

e-Alert: 30-Day Countdown to MA Equal Pay Act – Are You Ready?

Overview

The Massachusetts Equal Pay Act (“MEPA”), which amends the Massachusetts Equal Pay Law, goes into effect July 1, 2018, and applies to all employers regardless of size, including the state and its municipalities. The 2018 amendments, which we initially summarized [here](#), make MEPA one of the strongest pay equity laws in the country, intended to close the pay gap for working women in Massachusetts who, on average, earn 84.3% of what men earn. An employer that violates MEPA will, in most cases, be liable for twice the amount of unpaid wages owed to the affected employee(s) plus reasonable attorneys’ fees and costs.

Self-evaluations strongly recommended

An employer has an “affirmative defense” under this law if it can prove that it “completed a self-evaluation of its pay practices in good faith,” and “good faith,” for this defense, means “a genuine attempt to identify any unlawful pay disparities”; an “affirmative defense” means the defendant introduces evidence, which, if found to be credible, negates criminal or civil liability provided that the self-audit was reasonable in detail and scope, and the employer establishes that it has made reasonable progress toward eliminating any prescribed gender-based wage variations discovered in the audit.

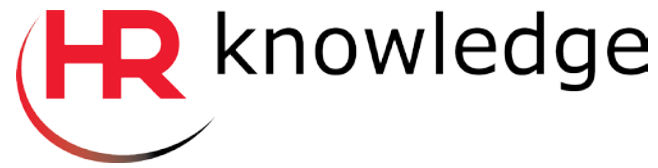
An employer cannot conduct a self-evaluation to achieve a predetermined result, or to simply justify known disparities. A self-evaluation alone is not enough; to establish the defense, the employer must also show that it made “reasonable progress” toward eliminating pay disparities.

Next steps for employers

1. Conduct a self-evaluation **now**, employers only have 30 days to make reasonable progress in the self-evaluation process.
2. Make sure the self-evaluation is conducted in good faith and is reasonable in detail and scope.
3. The new law allows you to use a “safe harbor” defense against claims if a self-assessment was completed within the three years prior to the legal action. Therefore, it is *imperative* that you conduct an assessment of your current compensation practices and make reasonable progress toward equal pay, to protect yourself from claims under the new law.
4. Review your employment applications and preemployment inquiry forms to ensure they no longer require or ask about salary history.
5. Train anyone involved in the interview and recruitment process to ensure interviewers are careful in how they ask for and use any information about salary history. Questions about salary expectations cannot be designed to obtain information about an applicant’s salary history.

How can HR Knowledge help?

We offer a number of options for our clients, depending on their resources. Those willing to do the heavy lifting themselves can still lean on us for support and take advantage of our self-assessment toolkit and as-needed guidance. Others who may not have the time, resources, or expertise to do an in-house self-assessment, can turn to us for more support. Whatever your situation is, we can assist you in conducting a pay-practice assessment; please [contact us](#) for more information.



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