



# Legal Breakdown: Staying Compliant During the Hiring Process

**July 31, 2025**

# Agenda for today

1 Pay transparency

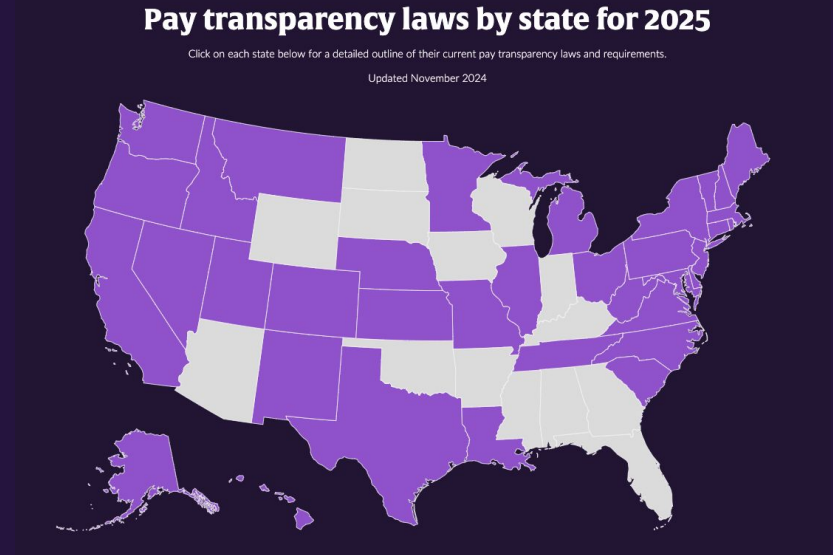
2 Interviews: What can you ask?

3 New hire employee notices

**Today's webinar is being recorded!** You will receive the recording + a copy of the slides at the email you used to register.

# Pay transparency

- 36 jurisdictions (including D.C.) have some type of wage transparency protections
- Several new laws in 2025
- Not all wage transparency laws work the same way
  - **Protections (passive):** Employers can't prohibit workers from discussing wages.
  - **Disclosures (active):** Employers must provide some wage information to employees, applicants, and in some cases, the state.





















# Protections

**Passive protections** require inaction from employers. Under these type of laws, employers may not prohibit employees from disclosing, discussing, or inquiring about wages. They also prohibit employers from retaliating against employees for exercising their rights around wage sharing.

California	Illinois	Minnesota	Oregon
Colorado	Louisiana	Nebraska	Rhode Island
Connecticut	Maine	Nevada	Vermont
Delaware	Maryland	New Hampshire	Virginia
D.C.	Massachusetts	New Jersey	Washington
Hawaii	Michigan	New York	

# Disclosures

**Active protections** require employers to make certain disclosures or maintain certain records.

	CA	CO	CT	DC	HI	IL	MD	NV	NY	RI	WA
Affirmative Disclosure											
Upon Request											

# States with significant requirements

These states go above and beyond when it comes to wage transparency.

## California

All employers must disclose the pay scale for a job to applicants upon request after an initial interview and keep a record of titles and wage rates for 3 years after employment ends.

Employers with 15 or more employees must include wage range in all job postings. Employers with 100 or more employees must submit a wage data Report with CA Civil Rights Dep't.

## Colorado

All postings for jobs that *could* be performed in Colorado must include the wage range, details of any other compensation, and a general description of benefits.

Employers must maintain a record of job descriptions and wage rates for each employee during their employment and for two years after their employment ends.

## Illinois

Employers with 15+ employees must include pay scale and benefits in job postings.

Employers with over 100 employees must obtain an Equal Pay Registration Certificate (EPRC).

## New York

Employers with 4 or more employees must include wage ranges and job descriptions in job postings for positions performed in NY, or performed remotely but report to an office in NY.

Employers must obtain written acknowledgment that new hires have received written notice of their payment details.

