

Dear HR Knowledge, what do I need to know about the new Pay Equity Laws?

Before brushing up on the newer pay equity laws, you should be aware of the [Federal Equal Pay Act of 1963](#), which requires employers to identify and correct any gender discrimination in their compensation practices. It also requires them to adjust the wages of employees in females so that they are at least equal to the wages of employees in male in the same job classes when men and women in the same establishment perform jobs that demand comparable skill, effort, and responsibility under similar working conditions.

According to the Institute for Women's Policy Research, women, on average, are paid 20% less than their male counterparts performing the same job. To close this gap, many states have already passed or are currently in the process of passing laws directly combatting pay inequality, making compliance in this area extremely important. Here are some steps you should take to make sure that women and other protected classes receive equal pay for equal work.

Know the laws

Federal pay equity laws include the [Federal Equal Pay Act of 1963](#), Title VII of the Civil Rights Act of 1964, and the Equal Employment Opportunity Commission's (EEOC's) Executive Order 11246, which addresses discrimination in hiring and employment by federal government contractors. In addition, several states have passed their own pay equity laws, including California's Fair Pay Act, New York's Pay Equity Act, Maryland's Equal Pay for Equal Work Act, and Massachusetts's Equal Pay Act (effective July 1, 2018). All these laws have different components but essentially have two main things in common: holding employers accountable for pay inequality in the workplace and preventing employers from reducing the wages of either sex to equalize pay.

The Federal Equal Pay Act (EPA) requires that men and women be given equal pay for equal work in the same establishment. The jobs need not be identical, but they must be "substantially equal." The definition of "substantially equal" work means two jobs that require substantially equal skill, effort, responsibility, working conditions, and establishment. It is the content of the job, not the title, that determines if jobs are "substantially equal." The EEOC summarizes the five factors as follows:

- **Skill** refers to "the experience, ability, education, and training to perform the job."
- **Effort** is "the amount of physical or mental exertion needed to perform the job."
- **Responsibility** is "the degree of accountability required in performing the job."
- **Working Conditions** includes two factors: 1) "physical surroundings like temperature, fumes, and ventilation; and 2) hazards."
- **Establishment** refers to the Equal Pay Act rule that states the "prohibition against compensation discrimination under the EPA applies only to jobs within an establishment."



Be mindful of your state's rules for equal pay as well. For example, Massachusetts's Equal Pay Act is very similar to the federal EPA, but also provides for employer liability for damages, according to the National Conference of State Legislatures.

Best practices

Given the number of states that have or plan to pass pay equity laws, it is critical for employers to understand antidiscrimination and pay equity laws, and to review pay policies to ensure they are compensating their employees fairly. We recommend that you consider putting the following practices in place:

- Conduct a proactive pay equity analysis – the first and best step you can take to ensure fair pay and diminish legal risk.
- Ensure that all your pay differentials comply with the EEOC rule that pay differentials are permitted when based on "seniority, merit, quality or quantity of production."
- Choose a compliance officer in your organization who will be responsible for monitoring pay practices and making sure the company complies with antidiscrimination laws.
- Annually review your compensation systems to spot and change potential pay disparities.
- Look at all forms of compensation, not just salary. These include bonuses, benefits, training, and overtime and separation pay.
- Correct problems as soon as they're identified; don't let them fester.
- Consider hiring an outside consultant such as HR Knowledge to conduct a pay equity analysis.

Something else to consider is how you match employees to particular jobs. Think carefully about how you place staff in certain jobs and challenge any assumptions you may be making about their skills and abilities.

Since performance evaluations can affect pay, we recommend also reviewing your evaluation process to make sure it doesn't put any protected classes at a disadvantage.

About HR Knowledge

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