

# California Pay Transparency and Applicant Salary Inquiry Restrictions Assembly Bill 168 and Senate Bill 1162 Staff Employee Position FAQs

These FAQs are intended to serve as a resource to assist University of California locations in navigating AB 168 and SB 1162 in support of the University's commitment to pay equity, pay transparency and the elimination of gender, race, color, religion, sex, national origin, disability, age, protected veteran status, gender identity, or sexual orientation, as a basis for determining compensation. This document is designated for staff recruitments. It is not intended to address all implementation questions or unique location specific circumstances. It is recommended that you contact your location central Human Resources Office for more information and guidance on local procedures.

These FAQs are designated for SMG, MSP, PSS, represented and non-represented staff, including student, employee positions. If you have questions related to faculty and academic employee positions, please contact your location Academic Personnel Office for guidance.

Systemwide HR developed these FAQs in collaboration with HR leaders from locations across the system and UC Legal – Office of the General Counsel.

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## I. LAWS

### 1. What is AB 168?

Effective January 1, 2018, California Assembly Bill 168 prohibits employers from inquiring into an applicant's salary history. The legislation is intended to address inequity in pay practices based on gender and other protected class designations such as race, age and disability. The regulations include the following restrictions:

- Prohibit an employer from relying on salary history information, including compensation and benefits, about an applicant for employment as a factor in determining whether to offer employment or what salary to offer.
- Prohibit an employer orally or in writing, personally or through an agent, from seeking salary history information, including compensation and benefits, about an applicant for employment.
- Upon request, an employer must provide the pay scale<sup>1</sup> for a position to an applicant applying for employment.

### 2. What is SB 1162?

Effective January 1, 2023, California Senate Bill 1162 requires employers to disclose pay scales on all position postings and to current employees upon request.

The requirements include the following:

- Pay scales<sup>2</sup> must be included in all position postings and information must be provided to all third parties who assist with position postings.
- A pay scale<sup>3</sup> must also be provided for a current employee's position at the employee's request.
- Employers must maintain records of job titles and wage rate histories for the duration of an employee's employment and three years after termination of employment.

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<sup>1</sup> AB 168 "pay scale" is defined as the salary or hourly wage range for the position.

<sup>2</sup> SB 1162 "pay scale" for position postings is defined as the salary or hourly wage range that the employer reasonably expects to pay for the position.

<sup>3</sup> SB 1162 "pay scale" for a current employee position is defined as the salary range of pay from minimum to maximum established for their position.

3. Why is the University complying with AB 168 and SB 1162? What is the purpose of these laws?

These laws expand pay equity and pay transparency by requiring California employers to disclose pay scales and prohibiting employers from seeking or relying on applicants' salary history information, including compensation and benefits, in the recruitment process. These laws further safeguard the right of all persons to obtain and hold employment without discrimination based on specified characteristics or status, and they are intended to address inequity in pay practices based on gender, race, color, religion, sex, national origin, disability, age, protected veteran status, gender identity, or sexual orientation.

Based on its legal standing and constitutional status, the University may be exempt from these laws. However, given the University's institutional values and commitment to diversity and ensuring equal pay, the University has aligned its policies and practices with the provisions in these laws.

## II. UC IMPLEMENTATION

4. Do AB 168 and SB 1162 apply to all academic, faculty, and staff, including student, employee positions?

Yes. This law does not differentiate between groups: it applies to all academic, faculty, and staff, including student, employee positions. For more information and guidance, contact your location's central Human Resources office or Academic Personnel office.

This set of FAQs is designated for SMG, MSP, PSS, represented and non-represented staff, including student, employee positions. For information about how these laws apply to faculty and academic employee positions, please contact your location Academic Personnel Office for guidance.

5. Are contracted search firms required to comply with AB 168 and SB 1162?

Yes. Search firms that are acting as agents of the University are covered by AB 168 and SB 1162, and they are required to comply with the law, UC Policies, and Guidance related to AB 168 and SB 1162.

### III. POLICIES

#### 6. How do these laws impact existing University policies?

Personnel Policies for Staff Members (PPSM) which apply to SMG, MSP, PSS, represented and non-represented staff:

PPSM 20 (Recruitment and Promotion) has been updated to include definitions of pay scale and salary range, and the requirement that job postings must include the pay scale for the position. The full position salary range must be provided to employees and to applicants upon request.

- Pay Scale is the salary or hourly wage range that the University reasonably expects to pay for the position in accordance with local procedures.
- Salary Range is the range of pay from minimum to maximum established for a salary grade or job.

