



# A Recruiter's Viewpoint: Hiring Without Asking Candidates About Their Salary History; Massachusetts Equal Pay Act Considerations

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Lately, the most common question I get from clients is “How do I hire without asking candidates ‘What is your past salary history?’”

*[Note: In case you missed it, the Massachusetts Equal Pay Act makes the above question illegal effective July 1, 2018.]*

This new Massachusetts law is long overdue and should help close the pay gap between men and women. The reason employers are banned from asking about current or past compensation is because basing compensation on salary history perpetuates the problem. If a woman is currently making less than a man for a comparable job and compensation for her next position is based on the past, then she will never catch up. In other words, start low/stay low = unfair.

This law will fundamentally change how employers interact with candidates. Many employers, even well-meaning employers, are so accustomed to asking about past compensation that they can't imagine hiring without the information. This article will explain how to hire well without asking that soon to be illegal question.

Let me first explain the hiring process as I see it.

## **Hiring Process Component Parts**

In general the hiring process breaks down as follows:

- 1. Develop A Scorecard:** Define what you want a new hire to accomplish
- 2. Source:** Generate candidates to consider for the position
- 3. Screen & Select:** Evaluate candidates
- 4. Sell:** Show the candidate why they should join your organization

To gain an even better understanding of the hiring process, read the book *Who* by Geoff Smart and Randy Street. In my opinion, *Who* is the best resource written on the hiring process and I have adopted Smart and Street's view of the component parts.

Next, I will relate the need for knowing candidate compensation information to where the candidate falls in the hiring process.

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## Why Do You Need to Know Past Compensation?

### Common Reasons Employers Want To Know Past Compensation

Let's get into why employers want to know about salary history; here are a few examples of what I have heard from employers:

#### Employer A

Our human resources department is lean with limited resources plus we are picky when it comes to hiring. When we eventually find a candidate to hire we can't risk losing the candidate over money. I need to know the candidate's current compensation so that our offer is compelling.

#### Employer B

In my industry titles can be deceptive. Some of my competitors inflate titles, while others don't use them consistently. Knowing a candidate's salary provides me with better information on the level of responsibilities handled by the candidate.

#### Employer C

As a desirable employer, we get thousands of applicants for each position. I need to know past salary history to screen out candidates and get the number of applicants down to a manageable number.

#### Employer D

I routinely hire salespeople. I ask them how much they earn as part of the hiring process and I look at W2's and pay records to verify what they represent. For me, past earnings is an indication of the candidate's level of success as a salesperson; in other words, the more money they made in commissions, the better they are as a salesperson.

While the above examples describe business reasons for wanting to know a candidate's compensation history, in the eyes of the Equal Pay Act these reasons do not justify asking the question. Simply put, employers can no longer legally ask that question. Fortunately there are other legal ways to get the information you need to make sound hiring decisions.

## Salary Targets and Boundaries

While you can't ask a candidate for their salary history, you can ask about salary expectations. Knowing salary expectations is more comprehensive than only knowing current compensation. In the Employer A example above, Employer A wants compensation information for the "Sell" part of the hiring process. However, knowing current compensation might not be enough information as Employer A is not only competing with the candidate's current employer, they are also competing with other new opportunities that the candidate is considering. Therefore just knowing current compensation and adding 10% or 15% may not land the candidate if the candidate has better opportunities.

To be clear, you are allowed to ask candidates about targets and boundaries such as: What is your target salary? Assuming we have a position that is perfect for you in every way (dream job), is there a minimum salary you require, below which you would not want to hear about the opportunity?

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## Selling The Opportunity Beyond Money

This article is about compensation, so I won't stray too far from the subject, but I can't help mentioning that when you are selling a candidate on why to join your organization, compensation is likely not to be the #1 reason you are selected. You will need to find out what the candidate cares about (i.e. fit, freedom, fun, development, etc.) and address those items if you want to land the candidate.

## Using Compensation to Select Candidates

Employer D who judges salespeople by how much money they make is going to need to find a new way to “select” candidates. In my opinion making selection decisions based on money is a low percentage approach to hiring the right person. Rather than look for a shortcuts, employers need to perform detailed interviews that assess and provide deeper information into culture fit and proven performance in the key areas identified in the position's scorecard.. If sales performance is a key competency, then ask the applicant about his/her performance as compared to plan, compared to peers, and compared to the past year(s). Don't try to reverse engineer the candidate's current compensation, but do get a detailed understanding of past performance.



The detailed interviews should be followed up with reference checks that corroborate representations made in the interview. Back door references are most valuable. The term “back-door” is recruiter-speak for a reference where you know the person providing the reference, such that the reference will give you straight unvarnished answers to your questions. Simply calling the references provided by the candidate is near useless as those people were vetted and prepared to provide only positive feedback. Work hard to find back door references; Linked-in and social media can help you locate people you know within organizations.

## Using Compensation to Screen Candidates

Many employers screen out candidates based on their current compensation. Employer C applies a compensation screen at the very front end of their hiring process via an online application process. Employer C then rules out candidates who are currently making more than their target pay rate for their open position. Other employers screen out candidates over compensation later in the process; say during a phone screen or even during an in-person interview.

The good news is you can still screen out candidates based on compensation; you just need to use the candidate's target compensation and not current or past compensation. In other words, if a candidate is looking to make \$50,000 a year and you have target of \$48,000, you could screen that candidate out early in the process without violating the Massachusetts Equal Pay Law. That being said, I have found that many organizations screen out good candidates over money too early in the process. An impressive candidate might cause you to be willing to increase your target compensation. On the other hand, if a candidate falls in love with non-monetary aspects of the position and your company they might be willing to accept lower compensation.

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## **Scorecards for Open Positions Connect to Screening and Detailed Interviews**

A well done scorecard documents exactly what you want a new hire to accomplish in a role. A scorecard is different from a job description in that it defines performance. Scorecards should be developed before you start your recruiting process so you know what you are looking for. Then a brief phone screening interview should be performed to shorten the list to the most qualified candidates. Finally a detailed interview should be performed to determine if a candidate has a background of proven success in the key areas identified in the scorecard.

Employer B who uses past compensation as a proxy for knowing the level of responsibilities handled by candidates will need to find a new approach as information on past compensation will no longer be available once the new law is effective. Even without the law change, I think Employer B's short-cut approach is flawed and Employer B would achieve better results by utilizing scorecards, screening and detailed interviews described above.

### **My Favorite Shortcut**

One shortcut that does work is generating referrals from existing employees and others who know your organization's values and culture. All aspects of the recruiting process are easier with referrals. Referrals are easier to screen, easier to evaluate [select] and more likely to accept your offer of employment [sell]. As an added bonus, referrals are also easier to onboard and assimilate into your organization.

### **Final Thoughts AND Take Aways**

If you retain nothing else from this article, just remember that you can no longer (effective July 1, 2018) ask a candidate "What is your current salary or history?" However, you can still ask candidates about their compensation targets and boundaries.

The Massachusetts Equal Pay Law will bring about meaningful changes in how employers interact with candidates in regard to salary history. This law should positively impact the persistent and unfair pay gap between men and women. By following an appropriate process, an employer's ability to hire new staff will not be adversely impacted by the law. And soon enough managing the requirements of this law will feel routine.