# 58 N.J.R. 2297(a)

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**RULE PROPOSALS**

**Reporter**
58 N.J.R. 2297(a)




## Interested Persons Statement

INTERESTED PERSONS

Interested persons may submit comments, information or arguments concerning any of the rule proposals in this issue until the date indicated in the proposal. Submissions and any inquiries about submissions should be addressed to the agency officer specified for a particular proposal.

The required minimum period for comment concerning a proposal is 30 days. A proposing agency may extend the 30-day comment period to accommodate public hearings or to elicit greater public response to a proposed new rule or amendment. Most notices of proposal include a 60-day comment period, in order to qualify the notice for an exception to the rulemaking calendar requirements of N.J.S.A. 52:14B-3. An extended comment deadline will be noted in the heading of a proposal or appear in subsequent notice in the Register.

At the close of the period for comments, the proposing agency may thereafter adopt a proposal, without change, or with changes not in violation of the rulemaking procedures at N.J.A.C. 1:30-6.3. The adoption becomes effective upon publication in the Register of a notice of adoption, unless otherwise indicated in the adoption notice. Promulgation in the New Jersey Register establishes a new or amended rule as an official part of the New Jersey Administrative Code.

## Agency

LABOR AND WORKFORCE DEVELOPMENT > DIVISION OF WAGE AND HOUR COMPLIANCE

## Administrative Code Citation

**Proposed Change: N.J.A.C. 12:74-4.1**

## Text

**Notice of Proposed Substantial Change on Adoption of Proposed New Rules**

**Requirements for Notification of Promotion, New Job, and Transfer Opportunities**

Proposed: September 15, 2025, at 57 N.J.R. 2220(a).

Authorized By: Kevin D. Jarvis, Acting Commissioner, Department of Labor and Workforce Development.

Authority: N.J.S.A. 34:1-20 and 34:1A-3.e.

Submit written comments by December 18, 2026, to:

David Fish, Assistant Commissioner
Legal and Regulatory Services
NJ Department of Labor and Workforce Development
PO Box 110-13th Floor
Trenton, New Jersey 08625-0110

david.fish@dol.nj.gov

**Take notice** that the Department of Labor and Workforce Development (Department), in accordance with the Administrative Procedures Act, N.J.S.A. 52:14B-4.10, is proposing a substantial change to the proposed new rules at N.J.A.C. 12:74, based upon comments received with regard to the notice of proposal that was published in the New Jersey Register on September 15, 2025 (57 N.J.R. 2220(a)). The period for submission of written comments ended on November 14, 2025.

Through this notice of proposed substantial change upon adoption, the Department is proposing to delete proposed N.J.A.C. 12:74-4.1(b), which would establish a maximum pay range spread of 60 percent of the minimum hourly rate of pay or minimum annual salary, as applicable, for employers who, as expressly permitted pursuant to N.J.S.A. 34:6B-23, choose to include within the new job or transfer opportunity notification a pay range, rather than a single hourly rate of pay or annual salary.

**Summary** of Public Comments and Agency Responses:

The Department received comments regarding the provision proposed for substantial change, N.J.A.C. 12:74-4.1(b), from the following individuals:

Amy M. Vasquez, Employers Association of New Jersey;

Amirah Hussain, New Jersey Chamber of Commerce;

John Burns, New Jersey School Boards Association;

Christine Stearns, New Jersey Hospital Association;

Michael P. Affuso, NJBankers; and

Mary Kay Roberts of Riker Danzig on behalf of the Securities Industry and Financial Markets Association.

1. Comment: The commenters object to proposed N.J.A.C. 12:74-4.1(b), which states that when the employer includes within the posting for a new job or transfer opportunity a range of the hourly rate of pay or a range of the annual salary, the range spread from minimum hourly rate of pay or salary to maximum hourly rate of pay or salary shall be no more than 60 percent of the minimum hourly rate of pay or minimum annual salary, as applicable. The commenters maintain that the maximum range spread of 60 percent lacks statutory authority, is rigid, and arbitrary. The commenters suggest that it be eliminated entirely from the proposed new rules.

RESPONSE: The Department is proposing through this notice of proposed substantial change upon adoption to delete N.J.A.C. 12:74-4.1(b) from the proposed new rules at N.J.A.C. 12:74, as suggested by the commenters, thereby no longer proposing a maximum pay range spread of 60 percent of the minimum hourly rate of pay or

minimum annual salary, as applicable, for employers who choose to include within the new job or transfer opportunity notification a pay range, rather than a single hourly rate of pay or annual salary.

