

# Client Insight: California Pay Transparency Overhaul: What Employers Must Do by January 1, 2026

Insights

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Starting January 1, 2026, California employers will face expanded pay transparency and pay equity requirements, including stricter job posting disclosures and mandatory inclusion of equity compensation in pay equity analyses. Employers should act now to update compliance practices and protect against increased legal risks.

## Current Requirements for California Employers

Under California Labor Code 432.3, employers with fifteen (15) or more employees, at least one of whom is located in California, must:

- Include pay ranges in job postings for California-based roles.
- Provide pay scale information upon request to applicants and current employees.
- Refrain from seeking, or relying upon, prior salary history when hiring or setting wages.
- Retain job and pay records.
- Protect employees from retaliation when they exercise their right to request salary information.

## Key Changes Effective January 1, 2026

Senate Bill 642 (effective January 1, 2026) expands California's pay transparency and equity obligations, significantly affecting compensation practices for employers using equity-based pay structures.

- **Narrower and More Accurate “Pay Scales”:** Job postings must disclose a good-faith estimate of the actual compensation (salary or hourly wage) the employer reasonably expects to pay for each specific role and location at the time of hire. Broad salary bands or ranges implying future promotions are no longer permissible—posted ranges must align with actual hiring practices.
- **Expanded Definition of “Wages” and “Wage Rates” under the Equal Pay Act:** California's Equal Pay Act ([Labor Code sec. 1197.5](#)) now defines “wages” and “wage rates” to include equity awards, stock and stock options, bonuses, profit sharing, and certain benefits. When comparing pay between employees performing substantially similar work, employers must account for equity compensation and other non-cash components—not just base salary. **This expanded definition of “wages” and “wage rates” applies only to Equal Pay Act claims.** SB 642 does not change the definition of “wages” or “wage rates,” and does not modify available remedies, for any other section of the Labor Code, including California's other wage and hour statutes, such as those covering minimum wage, overtime, or wage statements.

**Note:** While equity must be included in pay equity analyses under the Equal Pay Act, SB 642 does not require equity compensation to be disclosed in job postings.

- **Longer Claims and Recovery Window:** Employees can bring Equal Pay Act claims within three years of the violation (up from two) and may recover compensation for up to six years prior—each paycheck creates a potential claim.
- **Inclusive Gender Protections:** The law updates terminology to explicitly include gender identity and expression in Equal Pay Act protections.

## Implications for Startups, Growth Companies, and Investors

Equity compensation often drives competitive offers in venture-backed companies—but the new law requires these awards to be valued consistently and included in all pay equity analyses. Documentation and defensible methodologies around equity valuation become crucial, and past decisions (dating back up to six years) may be subject to scrutiny.

Your posted salary ranges can be used as evidence in pay disputes, so clear, reliable documentation of the rationale for compensation decisions is paramount—not only to comply with the law but also to protect against litigation and reputational risk.

## **Beyond California: Multistate Trend**

These California changes arrive amid a broader national push toward salary-range posting laws, including Massachusetts' law effective October 29, 2025.

Massachusetts now requires pay ranges in postings for employers with 25+ in-state employees; benefits and equity need not be listed; enforcement is by the Attorney General with no private right of action, as detailed in our [Summer 2025 update](#). Many other states (e.g., CO, CT, HI, IL, MD, MN, NV, NJ, NY, OH, RI, VT, WA) and some cities and counties already require ranges with differing thresholds, disclosures, and remote-role coverage—so standardizing templates and remote-role policies helps reduce rework and enforcement risk.

## **Practical Action Steps**

1. **Audit and Update Job Postings:** Ensure all job ads include genuine, role- and location-specific pay ranges. Remove broad bands and aspirational language.
2. **Value Equity Consistently:** Develop and document robust methodologies for valuing equity grants (e.g., grant-date fair value for RSUs, standardized option valuation models).
3. **Record Detailed Compensation Decisions:** Keep thorough records of how pay decisions are made, based on business factors such as experience, skills, market data, and performance. Retain records for at least six years.
4. **Educate Hiring Stakeholders:** Train HR, recruiters, and managers on new disclosure requirements and compliance best practices, including when and how to discuss equity compensation with candidates (which is not required in the posted pay range but may be discussed during the hiring process).
5. **Conduct Pay Equity Audits:** Regularly review compensation (including base, incentives, and equity) for gaps across protected classes. Use attorney-client privilege to protect sensitive audits where appropriate.
6. **Strengthen Recordkeeping:** Retain all data and documents required for compliance—job postings, pay ranges, compensation methodologies, committee notes, and decision rationales—for the full statutory period.

## **Why It Matters**

The California amendments heighten employer obligations on transparency and pay equity—particularly for companies where equity drives compensation. Early compliance helps mitigate litigation risks, strengthen recruiting transparency, and maintain workforce trust.

Gunderson Dettmer's Employment & Labor Group partners with clients to navigate evolving state and local pay transparency requirements and to design practical, scalable solutions for pay transparency and equity. For tailored guidance, reach out to your Gunderson Dettmer attorney.

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