# Creating a “universal” job posting

If you want to create a job posting that complies with the laws in all 50 states and DC, it should include:

- ❑ Job description
- ❑ Salary range
- ❑ Description of benefits
- ❑ Instructions for applying
- ❑ Application deadline / statement of rolling acceptance
- ❑ Notice of drug test requirement (if applicable)



# What's new in 2025?

States are continuing to pass new pay transparency laws. Below are some of the upcoming laws and their effective dates:

	Effective Date	Employee Threshold	Job Posting Requirements
Massachusetts	October 29, 2025	25+ in state	Wage Range
New Jersey	June 1, 2025	10+	Wage range, benefits description, other comp.
Vermont	July 1, 2025	5+	Wage Range



# The cost of non-compliance

Washington's law allows job applicants to sue businesses that don't include wage information in job postings

- Up to \$5,000 in damages per violation
- Led to a deluge of class action lawsuits against businesses

A recent amendment added a mandatory 5 day cure period before businesses can be sued

- Relief is temporary though, as it sunsets in July 2027

Litigation ongoing as to who qualifies as an "applicant"



# Pre-hire questions: The basics

1

There are laws from all levels of government: Federal→State→Local

2

Laws vary in the type of restrictions they put on employers (prohibited questions vs. prohibited information vs. employee protections)

3

Some questions can only be asked at certain stages of pre-employment (application vs. interview vs. after job offer)

4

Laws tend to be topic-specific

(Federal EEOC Guidance)

# Pre-hire questions: Best practices

## Be consistent in your hiring process

Create a hiring process that treats all applicants the same to prevent unlawful discrimination

Keep in mind Equal Opportunity Employment Protected Characteristics

## Limit questions to legitimate business interests

Avoid asking questions that aren't related to **bona fide occupational qualifications**

Many banned questions have exceptions for legitimate business interests and legal compliance

## Be mindful of the timing of the questions you ask

Some questions can only be asked after an interview or after a firm offer

# Medical information



## Under the ADA

Employers can't ask about disabilities, medical history, or require medical tests before making a job offer.

They can ask if the candidate can perform the job and how.

Before a Job Offer



Employers may ask for medical exams, but only if they ask all candidates, not just those with disabilities.

Employers must keep medical information in separate, confidential files.

After a Job Offer




Most states have laws that match the federal standard, but they extend to most or all employers.


Some localities ban questions about height or weight with an exception for business justifications.

State and Local Laws

# Criminal history: “Ban the box”

 State and local governments try to minimize discrimination against those with criminal records by limiting how and when employers can ask about criminal history

- Generally prohibited in initial applications and postings

 Criminal history is usually allowed to be used after certain stages of the applications process:

- Offered an interview
- Conducted an interview
- After the applicant has been deemed qualified
- Conditional offer of employment

# Criminal history: Employment decisions



If you want to take adverse action based on criminal history, be sure to follow state & federal 2-step evaluation process:

1. “Pre-adverse action”: 3 *Green* Factors, initial notice
2. Applicant can respond
3. Adverse action: 7 “Individualized Factors”, final notice



Some states have their own factors, but employers always need to do the federal as well

# Financial history

## Wage and Salary History

- Many states and local governments ban asking about wage history
- Prospective employees are allowed to voluntarily provide their wage history
- If wage history is provided “voluntarily and without prompting” some states allow employers to verify or use that information.
  - Some state still ban wage history use in hiring decisions even if the information wasn’t asked for

## Credit History

- Federal FCRA and some states require employers to notify prospective employees of credit history checks
- Some states ban using credit history for employment decisions
- Some states ban with specific exceptions for positions like (managers or company finance) or industries ( financial institutions, credit card application processing, or law enforcement)

# Age and family questions

- California, Colorado, Connecticut, Minnesota, and Pennsylvania restrict age related questions and information
- Colorado & Oregon (9/28/25) employers are prohibited from inquiring into applicants' ages, birth dates, or dates of attendance at educational institutions on an initial employment application.
- Personal questions about Marital Status or Number of Children are not strictly prohibited federally, but they can be used as evidence of an intent to discriminate
- Only asking women certain questions but not men (or vice versa) is “clearly discriminatory”





# Citizenship and I-9 verification

- Federally employers must verify employment eligibility using form I-9
  - Some states require employers use the federal E-Verify system.
- Most employers should not ask whether or not a job applicant is a United States citizen before making an offer of employment.
  - Federal law prohibits employers from conducting the Form I-9 and E-Verify processes before the employee has accepted an offer of employment.

