



New York City Strives for Pay Equity: The Salary Transparency Law

(LOCAL LAWS 32 & 59 OF 2022)



Report of the **Oversight and Investigations Division**
and the **Legislative Division's Data Team**

CITY HALL, NEW YORK, NY 10007

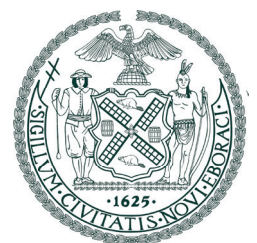


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Executive Summary

EXECUTIVE SUMMARY

The New York City Council has long been at the forefront of efforts to promote pay equity for all New Yorkers. With the passage of Local Laws 32 and 59 of 2022 (“the Salary Transparency Law”), jobs posted in New York City must include salary information, putting an essential tool in the hands of job applicants as they seek a fair and equitable wage. This report analyzes the current state of compliance and enforcement since the Salary Transparency Law took effect on November 1, 2022.

On December 15, 2021, the Council passed Introduction No. 1208 B, requiring that employers and their agents state the minimum and maximum salary “in good faith” for all positions in job postings.¹ The law, which was later amended to clarify its protections and provide a cure period,² applies to: (1) “employment agencies;” (2) employers with four or more employees or one or more domestic workers; and (3) any agent thereof.³ It exempts temporary staffing agencies and any “position that cannot, or will not be performed at least in part, in the City of New York.”⁴ The law’s protections ushered in a new era of salary transparency in New York City as part of efforts to advance equity.

Now that the Salary Transparency Law has been in effect for two years, the Council’s Oversight and Investigations Division (OID) and Legislative Division’s Data Team have conducted an assessment of the effectiveness of the law to date. OID investigated and analyzed enforcement efforts by the New York City Commission on Human Rights (CCHR), the agency responsible for enforcing the Salary Transparency Law.⁵ OID also met with senior staff at CCHR, submitted written questions to the agency, and reviewed publicly available information about the agency’s enforcement of the law. In addition, to evaluate compliance with the law in the universe of job postings in New York City, the Data Team analyzed more than 60,000 unique job postings from Indeed⁶ and Google for Jobs⁷ over a period of approximately two months in late 2023.⁸

¹ Council of City of N.Y. Intro No. 1208-B, 2018-21 Sess. (2018), <https://legistar.council.nyc.gov/View.ashx?M=F&ID=10368056&GUID=A7687EBD-792A-42E8-92E6-D0F2DE5F68AC>. The bill was returned unsigned, and so enacted, on January 15, 2022, becoming Local Law 32. Loc. L. No. 32(2022) of N.Y.C., <https://legistar.council.nyc.gov/View.ashx?M=F&ID=10812143&GUID=32AE204F-9A0B-48BD-AE9B-E17F22674CE4>

² After Local Law 32 was enacted, but before it took effect, Local Law 59 of 2022 was enacted, which clarified that the requirement also applies to jobs that are paid hourly and added a cure period for violations. For simplicity’s sake, this Report generally uses “salary transparency” and “salary range” to encompass the law’s required inclusion of “the minimum and maximum annual salary or hourly wage.” Loc. L. No. 59 (2022), <https://legistar.council.nyc.gov/View.ashx?M=F&ID=11077152&GUID=D60EC297-E0B1-4A7F-B18D-8EE1897E4952>.

³ Loc. L. 32 of 2022. Loc. L. No. 59 (2022). See also N.Y.C. Admin Code §8-102 (defining “Employer”) and N.Y.C. COMM’N ON HUM. RTS., SALARY TRANSPARENCY FACTSHEET (May 12, 2022), <https://www.nyc.gov/assets/cchr/downloads/pdf/publications/Salary-Transparency-Factsheet.pdf>.

⁴ ADMIN. CODE OF THE CITY OF N.Y. § 8-107(32)(b).

⁵ N.Y.C. ADMIN. CODE §§ 8-107, 8-109 et seq.

⁶ While it is difficult to say definitively whether the scraped dataset captured all job listings posted on Indeed in the same period, the Data Team verified its results through the following method. When setting the ‘Date Posted’ filter to “Last 14 Days” for ‘New York City’ jobs, Indeed lists “10,921 jobs” as a result of the search. When this number is extrapolated to around the 8 weeks of data collection that comes out to be 44,464 jobs. This is slightly under the total number of Indeed postings collected (49,000) in a similar time frame.

⁷ For Google for Jobs, it is even more difficult to know if all posts that matched the criteria set by the search filters were scraped each day, as Google for Jobs only displays 150 posts on a given visit to the website. In an attempt to overcome this challenge, the website was scraped multiple times a day, in hopes that this would expand the number of unique posts. However, there is no way to confirm the extent to which the dataset compiled represents the full universe of Google for Jobs’ posts made during the same data collection period. Google for Jobs does not list the total number of jobs available that meet filtered criteria. Furthermore, it cannot be said that Google for Jobs represents the entire universe of online postings for New York City jobs, as postings are only eligible for Google for Jobs if they are published on websites that are already integrated with Google.

⁸ Job postings were mainly gathered over a continuous period of about two months, ranging from 57 to 76 days for Indeed and Google for Jobs, respectively.

The Council’s investigation found that while most job postings in New York City are compliant with the Salary Transparency Law, and CCHR has made a substantial effort to enforce the law, additional steps can be taken to improve salary transparency in the city. This report includes several recommendations related both to the law itself and to CCHR’s enforcement efforts. The full list of findings and recommendations are as follows:

Findings:

- 1. Job search platforms may lose salary ranges when “scraping” job postings from other sites.** The Council’s analysis found that 11% of New York City job listings posted on Indeed and 44% of those posted on Google for Jobs during the collection period lacked the required salary range. This issue is likely tied to the methods both platforms use to “scrape” and aggregate job postings from other sources.
- 2. Wide salary ranges in New York City job postings are rare.** Among job postings that included a salary range as required, more than 80% had a maximum salary that was no greater than 1.5 times the minimum salary (e.g., “\$50,000 to \$75,000,”). Furthermore, in all but 3% of stated salary ranges, the maximum salary listed was less than double the minimum salary listed.⁹
- 3. For years, CCHR has struggled to maintain full staffing, especially for attorney positions.** The number of employees at CCHR fell from 134 in 2019 to 103 in 2023, and the number of legal staff fell from 29 to just 13 over the same period¹⁰ According to CCHR, the agency currently has 112 active employees, despite an approved headcount of 136.¹¹ This staffing shortage is directly reflected in a reduction in CCHR’s filed complaints, which decreased by 42% from FY18 to FY23.¹² At the same time, the agency’s mandate has only grown. According to The Legal Aid Society, the NYCHRL has been amended 40 times since 2013.¹³
- 4. CCHR brought complaints against a broad range of entities.** Of the 32 publicly available CCHR-initiated cases, 28 were against employers and four were against companies maintaining widely known job search platforms. The employers spanned a wide range of industries, including finance, automobiles, and media.¹⁴

⁹ The full distribution of salary range widths is presented in *Distribution of Salary Ratios of New York City Job Postings on Indeed and Google for Jobs*, *infra*, on page 19.

¹⁰ NEW YORK CITY INDEPENDENT BUDGET OFFICE, UNDERSTANDING THE CITY FIGHTING HOMELESSNESS & EVICTION PREVENTION SUPPLEMENT (CITYFHEPS) PROGRAM: BUDGET, USAGE, EXPANSION PROJECTIONS, AND CONCERNS, 8 (January 2024), https://www.ibo.nyc.ny.us/iboreports/CityFHEPS_Jan2024.pdf; see also MAYOR’S OFFICE OF OPERATIONS, MAYOR’S MANAGEMENT REPORT, 132 (September 2024) (showing 101 CCHR staff for Fiscal Year 2023 and 105 CCHR staff for Fiscal Year 2024, which ended in June 2024).

¹¹ Email attachment from Jose Rios Lua, Chief of Staff, N.Y.C. Comm’n on Human Rts, to Meagan Powers, Dep. Dir. of N.Y.C. Council Oversight and Investigations Div., Dec. 17, 2024 (on file with Council).

¹² *Preliminary Budget Hearing*, *infra* note 101, written testimony of Rebekah Cook-Mack, Staff Att’y, The Legal Aid Society), at 6, <https://legistar.council.nyc.gov/View.ashx?M=F&ID=12801914&GUID=54270FFF-F7BD-4361-869E-7467B8D1D778> (at 90 of 120).

¹³ *Id.*, at 3.

¹⁴ *Commission-initiated Complaints*, N.Y.C. COMM’N ON HUM. RTS., <https://www.nyc.gov/site/cchr/enforcement/commission-initiated.page> (last updated August 19, 2024).

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- 5. CCHR does not sufficiently report its salary transparency enforcement results or seek to publicize them.** In its publicly available information regarding salary transparency cases, CCHR reveals very little about the outcomes of closed cases. This leaves the public uninformed as to what CCHR has achieved from its enforcement of the law. In the past, the agency has posted “Settlement Highlights” for certain cases, noting whether the agency imposed a monetary penalty or required specific actions from a respondent.¹⁵ However, for Salary Transparency Law cases, CCHR has not made a single public announcement, even as it closed 27 agency-initiated cases.

Recommendations:

- 1. The Administration should fully fund and staff CCHR to adequately enforce legal protections of New Yorkers.** Despite the Council’s call for the Administration to restore funding for CCHR to pre-pandemic levels, it has not yet done so. Furthermore, OMB and CCHR must prioritize filling vacancies within the Commission’s Law Enforcement Bureau and implement measures to retain staff.
- 2. CCHR should publicize the outcomes of closed salary transparency cases.** Failing to share this information represents a missed opportunity to promote compliance with the law and to deter those who might violate it in the future. As it has for other anti-discrimination cases, the Commission should issue press releases describing the outcomes of its closed salary transparency cases. Additionally, the Commission should promptly publish as much case documentation of closed cases as is feasible, enabling the public to understand whether companies admitted liability, paid a penalty, or committed to taking steps to avoid future violations.
- 3. Mayoral offices, City agencies, and the New York State Department of Labor (NYS-DOL) should collaborate with CCHR to promote and ensure widespread compliance with the law.** Administration officials should support CCHR in advancing compliance efforts, leveraging the reach of City agencies that engage with employers and job seekers to publicize CCHR’s cases and emphasize the importance of complying with the law. Additionally, CCHR should strengthen its coordination with NYSDOL, which oversees enforcement of the state’s salary transparency law, to align efforts and maximize impact.
- 4. CCHR should consider strategies to discourage the use of wide salary ranges.** The agency could take several actions, including publishing legal enforcement guidance indicating that ranges exceeding a certain size will be prioritized for investigation. Additionally, CCHR could issue a rule requiring employers or employment agencies to provide justification for posting wide ranges.
- 5. CCHR should consider how to address missing salaries in “scraped” job postings.** CCHR should consider how it can best ensure that job seekers consistently see the required salary ranges on job postings, even when postings are “scraped” from other sites and reposted on job search platforms. To achieve this, CCHR could engage directly with job search platforms to identify effective solutions, and could publish recommendations that “scraped” postings include links to original postings or disclaimers explaining the law’s requirements.

¹⁵ See, e.g., *2024 Settlement Highlights*, N.Y.C. COMM’N ON HUM. RTS., <https://www.nyc.gov/site/cchr/enforcement/2024-settlements>. page (last visited Sept. 25, 2024).

Methodology



METHODOLOGY

A. OVERSIGHT & INVESTIGATIONS DIVISION

In preparing this report, OID met with senior staff members at CCHR and submitted written questions to the agency to gain an understanding of the agency’s structure, its complaint process, and its Salary Transparency Law enforcement efforts to date. In addition, OID reviewed publicly available information about CCHR’s enforcement of the law, including all agency-initiated cases since the law’s inception. OID also met with NYSDOL to discuss the state’s salary transparency law.

