

Discussing Wages: "So, how much do you get paid?"

HR Policies & Procedures / April 30, 2014

Putting tact aside, many employees ask their co-workers how much they get paid. And for a variety reasons, many employers discourage their employees from disclosing or sharing wage or salary information with their co-workers. Some employers still have formal policies prohibiting such disclosure among co-workers, while others try to do so informally by having managers and supervisors squelch such discussions.

But employers could find themselves in hot water if they take adverse action against employees for engaging in such discussions. In April, President Obama signed an Executive Order prohibiting employers from retaliating against any employees for discussing wages. The Executive Order only applies to those employers who do business with the federal government, but it largely mirrors legislation that has been pending in Congress that would apply to all employers. And it is part of a broader effort to eliminate policies that could contribute to disparate pay among different protected classes.

Additionally, prohibiting such discussions runs afoul of Section 7 of the National Labor Relations Act. Section 7 rights protect employees who engage in "concerted activity," which is generally defined to mean two or more employees acting together to improve the terms and conditions of their employment. Discussions regarding wages between two employees constitute "concerted activity," and Section 7 of the NLRA applies to all employers regardless of unionization. So any employer could be subject to an NLRB proceeding for prohibiting such conduct or retaliating against employees for engaging in such conduct. And if legislation gets passed in the future, it could expand the exposure to include EEOC enforcement and remedies through the traditional legal system.

Does your company have a formal policy prohibiting such disclosure?