Work authorization requirements don't give employers the right to discriminate based on citizenship or national origin



The image shows the top portion of the USCIS Form I-9, titled "Employment Eligibility Verification". It includes the Department of Homeland Security seal, the title "Employment Eligibility Verification", the department name "Department of Homeland Security", and the agency "U.S. Citizenship and Immigration Services". On the right, it says "USCIS Form I-9", "OMB No. 1615-0047", and "Expires 05/31/2027". Below the header, there are instructions: "START HERE: Employers must ensure the form instructions are available to employees when completing this form. Employers are liable for failing to comply with the requirements for completing this form. See below and the [instructions](#)." followed by an "ANTI-DISCRIMINATION NOTICE" and a box for "Section 1. Employee Information and Attestation" which states employees must complete and sign Section 1 no later than the first day of employment.

 **Employment Eligibility Verification**  
Department of Homeland Security  
U.S. Citizenship and Immigration Services

**USCIS  
Form I-9**  
OMB No. 1615-0047  
Expires 05/31/2027

**START HERE:** Employers must ensure the form instructions are available to employees when completing this form. Employers are liable for failing to comply with the requirements for completing this form. See below and the [instructions](#).

**ANTI-DISCRIMINATION NOTICE:** All employees can choose which acceptable documentation to present for Form I-9. Employers cannot ask employees for documentation to verify information in **Section 1**, or specify which acceptable documentation employees must present for **Section 2** or Supplement B, Reverification and Rehire. Treating employees differently based on their citizenship, immigration status, or national origin may be illegal.

**Section 1. Employee Information and Attestation:** Employees must complete and sign Section 1 of Form I-9 no later than the **first day of employment**, but not before accepting a job offer.

# SixFifty Research: Recruitment Queries

Research

[Ask SixFifty AI Instead](#)
[Interactive Maps](#)
[Downloadable Guides](#)

[Employment](#)
[Privacy](#)
[Clause Library](#)

Recruitment

Clear All

Jurisdiction	Topic	Subtopic
Alabama	Recruitment	Medical History
We are unaware of any requirements for private employers in this location.		
Alabama	Recruitment	Criminal History
We are unaware of any requirements for private employers in this location.		
Alabama	Recruitment	Credit History
We are unaware of any requirements for private employers in this location.		
Alabama	Recruitment	Pay Transparency
We are unaware of any requirements for private employers in this location.		
Alabama	Recruitment	Salary History
Employers cannot refuse to interview, hire, promote, or employ an applicant for employment, or retaliate against an applicant for employment because the applicant does not provide wage history.		
Alaska	Recruitment	Pay Transparency
Alaska law requires employers to provide wage information upon hire and to notify employees when it changes.		
Alaska	Recruitment	Credit History
We are unaware of any requirements for private employers in this location.		
Alaska	Recruitment	Salary History
We are unaware of any requirements for private employers in this location.		

# New hire notices: Wages

Maryland example: employers must provide written notice to employees at the time of hire of:

- Their rate of pay,
- Regular paydays, and
- Leave benefits

Maryland employers must provide notice at least one pay period in advance of any change in wage or payday.

Other states have similar wage notice requirements, including Alaska, California, Connecticut, Delaware (4+ employees), Hawaii, Idaho, Illinois, Louisiana, Minnesota (requires signed notice), New Hampshire, New Jersey, New York (signed notice), North Carolina, South Carolina, Utah, and West Virginia.

# New hire notices: Sick leave

States and local jurisdictions with paid sick leave requirements typically require a new hire notice.

## California

PAID SICK LEAVE
Unless exempt, the employee identified on this notice is entitled to minimum requirements for paid sick leave under state law which provides that an employee: <ol style="list-style-type: none"><li>May accrue paid sick leave and may request and use up to 5 days or 40 hours, whichever is greater, of accrued paid sick leave per year;</li><li>May not be terminated or retaliated against for using or requesting the use of paid sick leave; and</li><li>Has the right to file a complaint against an employer who retaliates or discriminates against an employee for<ol style="list-style-type: none"><li>requesting or using sick days;</li><li>attempting to exercise the right to use paid sick days;</li><li>filing a complaint or alleging a violation of Article 1.5 section 245 et seq. of the California Labor Code;</li><li>cooperating in an investigation or prosecution of an alleged violation of this Article or opposing any policy or practice or act that is prohibited by Article 1.5 section 245 et seq. of the California Labor Code.</li></ol></li></ol> The following applies to the employee identified on this notice: <i>(Check one box)</i> <ol style="list-style-type: none"><li>1. Accrues paid sick leave only pursuant to the minimum requirements stated in Labor Code §245 et seq. with no other employer policy providing additional or different terms for accrual and use of paid sick leave.</li><li>2. Accrues paid sick leave pursuant to the employer's policy which satisfies or exceeds the accrual, carryover, and use requirements of Labor Code §246.</li><li>3. Employer provides no less than 40 hours (or 5 days) of paid sick leave at the beginning of each 12-month period.</li><li>4. The employee is exempt or partially exempt from paid sick leave by Labor Code §245.5. (State exemption and subsection for exemption):</li></ol>