B. DATA TEAM, LEGISLATIVE DIVISION

1. Job Posting Data Collection and Scope

In conjunction with OID’s investigation, the Council’s Data Team conducted an analysis of New York City’s job postings and their compliance with the law. Specifically, the Data Team assessed approximately 49,000 unique job postings from Indeed¹⁶ and 16,500 postings from Google for Jobs¹⁷ from October to November 2023.¹⁸ This represents a majority of job postings during this time period (according to the New York City Economic Development Corporation, there were approximately 100,600 New York City job postings during this period)¹⁹ To maximize data collection, four daily scrapes were conducted on each site, which captured and collected posts made within the previous 24 hours²⁰ Location filters were applied to best represent New York City: a “0-mile radius” for Indeed and, for Google for Jobs, “within 15 miles of New York, New York,” along with the phrase “New York City jobs” entered into the search bar, utilizing the precision of Google’s algorithm to avoid including jobs beyond city borders. Salary information for each job posting was obtained by relying exclusively on designated salary containers for Indeed and by considering both salary containers and text descriptions for Google for Jobs.²¹ To better examine and compare the salary ranges across job postings, the team calculated the ratio by dividing the maximum salary by the minimum for a given salary. For example, if the maximum salary was \$100,000 and the minimum was \$50,000, the ratio would be $\$100,000/\$50,000 = 2$ (in cases where only a single number, such as \$20 per hour or \$70,000 annually, was given, the ratio is 1). Additionally, company information was scraped from Indeed to facilitate further analysis of job industries.

¹⁶ While it is difficult to say definitively whether the scraped dataset captured all job listings posted on Indeed in the same period, the Data Team verified its results through the following method. When setting the ‘Date Posted’ filter to “Last 14 Days” for ‘New York City’ jobs, Indeed lists “10,921 jobs” as a result of the search. When this number is extrapolated to around the 8 weeks of data collection, that comes out to be 44,464 jobs. This is slightly under the total number of Indeed postings collected (49,000) in a similar time frame.

¹⁷ For Google for Jobs, it is even more difficult to know if all posts that matched the criteria set by the search filters were scraped each day, as Google for Jobs only displays 150 posts on a given visit to the website. In an attempt to overcome this challenge, the website was scraped multiple times a day, in hopes that this would expand the number of unique posts. However, there is no way to confirm the extent to which the dataset compiled represents the full universe of Google for Jobs’ posts made during the same data collection period. Google for Jobs does not list the total number of jobs available that meet filtered criteria. Furthermore, it cannot be said that Google for Jobs represents the entire universe of online postings for New York City jobs, as postings are only eligible for Google for Jobs if they are published on websites that are already integrated with Google.

¹⁸ Job postings were mainly gathered over a continuous period of about two months, ranging from 57 to 76 days for Indeed and Google for Jobs, respectively.

¹⁹ See N.Y.C. ECON. DEV. CORP., 2023 N.Y.C. ECON. SNAPSHOT DEC., at 2, (2023) https://edc.nyc/sites/default/files/2023-12/NYC_Economic_Snapshot_December_2023_0.pdf (showing 53,600 for October 2023 and 47,000 for November 2023, for a total of 100,600).

²⁰ Each scrape was limited by the platforms to 1,500 job postings for Indeed and 150 for Google for Jobs.

²¹ Throughout this report, unless expressly stated otherwise (such as when discussing Indeed’s own research or CCHR’s case against the company), the terms “Google for Jobs” or “Indeed” refer to these compiled datasets.

2. Background: Indeed and Google for Jobs

Indeed was selected for this analysis because it is one of the most popular job search sites in the world, as well as for the company’s purported support and study of salary transparency.²² Founded in 2004, Indeed bills itself as the “#1 job site in the world with over 350M+ unique visitors each month.”²³ The site enables employers to post directly to its job board (either for free or for a fee²⁴), and also pulls job listings from other websites, like other job boards and companies’ employment webpages, and posts them on Indeed.²⁵ Starting in July 2023, Indeed publicly committed to “clearly list salary information on every job listing whenever an employer provides it.”²⁶ In cases where employers fail to provide this information, Indeed shows an estimated salary range when it has “enough confidence” in its data.²⁷ However, Indeed does not provide estimates for jobs where salary is based solely on commission.²⁸ On July 24, 2023—about two months before the state’s Pay Transparency Act went into effect—Indeed posted a three-sentence “policy” on its website noting the state law’s salary range requirement.²⁹ OID could find no similar policy on Indeed’s website related to the city’s Salary Transparency Law, though Indeed acknowledged this law in a blog post a few months before it took effect.³⁰

Google for Jobs was selected because it aggregates job postings from hundreds of websites, thereby providing a broader picture of salary transparency across the internet. Launched in 2017, Google for Jobs, similar to Indeed, pulls listings from job boards and career sites across the internet and features them prominently in Google Search. Unlike Indeed, Google for Jobs does not allow employers to post jobs directly to its platform, but Google does offer employers and job boards instructions on how to better promote their content in Google’s search function³¹

²² In Indeed’s own analysis of salary transparency, published in March 2023, the company noted that “[s]alary transparency is growing fastest in areas with new regulation” but also that “[p]ay transparency is rising even in areas without regulation.” The company also found that the New York-Newark-Jersey City metropolitan area was among the fastest-growing regions for salary transparency: the percentage of Indeed’s job postings with salary information in this area rose from 24% to 56% between February 2022 and February 2023. Cory Stahle, *Pay Transparency in Job Postings Has More than Doubled Since 2020*, INDEED HIRING LAB (2023), <https://www.hiringlab.org/2023/03/14/us-pay-transparency-march-2023/>. (The March 2023 report presented data ending in February 2023 data and appears to use the terms “salary transparency” and “pay transparency” interchangeably.) Indeed was selected before the Council became aware of CCHR’s November 15, 2023 complaint against the company.

²³ INDEED, <https://www.indeed.com/about> (last visited Mar 25, 2024).

²⁴ *Indeed Pricing: How Paid Job Posts Work*, INDEED EMPLOYER RESOURCE LIBRARY, (March 26, 2024) <https://www.indeed.com/hire/resources/howtohub/how-pricing-works-on-indeed>.

²⁵ Jennifer Herry, *What is a Job Board? (Plus How to Use One)*, INDEED CAREER GUIDE, <https://www.indeed.com/career-advice/finding-a-job/what-is-job-board> (“Some job search engines, like Indeed, also double as a job board. Job search engines usually contain millions of job listings from multiple sources including online job boards”).

²⁶ *News: Indeed Promotes Salary Transparency with New Product Update*, INDEED CAREER GUIDE (September 30, 2022) <https://www.indeed.com/career-advice/pay-salary/pay-transparency-update>.

²⁷ *Id.*

²⁸ *Id.*

²⁹ *New York State Salary Transparency*, INDEED EMPLOYER HELP CENTER, (July 24, 2023), https://indeed.my.site.com/employerSupport1/s/article/New-York-State-Salary-Transparency?language=en_US (noting the requirement, and directing employers whose posts were taken down to the company’s appeal process).

³⁰ *Pay Transparency Can Feel Challenging, but the Time Is Now*, INDEED FOR EMPLOYERS, /LEAD, (Jul. 21, 2022) <https://www.indeed.com/lead/pay-transparency-challenging?hl=en&co=US>.

³¹ Nick Zakrasek, *Connecting More Americans with Jobs*, GOOGLE: THE KEYWORD (Jun 20, 2017) <https://blog.google/products/search/connecting-more-americans-jobs/>; see also *Job Posting Structured Data for Job Search*, GOOGLE SEARCH CENTRAL (April 26, 2024), <https://developers.google.com/search/docs/appearance/structured-data/job-posting>; and, “ZipRecruiter Grew Conversion Rate 4.5x with the New Job Search Experience on Google,” GOOGLE SEARCH CENTRAL (May 8, 2018), <https://developers.google.com/search/case-studies/ziprecruiter-case-study>.

Introduction



INTRODUCTION

Employers have long had the upper hand in negotiating pay with job seekers. While an employer's power shifts based on the tightness of the labor market, one advantage is a constant: only the employer has full information about what it is truly willing to pay. In recent years, various state and local legislatures across the United States have begun to take aim at this imbalance. For example, Cincinnati, Ohio³² and the State of Maryland³³ passed laws, effective in 2019 and 2020, respectively, requiring salary information be provided upon an applicant's request. In 2019, the State of Colorado passed the first full requirement that job postings disclose salaries, which took effect on January 1, 2021.³⁴

A. NEW YORK CITY'S SALARY TRANSPARENCY LAW

The New York City Council has been at the forefront of this movement, first introducing a salary transparency bill in October 2018. That bill, Introduction No. 1208, required job postings to contain a minimum and maximum salary.³⁵ Then, on September 19, 2019, the Administration, including the Chair of CCHR and other city leaders, heard public testimony on pay equity.³⁶ Among the recommendations from that testimony—compiled in a report co-authored by CCHR, the Commission on Gender Equity, the Department of Consumer and Worker Protection (DCWP), and the New York City Bar's Sex and Law Committee—was legislation requiring employers to post salary ranges and disclose compensation when posting job openings.³⁷ In 2021, at a hearing considering amendments to Intro. No. 1208 from the Council's Committee on Civil and Human Rights, then-Council Member Helen Rosenthal, the bill's original sponsor, called salary transparency “an actionable way to create a more equitable workplace, both leveling the playing field for job applicants and helping to identify and address systemic pay inequities.”³⁸ On April 5, 2022, in testimony regarding the bill's amendments, CCHR's Deputy Commissioner for Policy and External Affairs, JoAnn Kamuf Ward, expressed the Commission's “wholehearted support for measures that advance pay equity, including efforts to foster transparency in hiring, and other measures that level the playing field for employees and aim to tackle existing disparities.”³⁹

³² See CINCINNATI, OHIO, CODE OF ORDINANCES, § 804-03 (2024), https://library.municode.com/oh/cincinnati/codes/code_of_ordinances?nodet=TITLEVIII_BUREAU_CH804_PRS_AHIINUS_S804-03PRINABUSSAHI.

³³ Md. Laws of 2020, ch. 67, https://mgaleg.maryland.gov/2020RS/Chapters_noln/CH_67_hb0123t.pdf.

³⁴ Colo. Laws of 2019, ch. 247, https://leg.colorado.gov/sites/default/files/documents/2019A/bills/sl/2019a_sl_247.pdf.

³⁵ Council Intro. No. 1208 (2018), <https://legistar.council.nyc.gov/View.ashx?M=F&ID=6705836&GUID=90EA99C7-EC7A-44ED-8F45-FC593E170598>.

³⁶ N.Y.C. COMM'N ON GENDER EQUITY ET AL., CHALLENGES IN OBTAINING PAY EQUITY IN THE WORKPLACE: A REPORT ON NEW YORK CITY'S 2019 PUBLIC HEARING ON PAY EQUITY 41 (2020), https://www.nyc.gov/assets/genderequity/downloads/pdf/pay_equity_report_2020_final.pdf.

³⁷ *Id.*, at 33.

³⁸ *Council of City of N.Y. Hearing on Intro. Nos. 1208-2018, 2020-2020, 1039-2019, and 1040-2019 Before the Comm. on Civ. & Hum. Rts.*, Sess. 2018-21 (N.Y.C. 2021), <https://legistar.council.nyc.gov/MeetingDetail.aspx?ID=908483&GUID=E10D40A3-E0B5-41FB-9527-A2132EA-CABE2&Options=infoj&Search>.