Personnel Policies for Staff Members (PPSM) which apply to MSP and PSS non-represented employees only:

PPSM 30 (Compensation) has been updated to remove the annual limit section of the policy, which formerly stated a limit on an employee's total salary increase in a single fiscal year. This policy was updated to support the University's commitment to pay equity and in the spirit of AB 168. In addition, a new Section III.B.1.d (Access to Salary Range Information) was added to state that the University will provide an employee the salary range for the position in which the employee is currently employed. An FAQ has also been included to provide instructions on determining an employee's current salary range.

## IV. POSITION POSTINGS

### 7. Since we have to disclose the pay scale for the position to an applicant, should the full range be listed in the position posting?

The intent of SB 1162 is to increase pay transparency and to assist applicants in the application process by informing them of the salary range that the location can offer before they submit an application.

The law requires that the University's job postings must include the pay scale for the position. Pay Scale is the salary or hourly wage range that the University reasonably expects to pay for the position in accordance with local procedures. To best meet a location's business and budgetary needs, locations may choose to post pay scales and/or full salary ranges.

The mechanisms that are likely to attract a broad and diverse pool of qualified applicants should be used to advertise a position opening. This could include advertising the position internally on University of California websites, as well as advertising externally using various national, local, and social media, job search websites, recruitment agencies, etc. Advertisements must include the pay scale for the position. The full salary range must be provided upon applicant request.

Following are examples to meet the pay scale job posting requirement:

- Post the full salary range from minimum to maximum.
- Post a pay scale and the full salary range from minimum to maximum.
- Post a pay scale, a budgetary range that falls within the full salary range.
- Include language in the position posting about what the location expects to pay. Following is sample language that locations may customize to align with location business practices. Contact your location central Human Resources Office for more information and guidance on local procedures.

The University of California, LOCATION NAME is required to provide a reasonable estimate of the compensation range for this role. This range takes into account the wide range of factors that are considered in making compensation decisions including but not limited to experience, skills, knowledge, abilities, education, licensure and certifications, and other business and organizational needs. It is not typical for an individual to be offered a salary at or near the top of the range for a position. Salary offers are determined based on final candidate qualifications and experience. The full salary range for this position is ENTER AMOUNT. The budgeted salary or hourly range that the University reasonably expects to pay for this position is ENTER AMOUNT.

Notes: Regardless of which posting option(s) locations use, the final salary offer to a candidate should fall within the posted pay scale or salary range. Managers should consult with their location Human Resources Office regarding best practices and local procedures.

## Posting Pay Scale and Salary Range Considerations

### Benefits:

1. Assists the applicant in determining whether they want to apply for the position based on the posted pay scale or salary range, thus reducing numbers of applicants who expect a salary outside of the available scale or range.
2. Posting a pay scale within a budgetary range, instead of the full salary range, provides clearer and more transparent salary guidance for applicants to better manage their expectations and may enhance their recruitment process experience.
3. Posting the full salary range ensures clarity with respect to salary negotiations and supports consistent salary negotiations across a diverse range of candidates.
4. Posting the full salary range allows the applicant to reference the potential salary growth for the position.

### Challenges:

1. Posting only the full salary range may set up an unrealistic salary expectation for applicants who may assume and expect that they are eligible for a higher salary than what the location can or will pay for the position.
2. Posting only the pay scale may dissuade applicants who have higher salary offer expectations or concerns that there is no potential for salary growth.
3. It is recommended that locations monitor and track hiring transactions where the job posting only includes the pay scale and the location makes an offer to a final candidate above the pay scale, but within the full salary range.

## 8. What should be posted for By Yearly Agreement (BYA) positions that do not have salary ranges in [TCS Inquiry](#) and currently state “no base rates by agreement” listed under “Detail Information”?

SB 1162 requires that the University’s job postings must include the pay scale for the position. Please contact your location central Human Resources Office to request salary range information for position postings.

As a reminder, AB 168 also requires that an employer provide to applicants, upon request, the salary range for a position.

9. Do we need to repost the position for jobs posted before January 1, 2023 where the recruitment is still active or in progress on January 1, 2023?

Following includes examples:

A. Did not post the pay scale and salary range before January 1, 2023

- I. Job no longer posted on January 1, 2023, and recruitment process is still in progress but no longer accepting applicants

No, do not need to repost, the posting period was completed before January 1, 2023.

- II. Job posting states “open until filled” and remains open for new applications January 1, 2023

Yes, must repost all position postings accepting new applications January 1, 2023. The revised posting starts a new minimum posting period.

- III. Job posting remains open for new applications January 1, 2023

Yes, must repost all position postings accepting new applications January 1, 2023. The revised posting starts a new minimum posting period.