## Tacoma, WA

## NOTICE TO EMPLOYEES

**Effective February 2016:** The City of Tacoma Paid Sick Leave Ordinance (TMC 18.10) ensures that all eligible persons working in the City earn Paid Sick Leave to use when they or a family member are sick, injured, need preventative care or need to seek help for domestic violence, sexual assault, stalking or other safety related issues. The Ordinance is intended to allow employees to care for themselves and family members, making Tacoma a healthier, more secure, and more productive community. Employees may, at their option, have a Paid Sick Leave policy that exceeds the minimum requirements set by the Ordinance. The Ordinance was updated effective January 2015 to align with State law.

### WHO QUALIFIES?

#### EMPLOYEES RECEIVING PAID SICK LEAVE

The Paid Sick Leave Ordinance applies to all Employees who work within the geographical boundaries of the City of Tacoma (the "City" or "Tacoma") for 80 hours or more in a benefit year, regardless of whether their Employer is physically located in the City or not.

### HOW MUCH?

#### ACCURAL OF PAID SICK LEAVE

Employees shall provide Employees with a minimum of one (1) hour of Paid Sick Leave for every forty (40) hours worked within the City. Employees shall be eligible to use accrued Paid Sick Leave beginning on the 90th calendar day after start of their employment.

### CARRYOVER

#### CARRYOVER OF UNUSED PAID SICK LEAVE

The Ordinance requires Employees to carry over up to 40 hours of accrued but unused Paid Sick Leave into the following benefit year for each Employee. An Employee can then use carried over time in addition to accrued time, for absences related to health, safety, and some kinds of family care as outlined below.

### USE

#### USES OF PAID SICK LEAVE

Employees may use Paid Sick Leave time for any of the following reasons:

- Mental or physical illness, injury or preventative health care (for either the Employee or for specified family members);
- When an Employee's place of employment has been closed by order of a public official for any health-related reason or to care for a child whose school has been closed by order of a public official;
- To seek law enforcement or legal help for domestic violence or sexual assault (either for the Employee or for specified family members);
- To seek safety from domestic violence, sexual assault, or stalking, (either for the Employee or for specified family members); and
- For bereavement of specified family members.

### OPTIONS

#### SHIFT SWAP & DONATIONS OF PAID SICK LEAVE

Employees and Employees may mutually agree to allow an Employee to work additional hours or shifts in lieu of using Paid Sick Leave. Employees may establish policies allowing Employees to exchange or trade shifts. Employees may establish a policy allowing Employees to donate Paid Sick Leave to another Employee.

### PTO

#### USE OF UNIVERSAL PAID TIME OFF (PTO) TO COMPLY WITH THE ORDINANCE

Employees may use a combined or universal paid time off program (PTO) to comply with the Ordinance. An Employer using PTO to comply with the Ordinance must have a written policy readily available for employees.

### DOCUMENTATION

#### DOCUMENTATION REQUIREMENTS

For absences exceeding three days, an Employer may take reasonable measures to verify or document that an Employee's use of Paid Sick Leave is lawful. Employer-required verification may not result in an unreasonable burden or expense to the Employee. If the Employer chooses to require written documentation or other verification that creates an unreasonable cost or burden, the Employer may notify the Employer as outlined in State law (RCW 26A.128.660). The Employer must have a written policy regarding the requirement of written documentation or other verification and said policy must be readily available to all Employees.

### ENFORCEMENT

#### FILING A COMPLAINT

If an Employee believes that he/she has been denied Paid Sick Leave, the Employee may file a complaint in writing with the City of Tacoma. The complaint must be filed within 90 days of the last day of employment. Employees who violate any part of this Ordinance will be subject to a disciplinary action.