³⁹ *Council Hearing on Intro. No. 134 and the Work of the Law Enforcement Bureau Before the Comm. on Civ. & Hum. Rts.*, Sess. 2022—23 3 (2022), (written testimony of Dep. Comm'r, Pol'y & External Affs. JoAnn Kamuf Ward, N.Y.C. Comm'n on Hum. Rts.), <https://www.nyc.gov/assets/cchr/downloads/pdf/CCHR-testimony-for-enforcement-and-salary-4-4-22-FINAL-Word-Version-of-DC-Kamuf-Ward.pdf>.

On December 15, 2021, the Council passed Intro. 1208-B, requiring that, as of May 15, 2022, employers and their agents state the minimum and maximum salary “in good faith” for all positions in job listings.⁴⁰ The law applies to “employment agencies,” employers with four or more employees or one or more domestic workers, and any agent thereof.⁴¹ However, it exempts temporary staffing agencies and any “position that cannot, or will not be performed at least in part, in the city of New York.”⁴² Before it went into effect, the law was amended by Local Law 59 of 2022, which clarified that the requirement also applies to jobs that are paid hourly, added a cure period for violations, and delayed the effective date of the law to November 1, 2022.⁴³ By making the failure to disclose salaries in job postings a violation of the New York City Human Rights Law (NYCHRL), the law empowered CCHR to enforce this new requirement.⁴⁴

B. NEW YORK STATE’S PAY TRANSPARENCY ACT

In May 2022, the New York State Senate and Assembly each introduced a similar salary transparency bill, applicable statewide, which quickly passed in both houses.⁴⁵ The Governor signed it into law on December 21, 2022, and the law took effect on September 17, 2023.⁴⁶ The state law is similar to New York City’s Salary Transparency Law in that it also requires a minimum and maximum salary “in good faith,” applies to all employers in the state with four or more employees,⁴⁷ and does not apply to temporary staffing agencies.⁴⁸

The state law is enforced by NYSDOL, which means that both NYSDOL and CCHR may pursue those who fail to include salary information in New York City job postings.⁴⁹ On its website, NYSDOL is clear about this concurrent jurisdiction, advising members of the public that “New York City has its own Pay Transparency law that went into effect prior to the state law. Any complaint regarding a New York City-based opportunity may still be addressed to the NYSDOL. A complaint can also be filed with CCHR.”⁵⁰ NYSDOL’s website also provides a link to CCHR’s online form.⁵¹

⁴⁰ Council Intro. No. 1208-B (2018); see also Loc. L. 32 (2022).

⁴¹ N.Y.C. ADMIN. CODE §§ 8-102 (defining “Employer”), 8-107(32)(a); see also SALARY TRANSPARENCY FACTSHEET, *supra* note 3.

⁴² N.Y.C. ADMIN. CODE § 8-107(32)(b).

⁴³ Loc. L. 59 (2022).

⁴⁴ See generally N.Y.C. ADMIN. CODE §§ 8-107(32), 8-109 et seq. Outside of antidiscrimination law, New York City employers are generally regulated by the New York City Department of Consumer and Worker Protection (“DCWP”). See generally *Worker Rights*, *infra* note 48.

⁴⁵ S9427-A, Senate Sess. 2021-22 (N.Y. 2021), <https://www.nysenate.gov/legislation/bills/2021/S9427>; and A10477, New York State Assembly Sess. 2021-22 (N.Y. 2021), https://nyassembly.gov/leg/?default_fld=&leg_video=&bn=A10477&term=2021&Summary=Y&Actions=Y&Committee%26nbspVotes=Y&Floor%26nbspVotes=Y&Memo=Y&Text=Y&LFIN=Y&Chamber%26nbspVideo%2FTranscript=Y.

⁴⁶ See N.Y. Laws of 2022, ch. 723 (specifying effective date 270 days after enactment); and Governor’s Approval Mem, Bill Jacket, L 2022, ch. 723, at 1 (dated Dec. 21, 2022). See also Press Release, N.Y. Governor, Governor Hochul Signs Legislation Establishing Statewide Pay Transparency Law (Dec. 21, 2022), <https://www.governor.ny.gov/news/governor-hochul-signs-legislation-establishing-statewide-pay-transparency-law>.

⁴⁷ N.Y. LAB. LAW §§ 194-b(1)(a)(i), 194-b(6)(a), 194-b(6)(b)(i) (McKinney 2024).

⁴⁸ N.Y. LAB. LAW § 194-b(6)(b)(ii) (McKinney 2024).

⁴⁹ Apart from salary transparency, the two agencies are quite different regulators with different histories. NYS DOL enforces statewide minimum wage and maximum hour law, along with other protections, while CCHR enforces City antidiscrimination law. Compare N.Y. LAB. LAW ARTS. 4, 5, 19 (McKinney 2024) (governing the employment of minors, work hour requirements, and the minimum wage, respectively) with N.Y.C. ADMIN. CODE §§ 8-101 and 8 107 et seq. By contrast, statewide antidiscrimination law is enforced by the NYS Division of Human Rights, and city labor laws are enforced by the Office of Labor Policy and Standards, within the NYC Department of Consumer and Worker Protection. Compare N.Y. EXEC. L. § 290 et seq. (outlining state antidiscrimination protections and enforcement) with *Worker Rights*, N.Y.C. DEP’T OF CONSUMER AND WORKER PROT., <https://www.nyc.gov/site/dca/workers/worker-rights.page>; and *Office of Labor Policy and Standards*, N.Y.C. DEP’T OF CONSUMER AND WORKER PROT., <https://www.nyc.gov/site/dca/workers/workersrights/office-of-labor-policy-and-standards-for-workers.page>.

⁵⁰ *Pay Transparency Act Frequently Asked Questions*, NYS DEPARTMENT OF LABOR, <https://dol.ny.gov/pay-transparency-act-frequently-asked-questions> (last visited Apr 8, 2024).

⁵¹ *Id.*

The state's salary transparency law gave NYSDOL the authority to make rules and regulations to “effectuate” the new law.⁵² NYSDOL published a draft rule on September 13, 2023, a few days before the state salary transparency law’s effective date.⁵³ Most notably, Section 194-2.3 of the draft regulation elaborates on “Range of Compensation Requirements.” It bans open-ended salary ranges (such as “\$20 per hour and up” or “maximum \$50,000 per year”) and provides a definition of “good faith” required by the law.⁵⁴ The regulation further provides “illustrative examples” of employer actions that comply with the good-faith requirement or that violate it. In addition to deliberate misrepresentation, the latter category also includes when a “range of compensation is so broad, without further information explaining the reason for the breadth, that it *has the effect of preventing the potential or prospective applicant from understanding* the legitimate range [...] that the employer is willing to pay” (emphasis added).⁵⁵ While the state law is currently in effect, NYSDOL has not publicly acknowledged any ongoing investigations or enforcement while it is finalizing its draft regulation.⁵⁶

In separate meetings with OID, both NYSDOL and CCHR stated that CCHR had provided informal feedback on NYSDOL’s draft regulation, and that the two agencies discuss, in general terms, their overlapping jurisdiction.⁵⁷

C. THE NEW YORK CITY COMMISSION ON HUMAN RIGHTS (CCHR)

1. History and Structure

CCHR is a 15-member city governmental board,⁵⁸ first created in 1944 and taking its current name and much of its current form by 1965.⁵⁹ Over the last several decades, as the NYCHRL expanded, so did CCHR’s mission.⁶⁰ Today, CCHR protects New Yorkers from being discriminated against on the basis of race, religion, gender, sexual orientation, source of income, veteran status, caregiver status, disability, and many more protected categories, in employment, housing, and public accommodations.⁶¹ CCHR has the authority to bring complaints against any individual or business that violates the NYCHRL. Such complaints may be investigated and, if proven by CCHR before the Office of Administrative Trials and Hearings (OATH), may result in fines or other remedies.⁶²

⁵² N.Y. LAB. L. § 194-b(3).

⁵³ Pay Transparency in Job Advertisements, XLV N.Y. Reg. Iss. 37, at 8 (proposed Sep. 13, 2023), <https://dos.ny.gov/system/files/documents/2023/09/091323.pdf>.

⁵⁴ *Id.* § 194-2.3(f), at 9 (“ ‘Good faith’ means the range of compensation the employer legitimately believes they are willing to pay the successful applicant or employee at the time they post an advertisement. An example of ‘good faith’ is where an employer considers factors such as the job market, current employee compensation levels, hiring budget, and experience and education levels acceptable for the opportunity; determines the legitimate range of compensation that they are willing to pay the successful applicant or employee for the opportunity; and includes this range in the advertisement. ‘Good faith’ is based on the time that the employer posts the advertisement; an employer is not precluded from adjusting the range of compensation after collecting additional information through the hiring process.”)

⁵⁵ *Id.*

⁵⁶ See generally News, N.Y.S. DEPT. OF LAB. <https://dol.ny.gov/newsroom?page=0> (last visited October 2, 2024).

⁵⁷ *Amicus Briefs & Comments on Other Agencies’ Proposed Rules*, N.Y.C. COMM’N ON HUM. RTS., <https://www.nyc.gov/site/cchr/law/amicus-briefs-comments.page> (last visited May 8, 2024).

⁵⁸ N.Y. CITY CHARTER, § 903, <https://www.nyc.gov/site/cchr/law/charter.page>.

⁵⁹ See generally *Commission’s History*, N.Y.C. COMM’N ON HUM. RTS., <https://www.nyc.gov/site/cchr/about/commissions-history.page> (last visited Mar. 19, 2024).

⁶⁰ *Id.*

⁶¹ See generally *The Law*, N.Y.C. COMM’N ON HUM. RTS., <https://www.nyc.gov/site/cchr/law/the-law.page> (last visited Mar. 19, 2024).

⁶² See *2024 Settlement Highlights*, N.Y.C. COMM’N ON HUM. RTS., <https://www.nyc.gov/site/cchr/enforcement/2024-settlements.page> (last visited July 19, 2024) (“The Commission has the authority to assess fines and obtain monetary damages for those aggrieved by violations of the New York City Human Rights Law. Additionally, the Commission may negotiate additional remedies including rehiring, policy change, training, and modifications for accessibility”).

CCHR commissioners are appointed by New York City’s Mayor to serve in non-salaried positions for three-year terms⁶³ The current Chair, Annabel Palma, was appointed by Mayor Bill de Blasio in October 2021. CCHR staff includes both a Community Relations Bureau, which provides public education aimed at preventing discrimination, and a Law Enforcement Bureau (LEB), which receives, investigates, and prosecutes violations of the human rights law.⁶⁴ As of December 2024, CCHR had a staff of 112, out of 136 budgeted positions.⁶⁵ Of the 52 active employees in the agency’s Law Enforcement Bureau, there are 24 support staff, 21 staff attorneys, six supervising attorneys, and a unit head.⁶⁶ Prior to the COVID-19 pandemic, in FY20, the budgeted headcount for full-time employees was significantly higher, at 160.⁶⁷ The following fiscal year, it dropped to 135 and has fluctuated between 133 and 142 ever since.⁶⁸

2. Complaint Process

Investigating complaints of discrimination by the public is one of LEB’s mandates.⁶⁹ Generally, there are four main phases of this public complaint process: (1) intake; (2) filing a complaint; (3) investigation by LEB; and finally, (4) a determination. According to CCHR’s website, to file a complaint, a person who believes they have experienced discrimination first contacts CCHR by phone or through an electronic form and then, in an intake interview, provides more information and documentation.⁷⁰ CCHR may also, on its own initiative, test for violations of the NYCHRL.⁷¹ If discrimination alleged by an inquiry or discovered through testing is covered by the NYCHRL, a CCHR attorney then drafts a complaint⁷²

CCHR sends the complaint to the respondent (the alleged discriminator),⁷³ who has 30 days to respond.⁷⁴ Notably, Salary Transparency Law cases include a cure period, allowing a first-time violator to avoid any monetary penalty by demonstrating to CCHR that they have fixed the violation within 30 days of receiving notice from CCHR.⁷⁵ After this, LEB may investigate further.⁷⁶ The complainant may then respond to the respondent

⁶³ N.Y. CITY CHARTER, § 903.