B. Posted only salary range and did not post pay scale before January 1, 2023

- I. Job no longer posted on January 1, 2023, and recruitment process is still in progress but no longer accepting applicants

No, do not need to repost, the posting period was completed before January 1, 2023.

- II. Job posting states “open until filled” and remains open for new applications January 1, 2023

No, do not need to repost since the full salary range was included in posting before January 1, 2023.

- III. Job posting remains open for new applications January 1, 2023

No, do not need to repost since the full salary range was included in posting before January 1, 2023.

C. Posted only pay scale and did not post salary range before January 1, 2023

- I. Job no longer posted on January 1, 2023, and recruitment process is still in progress but no longer accepting applicants

No, do not need to repost, the posting period was completed before January 1, 2023.

- II. Job posting states “open until filled” and remains open for new applications January 1, 2023

The best practice is to extend a salary offer to a final candidate that aligns with the pay scale listed in the job posting.

Yes, must repost if it is anticipated the salary offer that will be extended to final candidate may be above the posted pay scale but within the salary range, best practice is to repost the position with a pay scale and the full salary range. See [FAQ #7](#) for additional position posting guidance.

Exceptions should be kept to a minimum and are recommended to be monitored and tracked. The intent of SB 1162 is to increase pay transparency and to assist applicants in the application process by informing them of the salary range that the location can offer before they submit an application. It requires employers post a position pay scale the employer “reasonably expects to pay.” Extending offers over the posted pay scale does not provide pay transparency.

- III. Job posting remains open for new applications January 1, 2023

The best practice is to extend a salary offer to a final candidate that aligns with the pay scale listed in the job posting.

Yes, must repost if it is anticipated the salary offer that will be extended to final candidate may be above the posted pay scale but within the salary range, best practice is to repost the position with a pay scale and the full salary range. See [FAQ #7](#) for additional position posting guidance.

Exceptions should be kept to a minimum and are recommended to be monitored and tracked. The intent of SB 1162 is to increase pay transparency and to assist applicants in the application process by informing them of the salary range that the location can offer before they submit an application. It requires employers post a position pay scale the employer “reasonably expects to pay.” Extending offers over the posted pay scale does not provide pay transparency.



D. Posted both the pay scale and the salary range

No, do not need to repost because the pay scale and full salary range was posted before January 1, 2023.

10. Do we need to repost the position if it is anticipated the salary offer that will be extended to final candidates may be above the posted pay scale but within the salary range?

The best practice is to extend a salary offer to a final candidate that aligns with the pay scale listed in the job posting, or to repost the position with a pay scale and the full salary range. See [FAQ #7](#) for additional position posting guidance.

Exceptions should be kept to a minimum and are recommended to be monitored and tracked. The intent of SB 1162 is to increase pay transparency and to assist applicants in the application process by informing them of the salary range that the location can offer before they submit an application. It requires employers post a position pay scale the employer “reasonably expects to pay.” Extending offers over the posted pay scale does not provide pay transparency.

Contact your location central Human Resources Office for more information and guidance on local procedures.

11. What information am I required to provide the applicant if they request the position salary range?

You must provide the position classification’s full salary range including minimum, midpoint, and maximum of the range.

12. If our location wants to create an advertisement flyer or post on a third party (external) advertising vendor’s website, do we need to include the position pay scale?

UC locations that engage a third party to announce, post, publish, or otherwise make known a job posting must provide the pay scale to the third party and the third party must include it within the job posting.

Locations cannot provide a link or QR code in an electronic or paper posting that will take an applicant to the salary information.

## V. SALARY HISTORY

13. I understand that AB 168 prohibits me from asking questions related to salary history information. Does the law prohibit any other questions from being asked?

Yes. The law also prohibits asking questions about the applicant's benefits and other forms of compensation. This includes bonuses, retirement benefits, health plans, paid time off, etc.

14. Is there a difference between asking salary history information verbally versus in writing?

No. The same limitations apply to verbal or written communications.

15. What questions can I ask applicants related to salary expectations?

Examples of questions that may be asked are:

- What are your salary requirements?
- What salary do you expect to earn in this position?
- Is the pay scale or salary range for this position within your acceptable range?

16. If an applicant volunteers their salary history information, what am I supposed to do?

AB 168 states: "If an applicant voluntarily and without prompting discloses salary history information to a prospective employer, nothing in this section shall prohibit that employer from considering or relying on that voluntarily disclosed salary history information in determining the salary for that applicant."

To ensure UC continues to advance pay equity, it is recommended that hiring managers do not rely on volunteered salary history information when making hiring decisions or setting salaries.

17. If salary information is available on internal UC applicants, am I allowed to look it up, share, or use it in the recruitment process?

