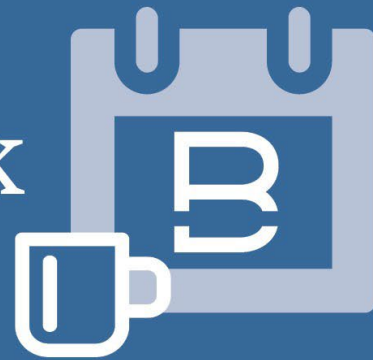


The Work Week

Bassford Remele Employment Practice Group



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Welcome to another edition of *The Work Week with Bassford Remele*. Each Monday morning, we will publish and send a new article to your inbox to hopefully assist you in jumpstarting your work week.

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Compliance With Laws Designed to Close the Wage Gap

[Beth L. LaCanne](#)

Efforts to close the wage gap have gained significant momentum in recent years, reflecting a growing commitment to fairness and equity in the workplace. Supporting these efforts isn't just a matter of good business practice—it's increasingly intertwined with compliance obligations under both state and federal laws. A recent settlement between the Equal Employment Opportunity Commission ("EEOC") and Sinclair Broadcast Group underscores the risks associated with conduct that impedes or interferes with efforts to close the wage gap, including employees discussing compensation. For Sinclair Broadcast Group, the risk became a reality to the tune of \$100,000 with mandated reporting and monitoring obligations as well as the development of a policy that states it does not prohibit employees from discussing or disclosing their pay.

- **The *Sinclair* Case: A Costly Reminder of Federal Protections**

In the *Sinclair* case, the EEOC alleged that Sinclair Broadcast Group discriminated against its employee on the basis of race in violation of Title VII of the Civil Rights Act of 1964. According to the EEOC complaint, Sinclair Broadcast Group paid the analyst significantly less than white colleagues performing the same work, despite her strong qualifications and experience. When she raised concerns about the disparity and discussed her compensation with others, Sinclair Broadcast Group allegedly retaliated against her by subjecting her to a hostile-work environment. Although the EEOC focused on race discrimination, the settlement has broader implications because of its requirement that Sinclair Broadcast Group develop a policy that allows employees to discuss their pay.

- *National Labor Relations Act (NLRA)*

As a recent backdrop to the *Sinclair* case, in a published decision issued in December 2024, the National Labor Relations Board (“NLRB”) found that B & L, Inc., d/b/a Boyds Drug Mart engaged in unfair labor practices “by impliedly threatening to discharge employees, telling employees that it was not appropriate and disruptive for them to discuss other employees’ wages, telling employees that their way of communicating created a problem and must stop, and issuing a written warning to, and discharging, [an employee] for engaging in protected concerted activity.” 373 NLRB No. 143 (Dec. 11, 2024).

As a result of the finding, the NLRB ordered Boyds Drug Mart to reinstate the employee, pay the employee’s backpay and lost benefits, pecuniary harm, and any tax consequences associated with the lump sum payment. Additionally, the NLRB required Boyds Drug Mart to post a notice that informed its employees that it will not discharge or discipline, or threaten discharge or discipline, for discussing wages or other terms and conditions of their employment.

- *Minnesota’s Pay Transparency Law:*

In addition to this recent federal precedent, Minnesota has several laws that address the wage gap at the state level. Since 2014, Minnesota has prohibited employers from retaliating against employees who discuss wages. Additionally, since January 1, 2024, Minnesota employers have been prohibited from obtaining an applicant’s pay history and using that information to determine wages, salary, earnings, benefits, or other compensation of the applicant. This prohibition applies even if the applicant’s pay history is publicly available and the employer accesses the public records to determine wages, salary, earnings, benefits, or other compensation without the applicant’s knowledge or consent. On the other hand, an employer can consider voluntarily disclosed pay history.

Since January 1, 2025, every external job posting must include a starting salary range or fixed rate that the employer “in good faith” believes it will offer, as well as a general description of the benefits and other compensation, such as health insurance, bonuses, or paid time off.

- *What Minnesota Employers Must Do Now*

To comply with Minnesota law and federal law, employers should consider taking the following steps:

- Review and Update Job Postings

Every job posting must now include a specific salary range or fixed pay rate, not vague phrases like “competitive compensation.” Descriptions of benefits must also be included, even if they are general.

- Audit Pay Structures

Use internal audits to evaluate whether employees in similar roles are being paid equitably across gender, race, and other protected categories. Document your decision-making process and be prepared to adjust where necessary.

- Train Managers and HR Staff

Ensure hiring managers, recruiters, and HR personnel understand Minnesota’s requirements and employees’ federal rights to discuss pay without retaliation.

- Update Internal Policies

Explicitly include language affirming employees’ rights to talk about wages and raise concerns without fear of retaliation. These updates should be reflected in employee handbooks, training sessions, and company culture.

Noncompliance with laws designed to close the wage gap may be costly, not only from a monetary perspective but also employee morale perspective. By taking compliance seriously, businesses can avoid costly settlements, attract top talent, and build workplace cultures rooted in trust and equity.

At Bassford Remele, we monitor legal trends at the state and federal level, including significant administrative decisions that may impact employers, and advise employers on the implications of the decisions, such as the need to update policies and procedures to ensure compliance with state and federal laws.

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