⁶⁴ *Inside CCHR*, N.Y.C. COMM’N ON HUM. RTS., <https://www.nyc.gov/site/cchr/about/inside-cchr.page> (last visited Feb. 28, 2024).

⁶⁵ Email attachment from Jose Rios Lua, to Meagan Powers, Dec. 17, 2024 (on file with Council).

⁶⁶ *Id.*

⁶⁷ N.Y.C. OFFICE OF MANAGEMENT AND BUDGET, EXPENSE, REVENUE, AND CONTRACT BUDGET, 157E (JUNE 21, 2019), <https://www.nyc.gov/assets/omb/downloads/pdf/erc6-19.pdf>

⁶⁸ Compare N.Y.C. OFFICE OF MANAGEMENT AND BUDGET, EXPENSE, REVENUE, AND CONTRACT BUDGET, 160E (JULY 6, 2020), <https://www.nyc.gov/assets/omb/downloads/pdf/erc6-20.pdf> with N.Y.C. OFFICE OF MANAGEMENT AND BUDGET, EXPENSE, REVENUE, AND CONTRACT BUDGET, 159E (JULY 2, 2021), <https://www.nyc.gov/assets/omb/downloads/pdf/erc6-21.pdf>; N.Y.C. OFFICE OF MANAGEMENT AND BUDGET, EXPENSE, REVENUE, AND CONTRACT BUDGET, 161E (JUNE 16, 2022), <https://www.nyc.gov/assets/omb/downloads/pdf/erc6-22.pdf>; and N.Y.C. OFFICE OF MANAGEMENT AND BUDGET, EXPENSE, REVENUE, AND CONTRACT BUDGET, 170E (JULY 3, 2023), <https://www.nyc.gov/assets/omb/downloads/pdf/erc6-23.pdf>.

⁶⁹ *Council Hearing on Int. 134 and the Work of the Law Enforcement Bureau*, *supra* note 39.

⁷⁰ *Steps in the Complaint Process*, N.Y.C. COMM’N ON HUM. RTS., <https://www.nyc.gov/site/cchr/enforcement/steps-in-the-complaint-process.page> (last visited July 30, 2024).

⁷¹ N.Y.C. COMM’N ON HUM. RTS., FISCAL YEAR 2023 ANN. REP., 30 (2023), <https://www.nyc.gov/assets/cchr/downloads/pdf/publications/AnnualReport2023.pdf>.

⁷² See *Complaint Process – Text*, N.Y.C. COMM’N ON HUM. RTS., <https://www.nyc.gov/site/cchr/enforcement/complaint-process-text.page> (last visited Jul. 22, 2024); *Complaint Process – Flowchart*, N.Y.C. COMM’N ON HUM. RTS., <https://www.nyc.gov/site/cchr/enforcement/complaint-process-flowchart.page>; see generally 47 RCNY §§ 1-10 through 1-91, <https://www.nyc.gov/site/cchr/law/title-47-index.page>.

⁷³ *Id.*

⁷⁴ *Id.*

⁷⁵ N.Y.C. ADMIN. CODE § 8-107(32)(d).

⁷⁶ See generally *Complaint Process – Text*, *supra* note 72; *Complaint Process – Flowchart*, *supra* note 72; and 47 RCNY §§ 1-10 through 1-91.

through a “rebuttal.”⁷⁷ Before LEB’s investigation is concluded, the case may be referred for mediation or may end in withdrawal, settlement, or dismissal.⁷⁸ If LEB believes its investigation is leading toward a finding of probable cause for a violation of the NYCHRL, CCHR may suggest conciliation (settling) of the case, which may involve monetary damages for the complainant and/or the respondent taking accountability measures, such as paying a civil penalty to the City, conducting a training, or revising policies.⁷⁹ Cases may be dismissed if LEB can no longer reach the complainant or if the complainant requests a dismissal in order to, for example, pursue the claim in court.⁸⁰

If the case does not end during the investigation period, LEB issues a determination of “probable cause” or “no probable cause” for discrimination.⁸¹ If there is a finding of probable cause, LEB will file the case with OATH for adjudication.⁸² After an administrative trial, an Administrative Law Judge (ALJ) issues a report and recommendation on facts, liabilities, and remedies in the case.⁸³ Then, CCHR’s Office of the Chairperson reviews the ALJ’s findings and issues a final decision and order, which adopts or rejects—in whole or in part—the ALJ’s recommendation.⁸⁴ Decisions by the Commission may be appealed to the New York State Supreme Court within 30 days.⁸⁵ The entire process is outlined in the following graphic from CCHR’s website.⁸⁶

⁷⁷ *Id.*

⁷⁸ *Id.*

⁷⁹ N.Y.C. ADMIN. CODE § 8-127 (“Any civil penalties recovered pursuant to this chapter shall be paid into the general fund of the city”).

⁸⁰ *Id.*

⁸¹ *Id.*

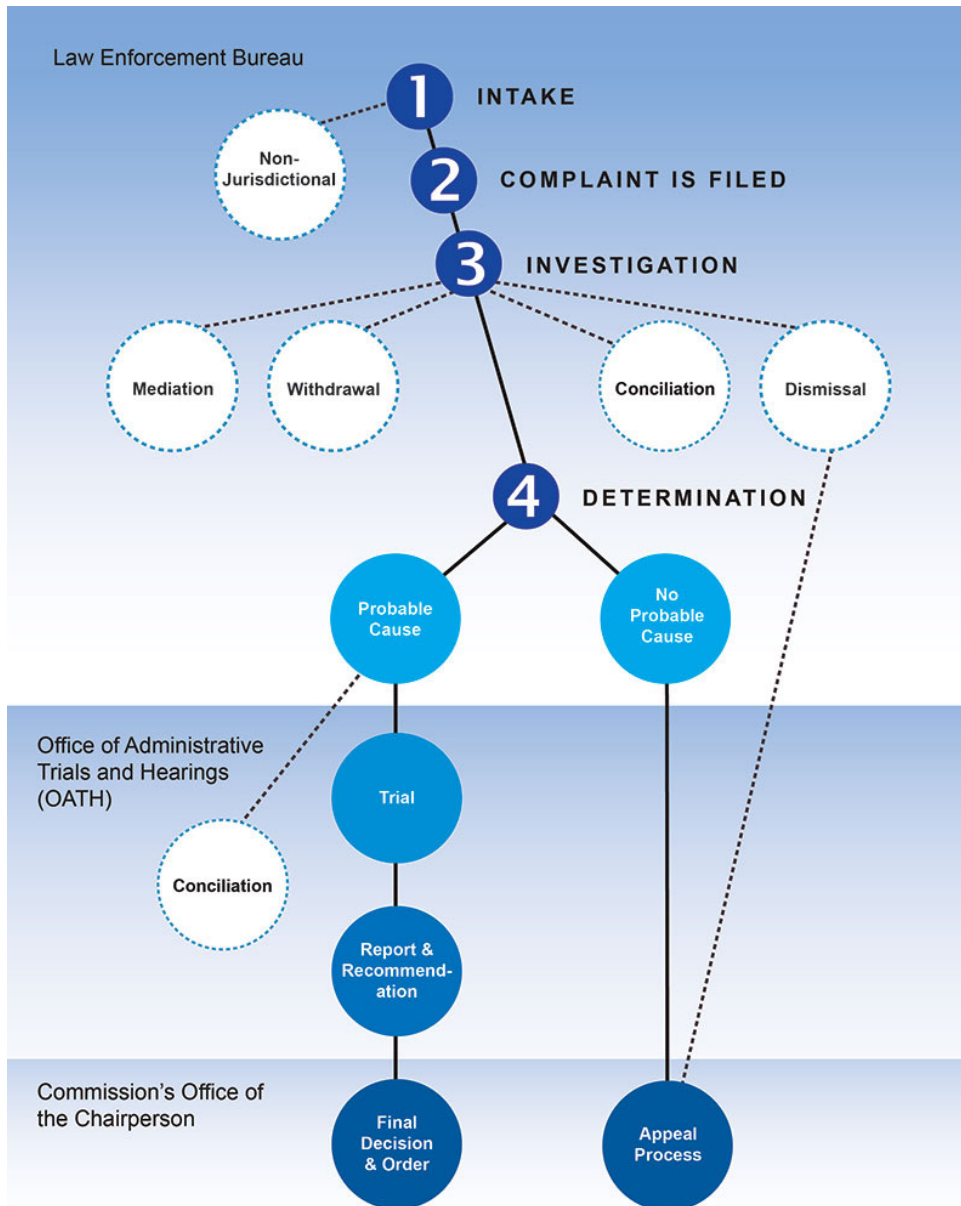
⁸² *Id.*

⁸³ *Id.*

⁸⁴ *Complaint Process – Detailed*, N.Y.C. COMM’N ON HUM. RTS., <https://www.nyc.gov/site/cchr/enforcement/complaint-process-detailed.page> (last visited Jul. 22, 2024); see also N.Y.C. ADMIN. CODE § 8-120 (describing the Commission stating its findings of fact and conclusions of law in an order); N.Y.C. ADMIN. CODE § 8-121 (stating that “[t]he commission may reopen any proceeding, or vacate or modify any order or determination of the commission, whenever justice so requires, in accordance with the rules of the commission.”).

⁸⁵ *Id.*

⁸⁶ *Complaint Process – Flowchart*, supra note 72.



CCHR Complaint Process (Source: CCHR)

3. Enforcement of the Salary Transparency Law

CCHR has employed a two-pronged approach to support compliance with the Salary Transparency Law: outreach and enforcement. After the Council passed the initial version of the law on December 15, 2021, CCHR began its outreach efforts. In April 2022, during a hearing before the Council’s Committee on Civil and Human Rights, Deputy Commissioner Ward stated that CCHR had developed a fact sheet on the law and that it planned to “ensure comprehensive outreach in the business corridors in each borough and to collaborate with Chambers of Commerce and BIDs as well as professional associations to share information on the salary transparency law.”⁸⁷

⁸⁷ Council Hearing on Oversight of CCHR: Complaint Processing Times and Resolutions, Before Comm. on Fin. and Comm. on Civ. and Hum. Rts., 2022-23 Sess. (2022), transcribed testimony of JoAnn Kamuf Ward, Deputy Cmm’r of the N.Y.C. Cmm’n on Hum. Rts, at 13-14.

In October 2023, nearly two years after the law passed and 11 months after it took effect, CCHR took its first public enforcement step by filing an agency-initiated complaint involving the Salary Transparency Law.⁸⁸ As of the date of this report, CCHR has filed more than 50 complaints against employers and job search platform companies related to the law and has published 32 of these complaints on its website.⁸⁹ Through its investigation, OID has become aware of at least 18 other confidential complaints, 16 of which were initiated by CCHR and at least two of which were initiated by members of the public.⁹⁰

Historically, while CCHR may bring antidiscrimination cases on its own initiative, it brings far more on behalf of complainants. Last year, for example, across all types of cases, CCHR filed 332 complaints, but only 46 were agency-initiated.⁹¹ For Salary Transparency Law cases, however, CCHR filed far more agency-initiated cases. CCHR told OID that “[a] key takeaway is that the individuals most interested in filing complaints at the Commission are individuals who believe that a post has not been posted in good faith. Those who call to report a missing range are less interested in filing a complaint and content leaving tips for the Commission to follow up on.”⁹² CCHR has also begun proactive testing for salary transparency violations, conducting 190 tests in FY23 and 295 in FY24 (15% and 23%, respectively, of the agency’s total tests).⁹³

⁸⁸ The Council passed Intro. No. 1208-B, also known as the “Salary Transparency Law,” on December 15, 2021, and it was returned unsigned by the Mayor on January 14, 2022, becoming Local Law 32 of 2022. CCHR filed several Complaints in October 2023, according to the agency’s website. *Commission-initiated Complaints*, N.Y.C. COMM’N ON CIV. AND HUM. RTS. <https://www.nyc.gov/site/cchr/enforcement/commission-initiated.page> (last updated April 30, 2024).