**Effect of Proposed Change on Impact Statements Included in the Proposed Amendments**

The proposed substantial change upon adoption will not affect the impact statements set forth in the notice of proposal.

**Full text** of the proposed substantial change to the proposed new rules follows (additions to proposal indicated in italicized boldface ***thus***; deletions from proposal indicated in brackets [thus]):

12:74-4.1 Notification content requirements; new job, and transfer opportunities

(a) For each new job opportunity or transfer opportunity that the employer advertises either externally or internally, the employer shall, at a minimum, include the following information within the notification of the new job opportunity or transfer opportunity:

1. The hourly rate of pay or annual salary, as applicable, or a range of the hourly rate of pay or annual salary, as applicable; and

2. A general description of benefits and other compensation programs for which the applicant would be eligible if selected for the new job opportunity or transfer opportunity.

[(b) When the employer includes a range of the hourly rate of pay or a range of the annual salary at (a)1 above, the range spread from minimum hourly rate of pay or salary to maximum hourly rate of pay or salary shall be no more than 60 percent of the minimum hourly rate of pay or minimum annual salary, as applicable.

1. The method for calculating the percentage range spread should be to subtract the minimum pay from the maximum pay; divide the result by the minimum pay; and then multiply that number by 100.

2. This subsection shall not apply when the hourly rate of pay range spread or salary range spread from maximum to minimum is established through a collective bargaining agreement or by law, rule, or local ordinance. Where the hourly rate of pay range spread or salary range spread from maximum to minimum is established through a collective bargaining agreement or by law, rule, or local ordinance, the employer may advertise the new job or transfer opportunity using that hourly rate of pay range spread or salary range spread.]

[(c)] ***(b)*** When the employer includes a range of the hourly rate of pay or a range of the annual salary at (a)1 above, that range shall contain a bottom number and a top number; that is, the range provided by the employer shall not be open ended (for example, $ 17.00 per hour and up).

[(d)] ***(c)*** When an advertisement for a new job or transfer opportunity with the employer appears on a third-party site, whether written or electronic, the employer shall be cited for a violation(s) of the Act or this chapter only when the employer either retains control over the content of the advertisement that appears on the third-party site, or has expressly agreed or contracted with the third-party site to relinquish control over the content of the advertisement that appears on the third-party site.

1. For example, where the arrangement between an employer and a third-party internet site is for the employer to provide the advertisement's content to the third-party internet site and for the third-party internet site to post that content, then the employer shall be assessed for a violation(s) of the Act or this chapter stemming from the advertisement's content. Similarly, where the arrangement between an employer and a third-party internet site is for the employer to provide information regarding the job or transfer opportunity to the third-party internet site and for the internet site to create the content of the advertisement for the employer, the employer shall be assessed for a violation(s) of the Act or this chapter stemming from the advertisement's content, because the employer voluntarily relinquished control of the advertisement's content to the third-party internet site. However, if a third-party internet site is designed to gather information regarding job opportunities from the internet and to aggregate that information on its site, and where this occurs without any direct involvement of the employer, then the employer shall not be

assessed for a violation(s) of the Act or this chapter stemming from the content of the advertisement that appears on the third-party site.

[(e)] ***(d)*** When an advertisement for a new job or transfer opportunity with the employer that appears on the internet (for which the employer would be responsible pursuant to [(d)] ***(c)*** above) does not meet the content requirements of this section, but that advertisement contains a link, which when activated immediately takes the individual viewing the [page=2298] advertisement without any barriers to another site where all of the required content is clearly visible, then there is no violation of this section; provided that the primary internet site, which contains the link indicates the name and location of the employer, the job or title with the employer for which the individual may apply, and states that the link provided, if activated, will immediately take the potential applicant to another site, which will contain the required information regarding the pay and benefits associated with the advertised job or transfer opportunity.

[(f)] ***(e)*** Nothing in this subchapter shall be construed to prohibit an employer, at the time of making an offer of employment to an applicant, from increasing the wages, benefits, and compensation that were identified in the new job or transfer opportunity notification.

[(g)] ***(f)*** This subchapter shall not apply to examination announcements that are posted by the New Jersey Civil Service Commission, as these are not notifications of new job opportunities or transfer opportunities, but rather, are notifications of examinations.


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