



Syndio Briefing

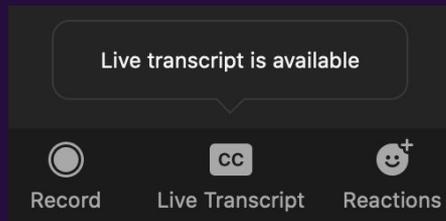
Ask the Experts:

California's Groundbreaking Pay Reporting & Pay Scale Disclosure

We will begin shortly.

This webinar is being recorded and will be shared with all registrants.

We have live transcript enabled for this webinar. If you would like to use this feature, please turn on this setting in your Zoom toolbar now.



AGENDA

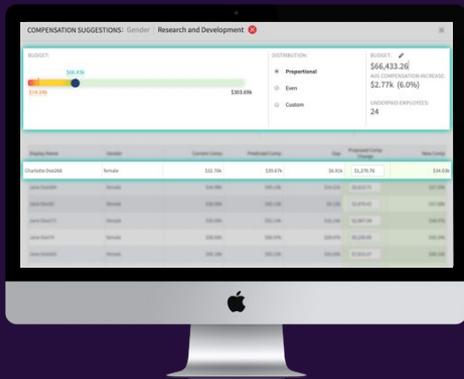
01 Intro & housekeeping

02 What does SB 1162 bill entail?

03 Q&A



Our mission is to help companies measure, achieve, and sustain workplace equity.



Workplace Equity Platform

Enterprise platform to analyze, resolve, and prevent disparities in pay and opportunities



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NORDSTROM

| Speakers



**Christine
Hendrickson**

VP of Strategic
Initiatives at Syndio



**Nancy
Romanyshyn**

Director of Pay
Strategy and Partner
Success at Syndio



The **four key requirements** of SB 1162



01

Pay scale transparency

Pay scale to applicants and employees



02

Records retention

Retain records



03

Pay gap reporting

Reporting median and mean pay gap



04

Contractor pay report

Contractor pay report



| Key milestones

January 1, 2023	Pay scale disclosure + record retention	Proactive disclosure (15+ employees; 1+ in CA); Reactive disclosure upon request to employees (1+ employees in CA)
May 10, 2023	Annual pay report + mean / median	100+ employees (1+ in CA), based on 2022 hours and wages data
May 10, 2023	Contractor pay report	100+ labor contractors, based on 2022 pay data



“For the pay scale disclosure changes has "range" or "scale" been defined?”



| Transparency and wage scales

- Employers with **15+ employees must include the “pay scale” in job postings**
- Employers with 1+ employees must continue to provide pay scale to applicants and **start to provide to employees** for their current role, upon request
 - Pay scale = base salary or hourly wage
 - The law defines “pay scale” as “the salary or hourly wage range that the employer reasonably expects to pay for the position.”



If you have regional salary bands, and the job could be hired in CA or elsewhere, what ranges should you list? Some areas in CA have as much as a 20% premium over other locations.



**Does the contractor
requirement of 100 hired pertain
to only those hired in California
or across the enterprise?**



| Remote roles

Unlike some of the other laws and guidance that explicitly say that the law applies to remote roles (for example, Colorado and New York City), the California law does not specifically address whether the job covers remote job postings as well.

**Do we have to provide pay
ranges to current
employees?**



| Impact on Current Employees

All job postings are covered by the law. In addition, employers must provide the pay scale to employees for their current role, upon request

Pay scale
transparency



**What data must be
maintained?**



Record retention

- Must maintain:
 - Job title
 - Wage rate history
- Retention period:
 - Duration of employment
 - 3+ years after employee terminates
- Open for inspection by California Labor Commissioner

How are the new pay report requirements different from what is already required?



| Annual pay report

- Changes to filing deadline to 2nd Wednesday in May
- Removes EEO-1 filing requirement
- No consolidated report - but watch out
- Must provide median and mean pay gaps
- Must file contractor pay report
- Can still provide “clarifying remarks”

Changes to
annual
**pay
report**





**How is pay calculated for
median and mean pay gaps?**



| Calculation of pay gaps

Within each [EEO-1] job category, for each combination of race, ethnicity, and sex, median and mean hourly rate”

- **HOURLY rate calculated from the total W-2 earnings**
- Based on the entire “Reporting Year” regardless of whether or not an employee worked for the full calendar year

Mean and median
pay gap



Median and mean

Median

“Median pay gap”: The median pay gap is the difference between midpoints. So, taking a gender example, you take the W-2 earnings of all women, line them up in order from lowest to highest, and pick the middle employee. Then you do the same of men. Then you compare the pay of the middle male and middle female to calculate the median pay gap.

Mean

“Mean pay gap”: The mean pay gap is just the average, not adjusting for any factors that are relevant to pay. The mean gap is more sensitive to outliers (an advantage of the median) but the mean may be more revealing for employers with large hourly populations.



**Who has to file the
contractor pay report?**



| Contractor pay report

A private employer that has 100 or more **employees hired through** labor contractors within the prior calendar year shall submit a separate pay data report to the department covering the employees hired through labor contractors in the prior calendar year.”

Contractor
pay



California is also focused on names of labor contractors

PLUS must disclose names of labor contractor

- Labor contractors must provide worker pay data to employers



| But also . . .

- Adding to the complication, the regulations currently exclude independent contractors from the definition of employee.
- Cal. Code Regs., tit. 2, §§ 11008(c)(1) - the definition of "Employee" does not include an independent contractor as defined in Labor Code section 3353."

Contractor

pay



Are the reports public?



| No public disclosure

- The original SB 1162 would have required CRD will publish each private employer's pay data report an internet website available to the public
 - The current report
- For this reason the CA Chamber has called the bill a "job killer" and attractive to plaintiff's counsel
- Final version **removed this requirement**

no
public
disclosure



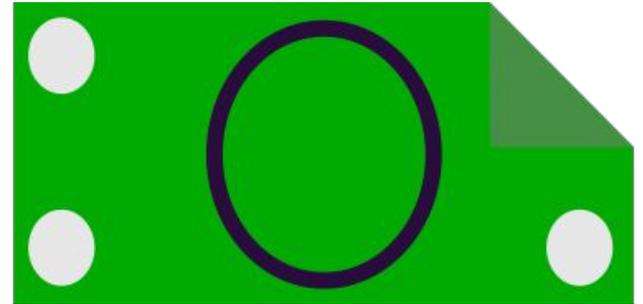


**What are the penalties for
these laws?**



| Pay transparency and record retention penalty

- At least **\$100 but no more than \$10,000**, per violation
 - No fine for 1st violation if update job postings
- Rebuttable presumption in favor of claim if fail to keep records
- Plaintiff may bring complaint with Labor Commissioner **or** file civil action



| Pay reporting penalty

- Previously: No penalty, just costs
- Would add a civil penalty not to exceed \$100 per employee upon any employer who fails to file the required report; if fail to file subsequent report up to \$200
 - 10,000 employees = \$1M fine
- If employer cannot submit a complete and accurate report because a labor contractor has not provided the pay data, labor contractors can be on the hook, too



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How to Communicate About Workplace Equity to Your Board

Thursday, October 13 | 9:00am PT / 12:00pm ET / 4:00pm GMT

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