Given the University's institutional values and commitment to diversity and ensuring equal pay, the University recommends following guidance that prohibits asking applicants and candidates questions about the applicant's benefits and other forms of compensation. This includes bonuses, retirement benefits, health plans, paid time off, etc.

While internal applicant salary information may be available, as AB 168 does not apply to salary history information disclosable to the public pursuant to federal or state law, it is recommended that such information not be used to make recruitment decisions or to determine salary offers. The purpose is to provide equity for internal and external applicants and candidates as they progress through the recruitment process.

18. If it is discovered that a question regarding salary history, including compensation and benefits, information is asked, what should we do?

The University [prohibits discrimination against any person employed and seeking employment](#). The information should be reported to an appropriate campus office for follow-up. The Human Resources office, Affirmative Action/Equal Employment office, or the Whistleblower hotline can address complaints and investigate possible policy violations.

## VI. COMPENSATION

19. How are we able to determine what an offer of employment should be since we can no longer base it on the candidate's current or most recent salary?

The intent of AB 168 is to support equity in pay practices and eliminate potential discrimination based on gender and other protected group designations. You may ask applicants and candidates questions about their salary expectations – see [FAQ #15](#) for additional guidance. Relying solely on an applicant's previous salary to determine future salary could result in pay disparities. Therefore, determining a salary within the established salary range should be based on the final candidate's experience, skills, knowledge, abilities, education, licensure and certifications.

In discussing the salary offer, it is also highly recommended to invite the finalist to utilize the [Total Compensation Estimator](#) provided on the UCnet Compensation & Benefits website to assist them in estimating their total compensation as a prospective UC employee.

20. What if there isn't budget to pay above the first quartile or mid-point and yet the full salary range has been posted?

SB 1162 requires posting of the pay scale for all positions, to reflect the salary or hourly wage range that the University reasonably expects to pay for the position. Locations may discuss budgetary limitations with applicants and candidates to provide pay scale transparency.

21. If the position posting included a pay scale and the full salary range, can the hiring manager extend a final salary offer to a candidate that is above the posted pay scale but within the posted full salary range?

Yes, because the full salary range was posted with the pay scale.

22. What if the job posting only includes the pay scale without the full salary range, but the hiring manager wants to extend a salary offer to a final candidate above the posted pay scale but within the full salary range?

The best practice is to extend a salary offer to a final candidate that aligns with the pay scale listed in the job posting. Exceptions should be kept to a minimum and are recommended to be monitored and tracked. SB 1162 requires job postings to include a pay scale the employer "reasonably expects to pay" for the position. The intent of SB 1162 is to increase pay transparency and to assist applicants in the application process by informing them of the pay scale that the location "reasonably expects to pay" before they submit an application. Extending offers over the posted pay scale does not provide pay transparency.

If it is anticipated that the salary offer that will be extend to final candidates may be above the posted pay scale but within the salary range (or if before January 1, 2023 the position posting did not include a posted pay scale and/or salary range), the best practice is to repost the position with a pay scale and the full salary range to address this scenario. See [FAQ #7](#), [FAQ #9](#), and [FAQ# 10](#) for additional position posting guidance.

Contact your location central Human Resources Office for more information and guidance on local procedures.

23. If an employee asks for their current position pay scale, what information should be provided?

The University is committed to pay equity and pay transparency. Upon request from the employee, locations are required to disclose to current employees the salary range from minimum to maximum established for their position. See [FAQ #24](#) for instructions on how employees may self-access this information online.

## 24. How do current employees find their current position salary range?

Instructions for UC employees, except Lawrence Berkeley National Laboratory employees:

1. Login to [UCPath](#) in a web browser
2. In the upper left window of the home page, note the Primary Title listed under the employee's name
3. Go to [TCS Inquiry](#) in a web browser
4. Select the appropriate employee category
5. Enter the Primary Title (from UCPath) in the Title Name field
6. Select other filters that apply
7. Click the Search button
8. Select the Title six-digit number for the row in which the Primary Title is listed for the employee's Campus/Business Unit location title abbreviation
9. View salary range information on the Title Details page
  - If "no base rates by agreement" is listed under "Detail Information", please contact your location central Human Resources Office to request salary range information for your position

Instructions for Lawrence Berkeley National Laboratory employees:

1. Login to [UCPath](#) in a web browser
2. In the upper left window of the home page, note the Primary Title listed under the employee's name
3. View [Lawrence Berkeley National Laboratory Salary Ranges](#) in web browser
4. Find the Job Title that matches the Primary Title from UCPath
5. View salary range information on the Job Title row

## 25. What is the process if current employees have questions or concerns related to pay equity?

Non represented employees should contact their location central Human Resources Office.

Represented employees should contact their local bargaining unit representative.