⁸⁹ N.Y.C. COMM’N ON HUM. RTS., FISCAL YEAR 2023 ANN. REP., 24 (2024) (on file with Council).

⁹⁰ Email from JoAnn Kamuf Ward, Deputy Comm’r of N.Y.C. Comm’n on Human Rts, to Aaron Mendelsohn, Dir. of N.Y.C. Council Oversight and Investigations Div., January 19, 2024 (on file with N.Y.C. Council); and 16 Unpublished N.Y.C. Cmm’n on Hum. Rts. Complaints against various Respondents (on file with Council).

⁹¹ N.Y.C. CMM’N ON HUM. RTS. ANN. REP., *supra* note 89, at 34-35.

⁹² Email from JoAnn Kamuf Ward to Aaron Mendelsohn, January 19, 2024 (on file with Council).

⁹³ *Compare* N.Y.C. COMM’N ON HUM. RTS., FISCAL YEAR 2023 ANN. REP., 30 *with* FISCAL YEAR 2024 ANN. REP.

Analysis and Findings



ANALYSIS AND FINDINGS

A. ANALYSIS OF NEW YORK CITY JOB LISTINGS AND SALARY RANGES

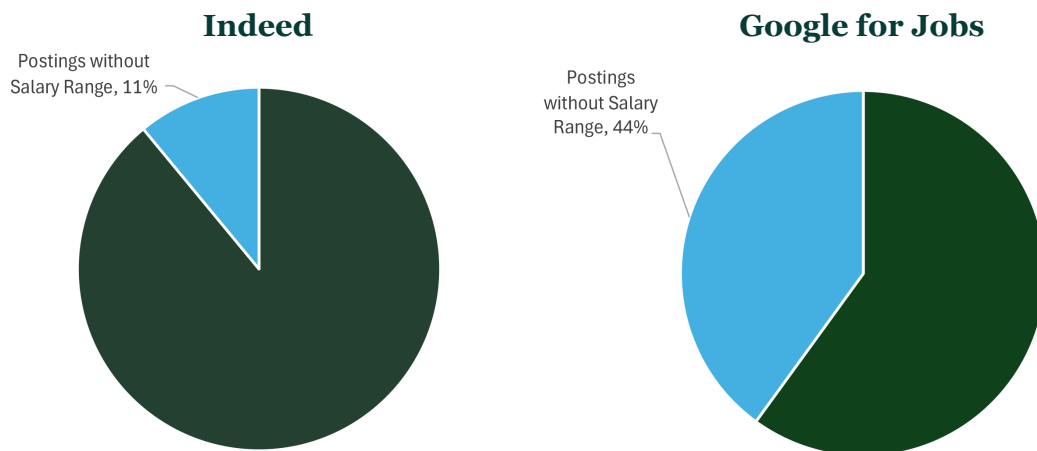
This section examines the results of the Data Team’s analysis of New York City job postings collected from Indeed and Google for Jobs, as discussed above, as well as findings based on that analysis.

1. Job Search Platforms May Lose Salary Ranges When “Scraping” Job Postings from Other Sites

Of the nearly 49,000 New York City job postings the Data Team collected from Indeed, 89% included the required salary range. In contrast, of the nearly 16,500 job postings collected from Google for Jobs, only 56% included a salary range. The charts below show this difference, with the green slice representing the portion of job postings that did not include a salary range.

Some portion of the missing salary ranges on both platforms are likely due to the way each of these large job platforms “scrapes” for job listings from other sites; in other words, the way Google for Jobs and Indeed pull job postings from other websites to post them on their sites. In some cases, it appears that salary ranges posted on the original website were lost during that process. For example, NYC Health and Hospitals Corporation’s (H+H) postings on Indeed rarely included salary information: 300 out of 374 (more than 80%) of those postings lacked salary information. But the original postings on H+H’s website checked by the Data Team included salaries, indicating that the posting was likely “scraped” from the website without transferring the salary information.

On Google for Jobs, the problem is even more acute than on Indeed. Of all the Google for Jobs postings the Data Team collected, 44% were missing a salary. Analyzing Google for Jobs’ top sources shows the pitfalls of one job board platform “scraping” job postings from another such platform. Of the Google for Jobs postings sourced from LinkedIn, a large source of postings, 49% lacked a salary range. Similarly, a majority of Google for Jobs’ posts sourced from Trabajo.org, GrabJobs, and BeBee were missing salary information: 77%, 73%, and 64%, respectively.⁹⁴



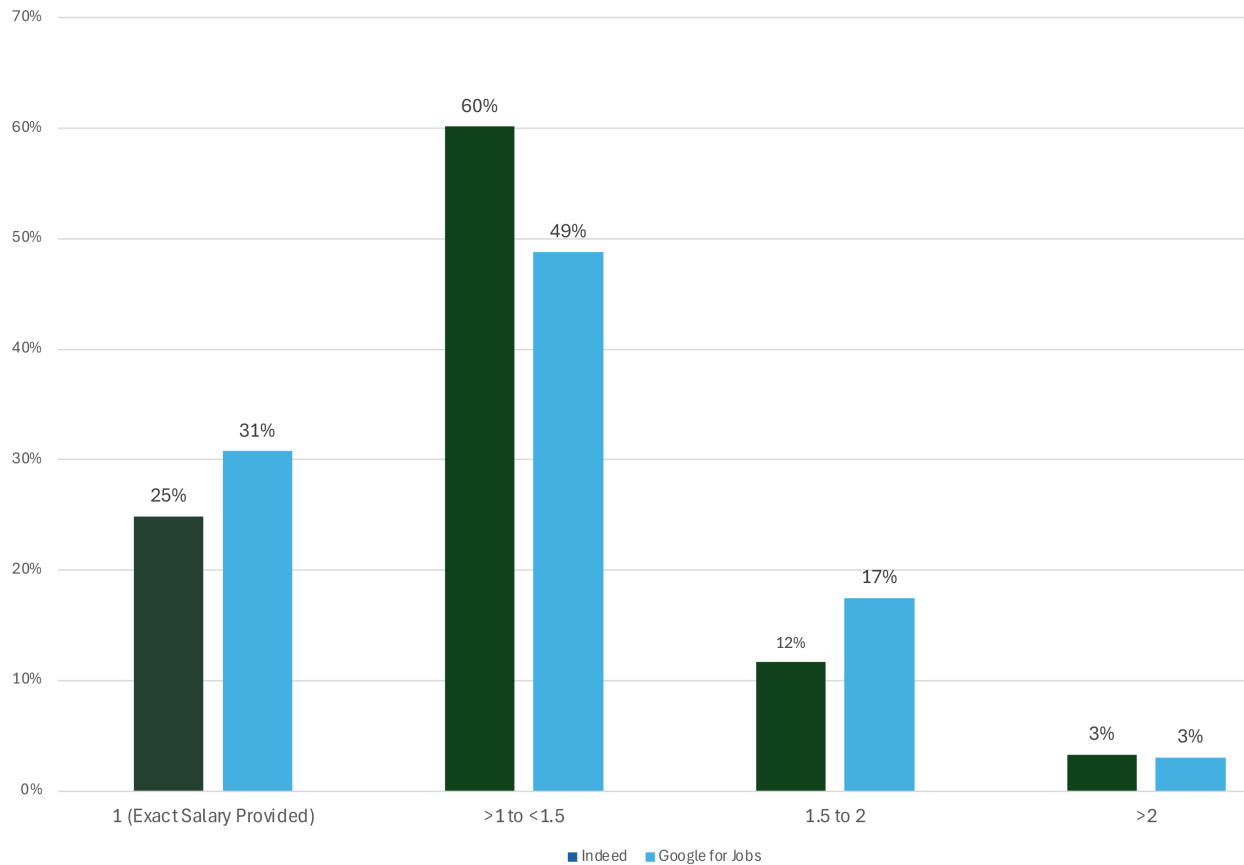
New York City Job Postings without a Salary Range on Indeed vs. Google for Jobs (Source: Data Team)

⁹⁴ These three sources were not themselves part of the Data Team’s analysis, so the Council did not determine whether the wage ranges are missing from their sites or if (as with Indeed and H+H) the wage information may have been lost while being aggregated by Google for Jobs.

2. Wide Salary Ranges in New York City Job Postings Are Rare

The Data Team also analyzed the listed salary ranges for job postings that included such ranges. To calculate the ratio for a given job posting's salary range, the Data Team divided the maximum salary by the minimum.⁹⁵ As shown in the below chart, of the job postings the Data Team collected from Indeed, 85% had a salary ratio below 1.5, and 97% had a salary ratio below 2. Similarly, of job postings collected from Google for Jobs, 80% had a salary ratio below 1.5 and 97% had a salary ratio below 2. In other words, in all but 3% of job postings, the maximum salary listed was less than double the minimum salary listed.

Distribution of Salary Ratios

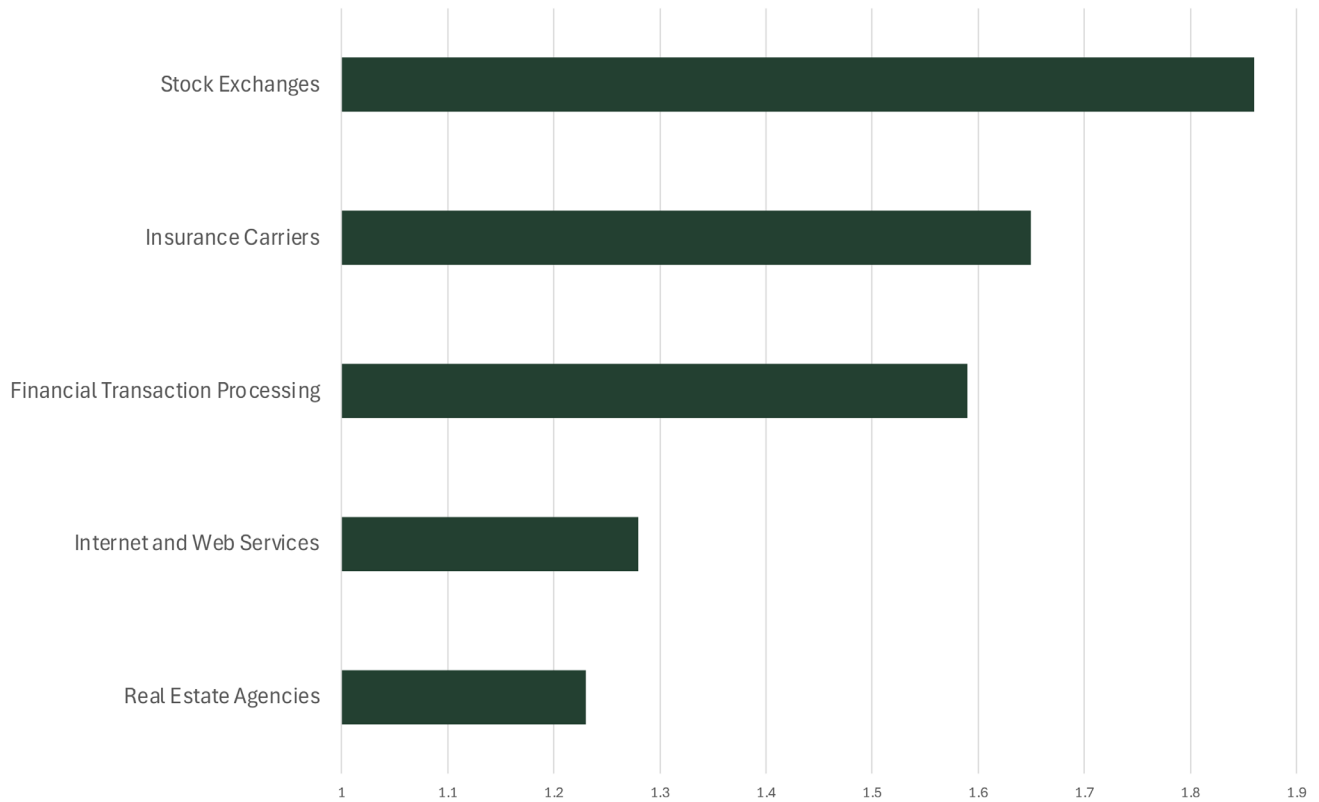


Distribution of Salary Ratios of New York City Job Postings on Indeed and Google for Jobs (Source: Data Team)

⁹⁵ In cases where only a single number was given, the ratio is 1.0; in cases where the maximum was double the minimum, like \$50,000-\$100,000, the ratio is 2.0.

