



# State of New York

## Executive Chamber

No. 161

### EXECUTIVE ORDER

#### ENSURING PAY EQUITY BY STATE EMPLOYERS

**WHEREAS**, New York State is a national leader in protecting the civil rights and liberties of all of its citizens;

**WHEREAS**, it is the policy of this State to promote fairness, combat discrimination, and ensure equal treatment for all people;

**WHEREAS**, every New Yorker should have the opportunity to be fairly and equally compensated based on the nature and responsibility of the work that they do;

**WHEREAS**, State and federal law prohibit gender-based pay discrimination and require equal pay for equal work;

**WHEREAS**, in 2015, New York State enacted a comprehensive set of laws to support, protect, and strengthen the rights of women in the workplace, including prohibiting employers from paying women less than men for performing the same work and allowing employees to discuss their wages with each other without threat of termination or suspension;

**WHEREAS**, women and racial and ethnic minority workers have historically encountered lower wages and salaries causing a wage gap that pervades all industries;

**WHEREAS**, despite recent advances, federal data shows that women in this state continue to earn an average of 87 cents on the dollar, or 13 cents less, compared to what men earn for performing the same work;

**WHEREAS**, the State of New York will not perpetuate inequities that may be reflected in the prior salary levels of incoming employees and will further true pay equity by ensuring that the State eliminates all vestiges of historical discrimination in its wage-setting system; and

**WHEREAS**, members of the State workforce must be fairly and appropriately compensated based upon the work they perform, rather than based upon their gender, race or ethnicity, their prior employer, or prior earnings.

**NOW, THEREFORE, I, ANDREW M. CUOMO**, Governor of the State of New York, by virtue of the authority vested in me by the Constitution and laws of the State of New York, do hereby order as follows:

A. Definitions

1. "State entity" shall mean (i) all agencies and departments over which the Governor has executive authority, and (ii) all public benefit corporations, public authorities, boards, and commissions, for which the Governor appoints the Chair, the Chief Executive, or the majority of Board Members, except for the Port Authority of New York and New Jersey.

2. "Compensation" shall mean salary, wages, benefits, and any other forms of payment.
- B. In order to promote consideration of applicants based on their unique aptitude and qualifications, no State entity is permitted to ask, or mandate, in any form, that an applicant for employment provide his or her current compensation, or any prior compensation history, until such time as the applicant is extended a conditional offer of employment with compensation.
  - C. Once a conditional offer of employment has been extended, a State entity may request and verify compensation information.
  - D. If a State entity is already in possession of an applicant's prior compensation as of the effective date of this Executive Order, such information shall not be relied upon in determining such applicant's salary, unless required by law or collective bargaining agreement.
  - E. The Governor's Office of Employee Relations will monitor and oversee this Executive Order and train relevant human resources staff from State entities on the requirements of this Executive Order.
  - F. Nothing contained herein shall prevent an applicant from volunteering compensation information, but no applicant is under any obligation to provide such information until the requirements of this Executive Order are met.
  - G. An applicant's refusal to provide compensation information shall not be considered in making an employment determination. Applicants that have been improperly asked for compensation information in violation of this Executive Order may report such violations to the Governor's Office of Employee Relations.
  - H. Nothing contained herein shall impair any rights under any collective bargaining agreement.

GIVEN under my hand and the Privy Seal of the  
State in the City of Albany this ninth  
day of January in the year two thousand  
seventeen.



BY THE GOVERNOR

*William J. Mahow*  
Secretary to the Governor