



Illinois Equal Pay Act Amendment Expands Protections to African-American Employees

Background

The Illinois Equal Pay Act of 2003 has been amended. The law previously prohibited employers from discriminating against employees by providing a lesser pay rate than the opposite sex for the same or substantially similar work. Now, the law has been amended to ensure equal pay between African-Americans and non-African-Americans who are performing the same or substantially similar work. The amended law went into effect as of January 1, 2019.

What employers need to know

Federal laws prohibit gender-based pay and benefits discrimination. Under Title VII of the Civil Rights Act, it is also illegal to discriminate based on sex regarding pay and benefits. Illinois has amended its Equal Pay Act to also include African-American employees. Substantially similar work is defined as work where the performance requires equal skill, effort, and responsibility and is performed under similar working conditions. The only defenses that the employer may use to justify pay inequity include:

- A seniority system;
- A merit system;
- A system that measures earnings by quantity or quality of production; or
- Any other wage differential based on any factor other than race, or one that would constitute unlawful discrimination under the Illinois Human Rights Act.

Employer next steps

We recommend that employers consider conducting a self-evaluation to assess pay equity. To determine whether work is substantially similar, they should perform a broad-based work analysis that examines similar skill, effort, responsibility, and working conditions across departments and job titles. Self-evaluations need to be conducted in good faith and be reasonable in detail and scope when working toward eliminating any wage differentials for comparable work.

The price is steep for noncompliance; employers found to violate equal pay laws can face significant damages, including back pay, lost benefits, liquidated damages, and civil penalties per violation. It is critical for employers to review their pay policies to ensure they are compensating their employees fairly.

We recommend that you consider putting the following practices in place:

1. Conduct a proactive pay equity analysis — the first and best step you can take to ensure fair pay and diminish legal risk.
2. Ensure that all your pay differentials comply with the Equal Education Opportunity Commission (EEOC) rule that pay differentials are permitted when based on “seniority, merit, quality, or quantity of production.”
3. Choose a compliance officer in your organization to be responsible for monitoring pay practices and making sure the company complies with antidiscrimination laws.
4. Review your compensation systems annually to spot and change potential pay disparities.
5. Look at all forms of compensation, not just salary. These include bonuses, benefits, training, and



overtime and separation pay.

6. Correct problems as soon as they're identified; don't let them fester.
7. Consider hiring an outside consultant such as HR Knowledge to conduct a pay equity analysis. Call us at 508.339.1300 or [email us](#) for more information.

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