Of job titles with the widest salary ratios on Indeed, a large majority appear to be performance or commission-based roles, with titles including “Agent,” “Representative,” “Manager,” and “Sales.” It seems possible, even likely, that many such workers rely on commissions or bonuses atop a fixed salary, so some employers may be including estimated totals in the listed “salary” to draw talent. In addition, the Data Team’s analysis found that certain industries have particularly wide salary ratios. As illustrated in the below chart, the industries with the widest median salary ranges include stock exchanges (1.86), insurance carriers (1.65), financial transaction processing (1.59), internet and web services (1.28), and real estate agencies (1.23).

Industries with the Highest Median Salary Ratios on Indeed



Widest Median Salary Ranges for New York City Job Postings on Indeed (Source: Data Team)

B. REVIEW OF CCHR AND ENFORCEMENT OF THE SALARY TRANSPARENCY LAW

This section details the results of OID’s review of CCHR and its published materials on salary transparency, as well as meetings with and correspondence between OID and CCHR.

1. For Years, CCHR Has Struggled to Maintain Full Staffing, Especially for Attorney Positions

In a 2023 hearing before the Council’s Committees on Finance and Civil and Human Rights regarding CCHR’s budget, CCHR Deputy Commissioner Mariela Salazar noted that “the majority of our vacancies are agency attorneys.”⁹⁶ The agency has struggled to maintain full staffing for years, especially for attorneys. In fact, the number of employees at CCHR fell from 134 in 2019 to 103 in 2023, and the number of legal staff has fallen from 29 to just 13 over the same period.⁹⁷ The agency currently has 112 active employees, despite an approved headcount of 136.⁹⁸ According to IBO, “[t]he 2024 Adopted Budget [adopted in July 2023] increased CCHR’s authorized headcount, but the agency had a net increase of only 7 positions as of November 1, 2023, and 3 vacant positions were eliminated in the recent November Plan.”⁹⁹ A stubborn gap between budgeted headcount and actual staff working at the agency persists.¹⁰⁰ Only weeks ago, the Office of Management and Budget (OMB) released its November Plan, showing that the Administration plans to hold CCHR’s budgeted headcount at current levels for the rest of this fiscal year and next, then cut 8 positions in FY27.¹⁰¹ This is a change from last year’s forecast, which did not include any future cuts.¹⁰²

⁹⁶ Council Hearing on the Fiscal Year 2024 Executive Budget Before the N.Y.C. Council Comm. on Fin, Jointly with. Comm. on Civ. and Hum. Rts. and Comm. On Higher Educ., 2022-23 Sess. (2023), transcribed testimony of Mariela Salazar, Deputy Cmm’r of Admin. Serv. of Comm’n on Civ. and Hum. Rts., at 42, <https://legistar.council.nyc.gov/View.ashx?M=F&ID=11995452&GUID=0F4F286B-CED1-42D8-A9FA-3BBB8A491FF0>.

⁹⁷ NEW YORK CITY INDEPENDENT BUDGET OFFICE, UNDERSTANDING THE CITY FIGHTING HOMELESSNESS & EVICTION PREVENTION SUPPLEMENT (CITYFHEPS) PROGRAM: BUDGET, USAGE, EXPANSION PROJECTIONS, AND CONCERNS, 8 (January 2024), https://www.ibo.nyc.ny.us/iboreports/CityFHEPS_Jan2024.pdf; see also Ishan Thakore, *Plagued by Staff Shortage, NYC Agency Fails to Make Determinations in Most Discrimination Cases*, Gothamist, (July 6, 2023) (stating that “[t]he agency’s investigative branch currently has only 14 staff attorneys”), <https://gothamist.com/news/plagued-by-staff-shortage-nyc-agency-fails-to-make-determinations-in-most-discrimination-cases>.

⁹⁸ Email attachment from Jose Rios Lua to Meagan Powers, Dec. 17, 2024 (on file with Council).

⁹⁹ NEW YORK CITY INDEPENDENT BUDGET OFFICE, UNDERSTANDING THE CITY FIGHTING HOMELESSNESS & EVICTION PREVENTION SUPPLEMENT (CITYFHEPS) PROGRAM: BUDGET, USAGE, EXPANSION PROJECTIONS, AND CONCERNS, 8 (January 2024), https://www.ibo.nyc.ny.us/iboreports/CityFHEPS_Jan2024.pdf

¹⁰⁰ MAYORS OFFICE OF OPERATIONS, MAYORS MANAGEMENT REPORT, 132 (September 2024) (showing 105 staff out of 140 budgeted headcount for Fiscal Year 2024, which ended in June 2024).

¹⁰¹ N.Y.C. OFFICE OF MANAGEMENT AND BUDGET, FINANCIAL PLAN FOR FISCAL YEARS 2025-2028, FULL-TIME AND FULL-TIME EQUIVALENT STAFFING LEVELS, 52 (NOVEMBER 20, 2024), <https://www.nyc.gov/assets/omb/downloads/pdf/nov24/nov24-stafflevels.pdf>.

¹⁰² N.Y.C. OFFICE OF MANAGEMENT AND BUDGET, FINANCIAL PLAN FOR FISCAL YEARS 2024-2027, FULL-TIME AND FULL-TIME EQUIVALENT STAFFING LEVELS, 52 (NOVEMBER 26, 2023), <https://www.nyc.gov/assets/omb/downloads/pdf/nov23-stafflevels.pdf>.

On March 15, 2024, in a hearing on the Mayor’s FY25 Preliminary Budget for the agency, CCHR Chair Palma stated, “I think our biggest challenge is recruiting attorneys to come and work at the agency.”¹⁰³ Asked to expand on why recruitment is one of the agency’s biggest challenges, Commissioner Palma replied:

Salary can be one of those challenges, right? Competing against the private sector, City agencies competing against the private sector in terms of recruiting folks can be tough. And, obviously, you know, when offers are made, some of, some of the attorneys have come back to us and said, you know, I was offered something with more money.¹⁰⁴

In written testimony for the March hearing, non-City witnesses suggested that CCHR loses potential recruits even to other City agencies and legal services providers. Paul Keefe, an attorney who worked at CCHR for seven years before returning to the nonprofit sector,¹⁰⁵ claimed: “Right now, an entry-level attorney at CCHR will earn \$5,000-\$6,000 less than a legal services attorney; nearly \$9,000 less than a similar role at the City Department of Consumer and Worker Protection, and over \$12,500 less than an attorney in the Law Department.”¹⁰⁶ He opined that low salaries, high caseloads, and an inflexible work from home policy “caused an exodus of talent and institutional knowledge from CCHR.”¹⁰⁷ Other witnesses’ written testimony pointed out that recent citywide hiring freezes or replacement rules have a disproportionate impact on small agencies like CCHR.¹⁰⁸ Such rules are generally imposed on agencies by the OMB, but CCHR leadership testified that they had not asked for any new funding or headcount from OMB.¹⁰⁹

Significantly, CCHR’s staffing deficit is directly reflected in a reduction in its filed complaints, which decreased by 42% from FY18 to FY23.¹¹⁰ At the same time, the agency’s mandate has only grown. According to The Legal Aid Society, the NYCHRL has been amended 40 times since 2013.¹¹¹ Following the March 2024 hearing, in its response to the proposed FY25 budget, “[t]he Council call[ed] on the Administration to enhance the Commission’s budget with an additional \$4.4 million, increasing the Commission’s budget to \$18 million in Fiscal 2025. This additional funding would restore the budget for the Commission’s Law Enforcement Bureau to its pre-pandemic level.”¹¹²

¹⁰³ *Council Hearing on the Fiscal Year 2025 Preliminary Budget Before the N.Y.C. Council Comm. on Fin. and Comm. on Civ. and Hum. Rts.*, 2024-25 Sess. (2024) [hereinafter *Preliminary Budget Hearing*], transcribed testimony of Annabel Palma, Chair, Comm’n on Civ. and Hum. Rts., at 43, <https://legistar.council.nyc.gov/View.ashx?M=F&ID=12859649&GUID=96677A25-52BA-47C6-B218-940CFC78A602>.

¹⁰⁴ *Id.*, at 56.

¹⁰⁵ *Preliminary Budget Hearing*, *supra* note 103, written testimony of Paul Keefe, V.P. of Legal Services, and Stephen Dunn, Senior Staff Att’y, Community Service Society, at 1, <https://legistar.council.nyc.gov/View.ashx?M=F&ID=12801914&GUID=54270FFF-F7BD-4361-869E-7467B8D1D778> (at 19 of 120).

¹⁰⁶ *Id.*

¹⁰⁷ *Id.*, at 2.

¹⁰⁸ *Preliminary Budget Hearing*, *supra* note 101, written testimony of Julia Elmaleh-Sachs, Legis. Comm. Member of National Employment Lawyers Association/New York, at 3; see also *Preliminary Budget Hearing*, *supra* note 101, written testimony of Rebekah Cook-Mack, Employment Law Unit of The Legal Aid Society, at 12; <https://legistar.council.nyc.gov/View.ashx?M=F&ID=12801914&GUID=54270FFF-F7BD-4361-869E-7467B8D1D778> (at 59 and 96, respectively, of 120).

¹⁰⁹ *Preliminary Budget Hearing*, *supra* note 103, transcribed testimony of Deputy Cmm’r for Admin. Serv. Mariela Salazar, Cmm’n on Civ. and Hum. Rts., at 22 (“CHAIRPERSON WILLIAMS: Have you requested additional headcounts or funding from OMB in Fiscal Year 2025? If yes, is the request still pending or was it denied? [¶] DEPUTY COMMISSIONER SALAZAR: No, we have not submitted any new needs.”).

¹¹⁰ *Preliminary Budget Hearing*, *supra* note 103, written testimony of Rebekah Cook-Mack, Staff Att’y, The Legal Aid Society), at 6, <https://legistar.council.nyc.gov/View.ashx?M=F&ID=12801914&GUID=54270FFF-F7BD-4361-869E-7467B8D1D778> (at 90 of 120).

¹¹¹ *Id.*, at 3.