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# Drug testing notices

If an **Alabama** employer requires drug testing, it must:

- Adopt a written drug testing policy;
- Provide its policy to employees and prospective employees for review; and
- Provide a notice of the drug testing requirement on all job postings for positions that require drug tests.

If a **Vermont** employer requires drug testing, it must:

- Inform prospective employees in writing of the drug testing procedure;
- Include a written list of the drugs it will test for; and
- Provide a notice that therapeutic levels of medically-prescribed drugs tested will not be reported.

If a **Mississippi** employer requires drug testing, it must:

- Notify applicants in writing that they will be required to submit to a drug test before the test.

# Less common new hire notices

- In **Wisconsin**, employers that implement any restriction on employees' hairstyles, facial hair, or clothing must provide notice of those restrictions to new employees upon hire.
- In **Washington, D.C.**, if an employer has an anti-moonlighting policy, that policy must be written and provided to employees within 30 days of their acceptance of employment and again any time the policy changes.

# New notice requirements

- **Alaska:** Notice of state's new sick leave requirements (July 31, 2025)
- **Michigan:** Notice of the state's new sick leave requirements (March 23, 2025)
- **California:** Notice of right to leave and accommodation for survivors of violence and family members of victims (May 2025)
- **Nebraska:** Notice of the state's new sick leave law (September 15, 2025)
- **Washington:** Updated paid family and medical leave notice (not available yet)



# SixFifty: New Hire Notice Database

Research			Ask SixFifty AI Instead	Interactive Maps	Downloadable Guides
Employment Privacy Clause Library					
New Hire Notices x Clear All					
Jurisdiction	Topic	Subtopic			
Alabama	Required Disclosures and Policies	New Hire Notices	Employers who provide prospective employees with an unconditional employment offer or who remove conditions previously placed on a conditional employment offer must include the following language in bold print: "misrepresentations as to preexisting physical or mental conditions may void your workers..."		
Alaska	Required Disclosures and Policies	New Hire Notices	Alaska employers must notify new employees in writing of their day and place of payment, and their rate of pay. Written notice of any change to this information must be provided on the payday before the change takes effect, at the latest. Employers may comply with this requirement by posting the informatio...		
Arizona	Required Disclosures and Policies	New Hire Notices	Arizona employers must provide the following information to new employees in writing upon hire:		
Arizona, Flagstaff	Required Disclosures and Policies	New Hire Notices	Employers with at least 1 employee in Flagstaff must provide a notice to all Flagstaff employees when they are hired that contains the following information:		
Arkansas	Required Disclosures and Policies	New Hire Notices	Arkansas employers who require current or prospective employees to submit to a drug test must adopt a written drug testing policy and must make that policy available to employees and prospective employees for review. Employers must also include a notice of that requirement on all job postings for those p...		
California	Required Disclosures and Policies	New Hire Notices	Upon hire, employers in California must provide a wage notice form and obtain a signed copy from new hires under California Labor Code § 2810.5. State employees, exempt employees, and those covered by a CBA that covers the necessary information are excluded from that requirement. California provides ...		
California, Alameda County	Required Disclosures and Policies	New Hire Notices	Employers with 50 or more employees in the Bay Area Air Quality Management District (which includes all of Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, and Santa Clara Counties, as well as the southwestern portion of Solano County, and the southern portion of Sonoma County) must giv...		
California, Belmont	Required Disclosures and Policies	New Hire Notices	Employers with at least 1 employee in Belmont must provide a notice to all Belmont employees when they are hired that contains (1) a statement of the employee's rights under Belmont's minimum wage law; and (2) the employer's name, address, and telephone number. The City of Belmont provides a model n...		
California, Berkeley	Required Disclosures and Policies	New Hire Notices	Employers with at least 1 employee in Berkeley must provide Berkeley employees with an Employer Information Notice, a Family and Environment Friendly Workplace Notice, and a Paid Sick Leave Notice upon hire...		
California, Contra Costa County	Required Disclosures and Policies	New Hire Notices	Employers with 50 or more employees in the Bay Area Air Quality Management District (which includes all of Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, and Santa Clara Counties, as well as the southwestern portion of Solano County, and the southern portion of Sonoma County) must giv...		





# Thank you!

Any questions? Drop them in the Q&A panel.