analytics to measure, track and improve pay equity, now’s the time. Expectations around pay transparency and equity will continue to develop. You’ll be better prepared to respond if you have data to justify your pay and pay-related decision making. The right people analytics solution can help you conduct a proper pay equity analysis to determine where you have pay gaps. It can show you significant pay differences by gender, race, ethnicity, job and location and, therefore, who at your organization is experiencing pay gaps and where. It can also tell you the cost of closing the gaps and provide a closure plan tailored to your organization. Be especially mindful of fair pay for women, as, across an entire year, women are, on average, 1.6 times more likely to feel they are not paid fairly.

Ready to improve pay equity? Get started with people analytics.

Expert insight

“Pay equity is the foundation of pay transparency. In addition to determining a salary range to share in postings and setting your pay transparency strategy, you should consider conducting a pay equity analysis.”

—Helena Almeida, vice president, counsel, ADP

“Compare factors to understand if the pay gaps are in places where people are paid differently for the same general work. You want to be able to continue your analysis and come back to the tool to compare and prioritize options.”

—Annette Allen, director of strategy, ADP DataCloud
Compliance: It's the bare minimum

Be mindful of your employees while managing compliance

You may be concerned with pay transparency compliance, but your employees are likely concerned with their pay, their coworkers’ pay and remedying any differences. They may also be perfectly content with their pay, but if their pay is lower than their coworkers’ and they feel the difference is unjustified, they may feel slighted or that they deserve a raise. They may also consider leaving. Then again, they may feel the difference is fair or feel content because you take care of your employees and provide for them in other ways. Compliance is critical, but don’t lose sight of employee engagement.

Expert insight

“Compliance is a bare-minimum floor. These are laws; we have to comply. Employers also need to be concerned about how pay transparency is viewed and interpreted by employees.”

— Deb Hughes, senior vice president, transformation communications and change management, HR, ADP

Workers who believe their pay is unfair are 3.4x less likely to be fully engaged.4

70% of employee engagement is due to the team leader (Gallup, 2015).10

A data-driven employee engagement platform can help you monitor employee sentiment related to various topics. The right platform encourages you to meet with each of your team members weekly for a one-to-one, light-touch check-in. This is one of the most effective practices for motivating employees.11 During the check-in, avoid leading with work, deadlines and assignments. Ask each team member about what’s happening in their world. Have a casual, down-to-earth conversation, giving them space to share what’s working well, what isn't and what’s bothering them. Your platform should help you simplify these check-ins, host better ones and proactively identify and resolve your team member’s challenges.

Also, the right survey solution can help you collect and act on meaningful employee feedback. You should be able to monitor trends in employee sentiment over time and obtain valuable insights about what your employees need to be successful personally and professionally.
Monitor the pay transparency legal landscape

Pay transparency laws are spreading, with a growing number of states and localities requiring pay range disclosures to candidates and employees.

For example, in California, upon request, an employer must provide a candidate with the pay scale for the position for which they applied, even before an initial interview, and provide an employee with the pay scale for their current position. A California employer with 15 or more employees must include the pay scale for a position in any job posting. If the employer engages a third party to announce, post or publish a job posting, the employer must provide the pay scale to the third party. The third party is required to include the pay scale in the job posting.

In New York City, when advertising a job, promotion or transfer opportunity, employers must state the minimum and maximum annual salary or hourly wage for the position.

These are just two examples. State and local requirements vary and are changing frequently, so check with your compliance expert or attorney for the latest information.

The monetary risks associated with noncompliance are hefty, and penalties can be thousands of dollars per violation. This is in addition to attorney’s fees, costs and reputational harm. In short, the cost of noncompliance can hurt — and so can word of mouth. Striving for transparency isn't easy, and employers are still trying to get it right. There are tools and experts out there that can help. You’re not alone and shouldn’t tackle this alone.

Consider working with a compliance leader that monitors the legislative and regulatory landscape and keeps you informed with alerts, compliance articles, a compliance community where you can get answers, plus one-on-one access to compliance experts as needed.

Expert insight

“Pay transparency isn’t going to stop at the handful of states that currently have laws on the books. It’s going to keep growing. It’s going to grow globally.”

— Deb Hughes, senior vice president, transformation communications and change management, HR, ADP
Enabling pay transparency at your organization

Make better and more strategic compensation decisions with ADP’s people analytics solutions. Our pay equity explorer can provide insight into your organization’s pay gaps and help you create a plan to close them. Additionally, our compensation benchmarking solution lets you compare your workforce data to the broader market based on up-to-date, aggregated and anonymized information from our U.S. client base.

Experience ADP DataCloud now

ADP is deeply committed to upholding fair and equitable pay. Pay equity is critical to creating an inclusive and engaging culture that enables all associates to reach their full potential. We make pay decisions based on skills, job-related experience, the job’s market value and performance. We have incorporated pay equity reviews into our year-end compensation decisions, and we no longer ask candidates to provide their salary history in the U.S. or Canada. We continue to explore ways to introduce this and other global initiatives to promote pay fairness.

1. SPARK, Up to Date with Pay Transparency Laws? Here’s What to Know, 2022
2. NASDAQ, How Pay Transparency Leads to Pay Equity, 2022
3. ADPRI, People at Work 2022: A Global Workforce View, 2022
5. ADP, Pay equity
6. Glassdoor, Global Salary Transparency Survey, 2022
8. Deloitte, How salary transparency can impact retention, 2022
9. NLRB, Your Right to Discuss Wages
10. Gallup, It’s the Manager, 2019
11. ADP, StandOut Powered by ADP

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