¹¹² N.Y.C. COUNCIL, RESPONSE TO THE FISCAL 2025 PRELIMINARY BUDGET AND FISCAL 2024 PRELIMINARY MAYOR’S MANAGEMENT REPORT, AS REQUIRED UNDER SECTIONS 247(B) AND 12(E) OF THE NEW YORK CITY CHARTER, Sess. 2023-24, at 30, (2024), <https://council.nyc.gov/wp-content/uploads/2024/04/FY25-Prelim-Budget-Response.pdf>

Ultimately, the FY25 adopted budget included \$14.5 million in CCHR funding.¹¹³ The November Plan shows that the Administration plans to hold CCHR’s budget at current levels for the rest of the fiscal year, then phase in cuts for next year’s budget.¹¹⁴

Earlier this year, CCHR’s general personnel problems began afflicting the LEB itself, acutely: the agency sought a new Deputy Commissioner for Law Enforcement to lead LEB, while also trying to hire 16 LEB attorneys of various experience levels.¹¹⁵ As of November, according to the City’s job portal, the situation had improved but not resolved—the Commission was still looking to hire eight attorneys of various experience levels. Additionally, for at least five months, CCHR had been seeking an Associate Commissioner of Investigations & Operations for the LEB, a position tasked with “shaping investigative strategies,” among other duties.¹¹⁶ According to CCHR, this position will be filled shortly.¹¹⁷

2. CCHR Brought Complaints Against a Broad Range of Entities

OID’s investigation revealed that of the 32 publicly available CCHR-initiated cases, 28 were against employers. These employers span a variety of industries, including finance (e.g., Bank of New York Mellon), automobiles (e.g., Tesla), and media (e.g., News Corp.) The complaints include counts of the number of job postings each company had in New York City at the time of the violation, ranging from employers with just one posting (e.g., Sid Harvey Industries, Canada Goose, and Clausen Miller) to Bank of New York Mellon, which had 267 job postings in the city. The typical employer had seven New York City job postings at the time of the violation.

Although only limited data is available on the total number and type of salary transparency complaints brought by CCHR, including the outcome of these cases, OID’s analysis of publicly available information indicates that CCHR’s enforcement cases have been against a broad range of entities. Four of the 32 CCHR-initiated complaints were against companies maintaining widely known platforms for connecting job seekers and employers: Monster Worldwide, ZipRecruiter, CareerBuilder, and Indeed.¹¹⁸ The complaint against Indeed alleges that the company had over 58,000 New York City job postings at the time of the violation, and the complaint against CareerBuilder alleges 240,000 postings.

In explaining how they decided which employers to file complaints against, CCHR informed OID that, “LEB pursues cases against large employers and their agents but also files against smaller employers in industries where many New Yorkers may work.”¹¹⁹ For context, they added, “[s]mall businesses employ millions of New Yorkers, and CCHR aims to balance the focus on large and small companies, so that all New Yorkers can benefit from the protections that the NYCHRL affords.”¹²⁰

¹¹³ N.Y.C. OFFICE OF MANAGEMENT AND BUDGET, EXPENSE, REVENUE, AND CONTRACT BUDGET, 2E, 170E (JULY 3, 2024), <https://www.nyc.gov/assets/omb/downloads/pdf/adopt24/erc6-24.pdf>.

¹¹⁴ N.Y.C. OFFICE OF MANAGEMENT AND BUDGET, FINANCIAL PLAN FOR FISCAL YEARS 2025-2028, 50 (NOVEMBER 20, 2024), <https://www.nyc.gov/assets/omb/downloads/pdf/nov24/nov24-fp.pdf>

¹¹⁵ JobsNYC (visited May 8, 2024) (on file with Council).

¹¹⁶ JobsNYC (visited November 21, 2024) (on file with Council).

¹¹⁷ Email attachment from Jose Rios Lua, to Meagan Powers, Dec. 17, 2024 (on file with Council).

¹¹⁸ *Commission-initiated Complaints*, N.Y.C. COMM’N ON CIV. AND HUM. RTS. <https://www.nyc.gov/site/cchr/enforcement/commission-initiated.page> (last updated August 19, 2024).

¹¹⁹ Email from JoAnn Kamuf Ward to Aaron Mendelsohn, January 19, 2024 (on file with Council).

¹²⁰ *Id.*

As of this writing, 27 of the 32 CCHR-initiated cases have been closed, according to its website: 25 employer cases and the cases against Indeed, Inc. and ZipRecruiter, Inc.¹²¹

Below is a list of all Salary Transparency Law complaints that the Commission has publicly reported:

Complaint Recipient	Type of Recipient	Date of Complaint	Date of Violation	# of NYC Job Postings	# of Postings Without Salary Information	Status
Alice + Olivia	Employer	12/27/2023	8/7/2023	7	5	closed
Canada Goose	Employer	12/4/2023	6/12/2023	1	1	closed
Clausen Miller	Employer	12/4/2023	7/14/2023	1	1	closed
Dominick Hotel	Employer	12/4/2023	6/20/2023	2	2	closed
T.F. O'Brien Heating and Cooling	Employer	12/4/2023	7/14/2023	2	2	closed
Dion Lee	Employer	12/4/2023	8/9/2023	2	2	closed
Swayable	Employer	12/4/2023	8/9/2023	3	2	closed
SLR Consulting	Employer	12/4/2023	6/12/2023	5	4	open
Interior Architects	Employer	12/4/2023	7/14/2023	6	4	closed
FD Technologies	Employer	12/4/2023	7/14/2023	7	4	closed
Tesla	Employer	12/4/2023	6/12/2023	11	4	closed
Odyssey House	Employer	12/4/2023	7/12/2023	20	4	closed
Baldor Specialty Foods	Employer	12/4/2023	6/12/2023	52	7	closed
Danaher LLC	Employer	12/4/2023	8/9/2023	64	2	open
News Corp	Employer	12/4/2023	7/11/2023	107	4	closed
SMBC LLC	Employer	12/4/2023	7/12/2023	190	4	closed
Sid Harvey Industries	Employer	11/17/2023	6/12/2023	1	1	closed
Indeed	Job Search Platform	11/15/2023	7/7/2023	58,655	"a number"	closed
JK Partners	Employer	11/15/2023	6/12/2023	5	5	closed
United Talent Agency	Employer	11/15/2023	6/12/2023	6	1	closed
Daybreaker LLC	Employer	11/15/2023	6/12/2023	8	4	open

¹²¹ Commission-initiated Complaints, *supra* note 118.

Complaint Recipient	Type of Recipient	Date of Complaint	Date of Violation	# of NYC Job Postings	# of Postings Without Salary Information	Status
Headway	Employer	11/15/2023	6/12/2023	42	1	closed
ZipRecruiter	Job Search Platform	10/19/2023	7/7/2023	unspecified	"some"	closed
CareerBuilder	Job Search Platform	10/19/2023	7/7/2023	242,228	"some"	open
Skipify	Employer	10/19/2023	6/12/2023	2	2	closed
Compass Real Estate	Employer	10/19/2023	6/12/2023	12	12	closed
Mazars USA	Employer	10/19/2023	8/9/2023	32	2	closed
Monster Worldwide	Job Search Platform	10/16/2023	7/7/2023	unspecified	"some"	open
Morgan & Morgan	Employer	10/16/2023	6/12/2023	4	4	closed
LTI Mind Tree Limited	Employer	10/16/2023	8/7/2023	62	4	closed
Aboard Holdings	Employer	10/11/2023	8/9/2023	3	3	closed
Bank of New York Mellon	Employer	10/3/2023	5/31/2023	270	3	closed

3. CCHR Does Not Sufficiently Report Its Salary Transparency Enforcement Results or Seek to Publicize Them

CCHR’s publicly available information regarding salary transparency cases reveals very little about the outcomes of closed cases. Without public settlements or press releases upon case closures, the public and employers alike remain unaware of whether CCHR’s enforcement of the law has achieved meaningful outcomes, thereby missing an opportunity to create a general deterrent effect among employers or industries. In the past, the agency has posted “Settlement Highlights” for certain cases, noting whether the agency imposed a monetary penalty or required specific actions from a respondent, like antidiscrimination training.¹²² For example, in 2022, CCHR’s website announced, “Tumblr, Inc. Agrees to Groundbreaking Agreement After Commission-Initiated Investigation into Algorithmic Discrimination Against LGBTQ Community,” listing several steps Tumblr agreed to take.¹²³

¹²² See, e.g., *2024 Settlement Highlights*, N.Y.C. COMM’N ON HUM. RTS., <https://www.nyc.gov/site/cchr/enforcement/2024-settlements.page> (last visited Sept. 25, 2024).

¹²³ *2022 Settlement Highlights*, N.Y.C. COMM’N ON HUM. RTS., <https://www.nyc.gov/site/cchr/enforcement/2022-settlements.page> (last visited July 18, 2024) (“The Commission’s Law Enforcement Bureau initiated an investigation into the Adult Content Ban used by Tumblr, Inc., to ban ‘adult’ lesbian, gay, bisexual, transgender, and queer (LGBTQ) content. The ban automatically removed posts via an image-classifying algorithm (Classifier), although it was later changed so that human reviewers had the final say. Through a Stipulation and Order, Respondent Tumblr agreed to take steps that include hiring an expert on image classifying algorithms and sexual orientation and gender identity (SOGI) to examine Tumblr’s Classifier for SOGI bias and determine the necessary steps to address such bias, taking those steps, and reporting to the Commission on their effects. The expert will also train the engineers and Reviewers who work on the Classifier on how to avoid and remove SOGI bias. Additionally, Tumblr agreed to train employees and contractors on the New York City Human Rights Law and unconscious SOGI bias; revise its appeal process to allow users to include a narrative; search those narratives and review appeals under the ban for SOGI bias and then use the resulting images to retrain the Classifier and the reviewers; transfer employees to work on the improvements to the Classifier and appeal process; and to post the Commission’s Notice of Rights and LGBTQ rights brochure on its employee intranet”).

CCHR has also issued press releases, including on November 16, 2023, announcing the settlement of an enforcement case, “\$330,000 Sexual Harassment Settlement with Gucci.”¹²⁴ For Salary Transparency Law cases, however, CCHR has not made a single public announcement, even as it closed 27 agency-initiated cases.

In the absence of CCHR publicizing any information on its enforcement of the Salary Transparency Law, the public must rely on sporadic press reporting. For example, on February 13, 2024, Crain’s New York Business reported on the CCHR complaint against Indeed.¹²⁵ The article quoted the company but not CCHR: “[t]he commission withdrew its complaint against Indeed ‘without prejudice’ on Feb. 2 after the company provided more information about its salary transparency policy, Indeed spokesman David Fishman said by email. ‘As part of Indeed’s policy, employers posting new NYC job ads through Indeed’s job posting funnel are required to include salary information, or to certify that the NYC law does not apply to their job ad,’ he said.”¹²⁶

In trying to verify the information in this article, OID noted that CCHR’s website lists the case against Indeed as “Closed” and states that the website was last updated January 24, 2024, but provides no additional information.¹²⁷ Neither the public nor the Council knows whether Indeed’s spokesperson’s statement to the press is true, or anything else about CCHR’s views of the case. Similarly, CCHR has not explained anything about the outcome of the ZipRecruiter case or the closed employer cases. This lack of explanation is especially confounding for salary transparency cases against respondents like Indeed and ZipRecruiter.

It should also be noted that part of the Salary Transparency Law’s design is the 30-day cure period, during which a respondent may provide documentation that the violation has been fixed (and, in so doing, also admit liability but incur no penalty). Typically, settlements across many other types of litigation explicitly state whether or not liability was admitted. But in *Commission on Human Rights v. Indeed, Inc.*, no one outside CCHR or Indeed knows if liability was admitted.

Further, CCHR informed OID that from July to December 2023, “nine salary transparency inquiries were resolved after providing notice to the employer of the violation,” later clarifying that all of these inquiries were agency-initiated.¹²⁸ However, when OID requested documentation on these inquiries, CCHR wrote, “[t]here are no settlement or conciliation agreements for the [nine] resolved pay transparency matters.”¹²⁹ Since this February 2024 correspondence with OID, CCHR has not published any additional explanations for how it resolved these nine matters or, for that matter, any of the 25 total agency-initiated salary transparency cases that are now closed.

