

260-RICR-30-05-8

TITLE 260 – DEPARTMENT OF LABOR AND TRAINING

CHAPTER 30 – WORKFORCE REGULATION AND SAFETY

SUBCHAPTER 05 – LABOR STANDARDS

PART 8 – Fair Employment Practices

8.1 Authority

R.I. Gen. Laws § 28-6-23 authorizes the Director of the Department of Labor and Training to ensure compliance with §§ 17-24 of R.I. Gen. Laws Chapter 28-6. The Department is authorized to promulgate guidance related to compliance with the provisions of these statutes, investigate any violations, institute actions for the collection of wages and for penalties or other relief as provided for within and pursuant to those Chapters.

8.2 Definitions

The definitions set forth in R.I. Gen. Laws § 28-6-17 are hereby incorporated by reference.

8.3 Wage Differential for Comparable Work Based on Protected Class Characteristics Prohibited

Where an employer has more than one (1) employee engaged in comparable work, the employer shall not pay any of its employees a lower wage, inclusive of all benefits, on the basis of race, color, religion, sex, sexual orientation, gender identity or expression, disability, age, or country of ancestral origin for said comparable work, except where the employer meets the standards set forth in subsection (b) of R.I. Gen. Laws § 28-6-18.

8.4 Posting of Rights

The Department of Labor and Training shall make available on its website, free of charge, printable materials that clearly state the rights and responsibilities afforded to and conferred upon employers, employees, and job applicants by §§ 17-24 of R.I. Gen. Laws Chapter 28-6.

8.5 Enforcement

In carrying out the functions assigned by R.I. Gen. Laws § 28-6-19, the Department of Labor and Training shall apply the investigatory, enforcement, and hearing procedures set forth in 260-RICR-10-00-5.

8.6 Retaliation Prohibited

- A. Employers are prohibited from taking adverse action, including but not limited to termination, refusal to hire, demotion, or reduction or withholding of pay, against any employee or job applicant solely on the basis of the employee's or applicant's exercise of any right conferred in §§ 17-24 of R.I. Gen. Laws Chapter 28-6, including the filing of, or providing testimony or other support for, a claim of a violation of the provisions of these Sections; requesting a wage range for a position; inquiring about wages or discussing wages with others; encouraging discussion of wages; or refusing to provide a wage history.
- B. Where an individual believes that such retaliation has occurred, the individual shall have the same recourse as provided in section 8.5 above.

8.7 Stay on Penalties

The Department of Labor and Training shall not impose a civil penalty under R.I. Gen. Laws § 28-6-21 for any violation identified by the Department of Labor and Training or complained of to the Department prior to January 1, 2024.

8.8 Wage History, Ranges, and Discussion

8.8.1 Wage History

- A. An employer may not inquire about a job applicant's current or prior wage or salary, prompt a job applicant to provide current or prior wage or salary, or intentionally attempt to obtain information regarding the current or prior wage or salary of a job applicant.
- B. Where an employer does have information related to a job applicant's current or prior wage or salary, the employer may not rely on this information in making a hiring determination or setting wages to be paid upon hire
- C. An employer may not set a minimum or maximum prior wage or salary threshold for a job applicant as a condition of hire.
- D. Where a job applicant, voluntarily and without prompting, provides information about current or prior wages or salary, an employer may rely on this information to proffer a higher wage rate than initially contemplated and, in so doing, may seek confirmation of the wage information; provided, however, that if offering a higher wage, an unlawful wage differential for comparable work based on one of the factors listed in 8.3 is not created.

8.8.2 Wage Ranges

- A. At the request of an applicant or employee, an employer must disclose, at the time of application and/or hire or internal move to a new position, and at any time

during employment, the wage range for the position of application or employment of the requesting individual.

- B. In providing this range, the employer must provide the inquiring individual with at least the minimum and maximum wages paid for the position of employment or position posted.
- C. Where a wage range is not provided upon request, the aggrieved employee or applicant shall have the same recourse as provided for in 8.5.

8.8.3 Wage Discussions

- A. An employer may not prohibit an employee from inquiring about, discussing, or disclosing their wages or those of another employee, or prohibit an employee from aiding or encouraging any other employee to do the same
- B. Where an employee believes that such prohibition has occurred, the aggrieved employee shall have the same recourse as provided for in 8.5.

8.9 Appeals

- A. Any party who is aggrieved by a final decision of the Department of Labor and Training is entitled to a trial de novo in superior court in the county having jurisdiction.
- B. Proceedings shall be commenced by the aggrieved party by filing a complaint in the superior court within thirty (30) days of the issuance of the final agency decision
- C. During the pendency of the appeal, the final decision of the Department of Labor and Training shall be stayed and deemed not a final decision.

8.10 Self-Evaluation

- A. The Department of Labor and Training shall issue and make available on its website, free of charge, a form for use by employers who wish to conduct a self-evaluation for the purposes of attempting to establish an affirmative defense to liability or reduction of liability as contemplated in R. I. Gen. Laws § 28-6-24.
- B. Employers shall not be required to use this form and may elect to use a format of their own choosing or design.
- C. Use of the form made available by the Department of Labor and Training shall not be dispositive evidence of the due diligence or efficacy of the self-evaluation and use of a form other than that made available by the Department of Labor and Training shall not be evidence of a lack of due diligence or efficacy.