¹²⁴ Press Release, N.Y.C. Cmm’n on Hum. Rts., NYC Commission on Human Rights Announces a \$330,000 Sexual Harassment Settlement with Gucci (November 16, 2023), https://www.nyc.gov/assets/cchr/downloads/pdf/press-releases/GUCCI_Settlement_Release.pdf.

¹²⁵ Chris Marr, *Tesla News Corp. Caught in NYC Crackdown on Job Ads’ Pay Ranges*, Crain’s N.Y. Bus. (Feb. 13, 2024), <https://www.crainsnewyork.com/workplace/tesla-news-corp-caught-nyc-crackdown-job-ads-pay-ranges>.

¹²⁶ *Id.*

¹²⁷ *Commission-initiated Complaints*, *supra* note 118. (The website was subsequently updated on April 30, 2024, and on August 19, 2024.)

¹²⁸ Email from JoAnn Kamuf Ward to Aaron Mendelsohn, January 19, 2024 (on file with Council).

¹²⁹ Email from JoAnn Kamuf Ward, Deputy Cmm’r of N.Y.C. Comm’n on Hum. Rts. to Aaron Mendelsohn, Dir. of N.Y.C. Council Oversight and Investigations Div., Feb. 22, 2024 (on file with Council).

Recommendations



RECOMMENDATIONS

Recommendation 1:

The Administration Should Fully Fund and Staff CCHR to Adequately Enforce Legal Protections of New Yorkers

As previously noted, most cases enforcing the Salary Transparency Law are agency-initiated, requiring that CCHR proactively test and bring forward cases to fulfill its mandate on the law. To do so, CCHR needs to be fully funded and staffed. In its Preliminary Budget Response for FY25, “[t]he Council call[ed] on the Administration to enhance the Commission’s budget with an additional \$4.4 million, increasing the Commission’s budget to \$18 million in Fiscal 2025. This additional funding would [have] restore[d] the budget for the Commission’s Law Enforcement Bureau to its pre-pandemic level[.]”¹³⁰ However, the FY25 Adopted Budget only included \$14.5 million for CCHR.¹³¹

While the Council calls for the Administration to fully restore the agency’s funding within the city budget, the Administration, including OMB and CCHR itself, must take action to fill LEB’s numerous vacancies. LEB has long struggled to recruit and retain attorneys, and recently saw executive turnover that included the head of its Law Enforcement Bureau.¹³² CCHR and OMB must make stabilizing LEB management and staff a top priority.

Recommendation 2:

CCHR Should Publicize the Outcomes of Closed Salary Transparency Cases

As previously outlined, CCHR is closing its Salary Transparency Law cases without public settlements, press releases, or any public statement about whether respondents admitted liability, paid a penalty, or committed to taking steps to avoid future violations. This hinders any general deterrent effect that CCHR may hope to have on other employers or job search platform companies that may be violating the law, and leaves CCHR’s stakeholders, like the Council and the public, without sufficient information about how the agency is enforcing the law. CCHR should address this lack of transparency by immediately publishing as much case documentation (in particular, settlement, and conciliation agreements) of closed cases as is feasible.

Furthermore, CCHR can and should enhance the deterrent value of its Salary Transparency Law enforcement cases by issuing press releases. Notably, while the agency has brought cases against high-profile employers like News Corp and Tesla, both of those cases were recently closed without any news coverage. CCHR should publicize its salary transparency cases as widely as possible, just as it has done for other types of cases. This would signal to all New York City employers that the law is being enforced and help to ensure greater compliance across industries.

¹³⁰ N.Y.C. COUNCIL, RESPONSE TO THE FISCAL 2025 PRELIMINARY BUDGET AND FISCAL 2024 PRELIMINARY MAYOR’S MANAGEMENT REPORT, AS REQUIRED UNDER SECTIONS 247(B) AND 12(E) OF THE NEW YORK CITY CHARTER, Sess. 2023-24, at 30, (2024). The Council’s statement highlighted source-of-income discrimination and criminal-history discrimination, but restoring the LEB’s budget would also allow CCHR to strengthen its enforcement of the Pay Transparency Law.

¹³¹ N.Y.C. OFFICE OF MANAGEMENT AND BUDGET, EXPENSE, REVENUE, AND CONTRACT BUDGET, 2E, 170E (JULY 3, 2024).

¹³² JobsNYC, *supra* notes 113, 114.

Recommendation 3:

Mayoral Offices, City Agencies, and the New York State Department of Labor (NYS-DOL) Should Collaborate with CCHR to Promote and Ensure Widespread Compliance with the Law

1. The Mayoral Administration Should Support CCHR’s Attempts to Enforce the Law

CCHR’s enforcement efforts thus far have included multiple cases against job search platform companies, in addition to large and small employers in New York City. Given the agency’s limited staffing and the resources needed to bring such cases, officials in the Mayor’s Office and other parts of the Administration could, publicly or privately, assist in achieving better compliance with the Salary Transparency Law by communicating to job search platform companies and employers that good corporate citizenship means complying with the law and doing their part for pay equity. Additionally, they could enhance the deterrent effect of CCHR’s closed cases by helping to publicize those outcomes alongside the agency.¹³³ OIG has found no evidence that Administration officials outside CCHR have done anything to promote the enforcement of, or compliance with, the Salary Transparency Law.

2. City Agencies, including the Department of Small Business Services and the Department of Consumer and Worker Protection, Should Lend their Support to CCHR

City agencies that work closely with employers and job seekers should collaborate with CCHR to ensure widespread compliance with salary transparency requirements. The Department of Small Business Services, which offers services to both businesses and job seekers,¹³⁴ should include information about salary transparency requirements in all of its communication with both parties. The Department of Consumer and Worker Protection, which engages in community outreach to workers and consumers and “strives to create a culture of compliance” regarding laws under their jurisdiction with businesses in the city,¹³⁵ should add information about salary transparency requirements and rights in communications with employers and job seekers.

By working together with CCHR to add salary transparency language to existing outreach materials and other communications, these two agencies can help disseminate information about the salary transparency law further than CCHR can on its own. The relationship that these two agencies have with job seekers in particular can be valuable because job seekers are those most likely to notice when a job posting lacks the required salary information and, if given information about reporting, can help CCHR fulfill its mandate by continuing to inquire about postings lacking salaries.

¹³³ See, e.g., Press Release, N.Y.C. Mayor, Mayor Adams Announces Largest Civil Rights Settlement in City History, Protecting New Yorkers from Housing Discrimination (August 22, 2024), <https://www.nyc.gov/office-of-the-mayor/news/653-24/mayor-adams-largest-civil-rights-settlement-city-history-protecting-new-yorkers-from>.

¹³⁴ N.Y.C. MAYOR’S MANAGEMENT REPORT, Preliminary Fiscal 2024, at 265 (Jan. 2024) https://www.nyc.gov/assets/operations/downloads/pdf/pmmr2024/2024_pmmr.pdf.

¹³⁵ Overview, N.Y.C. DEP’T OF CONSUMER AND WORKER PROT., <https://www.nyc.gov/site/dca/about/overview.page> (last visited July 18, 2024).

3. CCHR Should Increase Coordination with NYSDOL

Relatedly, given CCHR’s underfunding and understaffing, the agency should increase its coordination with NYSDOL. As NYSDOL begins enforcing the state law, both agencies should take care not to needlessly duplicate work. Instead, they should strategically collaborate to increase regulatory pressure on any recalcitrant job search platform companies and other employers with a large number of job postings in New York City and New York State.

Recommendation 4:

CCHR Should Consider Strategies to Discourage the Use of Wide Salary Ranges

One of the most striking findings of the Data Team’s analysis is that, of job listings with salary ranges posted on Indeed, 97% or more of the postings had a maximum less than double the minimum, and 85% or more of the postings had a maximum less than 1.5x the minimum. This suggests that it is rare for New York City employers to offer a range of 2x or wider (e.g., \$50,000-100,000 or wider), and that even postings with a range of 1.5x (e.g. \$50,000-\$75,000 or wider) are uncommon. Under the current law, “the range may extend from the lowest to the highest annual salary or hourly wage the employer in good faith believes at the time of the posting it would pay.”¹³⁶

The point of the “good faith” requirement is to provide salary information to job seekers that they can actually use in salary negotiations. The state’s law has the same aim, as shown by NYSDOL’s draft rule that postings do not comply with the law when the “range of compensation is so broad, without further information explaining the reason for the breadth, that it has the effect of preventing the potential or prospective applicant from understanding the legitimate range [...] that the employer is willing to pay[.]”¹³⁷

The fact that wide ranges already seem to be so rare presents an opportunity: the City could discourage ranges of 2x (or, alternatively, ranges of 1.5x, 2.5x, or 3x) through a targeted approach, without burdening the vast majority of employers. This may be accomplished in a variety of ways:

1. CCHR could publish legal enforcement guidance, as the agency does for other NYCHRL protections,¹³⁸ indicating that it will treat salary ranges of such width as suspect and will prioritize investigating them.
2. CCHR could issue a rule to similar effect, requiring employers, their agents, or employment agencies posting such a wide range to justify it, either within the posting itself or by submitting paperwork to CCHR.

¹³⁶ N.Y.C. ADMIN. CODE § 8-107(32).

¹³⁷ Pay Transparency in Job Advertisements, XLV N.Y. Reg. at 8.

¹³⁸ *Legal Enforcement Guidance*, N.Y.C. Cmm’n on Hum. Rts. <https://www.nyc.gov/site/cchr/law/legal-guidances.page> (last visited July 18, 2024).

Recommendation 5:

CCHR Should Consider How to Address Missing Salaries in “Scraped” Job Postings

As the Data Team’s analysis revealed, thousands of New York City job postings without salary ranges have been advertised to jobseekers, seemingly due to how job search platforms “scraped” employers’ websites for postings. In these instances, employers included salary information in the original job postings, in compliance with the law, but the salary information was later lost when the postings were scraped and reposted on job search platforms.

CCHR should consider how it can best address this issue, given logistical and legal constraints, to ensure that all New York City jobseekers have access to the salary information they need, regardless of where they choose to search. To achieve this, the agency could publish recommendations for job search platforms to include links in scraped postings that direct users back to the original posting or add disclaimers explaining the law’s requirements and prompting users to consult the original source for complete information. Additionally, CCHR could engage directly with these platforms to collaborate in identifying and implementing other effective solutions to guarantee that job seekers can consistently access this vital information.

Conclusion



CONCLUSION

New York City’s Salary Transparency Law is an important step towards pay equity in our city. As New York City Council Speaker Adrienne Adams said upon the law taking effect, “Addressing pay inequities that have long impacted our diverse communities and workforce is critical to both our economy and gender and racial justice.”¹³⁹ She continued, “We must narrow stubborn gender and racial pay gaps, especially for Black, Latina, indigenous and Asian women. The Council will continue to monitor the impact of [the law’s] implementation, while pursuing additional efforts to achieve pay equity for all New Yorkers.”¹⁴⁰

In other words, progress on pay equity requires our city to make greater strides towards the full job market-wide transparency the law contemplates. CCHR has begun this work with the more than 50 agency-initiated cases it has brought from October 2023 through the date of this report. However, as detailed above, more must be done by CCHR and other New York City and New York State officials and agencies.

Two years after the Salary Transparency Law took effect, the Council is considering how further progress on pay equity can best be made. In the meantime, the Administration needs a comprehensive strategy—starting with additional CCHR staff and increased deterrence messaging—to more quickly and effectively enforce the current law in order to significantly narrow the “stubborn gender and racial pay gaps” in our city.

¹³⁹ Press Release, N.Y.C. Council, Statement from Speaker Adrienne Adams on Salary Transparency Law Taking Effect Today (November 1, 2022), <https://council.nyc.gov/press/2022/11/01/2295/>.

¹⁴⁰ *Id.*

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