

# What is pay equity? Defining the problem before it can be addressed

Do you know the significance of March 14, 2023? The National Committee on Pay Equity has designated this date as Equal Pay Day. It symbolizes how far into the year women must work to earn what men earned in the previous year. The organization encourages wearing red on this day to represent how far women are “in the red” with their pay.

If that sounds troubling, realize that Equal Pay Day comes even later in the year for women of color. It typically takes into August, September, and October for black women, Native American women, and Latinas, respectively, to catch up to what white, non-Hispanic men earned the year before.

U.S. Census Bureau figures reveal women make about 83 cents for every dollar earned by men. They earn less than men in nearly all occupations – even in Hollywood actresses earn roughly a million less per film than actors working on the same project – and women earn less than their same race and ethnicity counterparts at every level of educational attainment.

While the gender pay gap receives a great deal of attention, other pay inequities also exist. For instance, Pew Research reports that college-educated black and Hispanic men earn roughly 80% the hourly wages of white college-educated men.

Obviously, the issue of fair pay is a societal concern. Individual companies, however, also need to watch their practices. Pay discrimination can lead to retention problems, legal issues, and a poor reputation that affects how both job candidates and the public at large perceive the organization.

Here, we take an in-depth look at pay equity and measures being taken on various levels to address the matter.

## What is pay equity?

The simplest definition of the term “pay equity” is equal pay for equal work regardless of one’s demographic group. The wages, bonuses, and benefits a company provides to employees doing the same job should not vary by gender, sexual orientation, age, race, national origin, or possessing a disability.

As important as what pay equity means is also what it does not entail. A variety of legitimate factors influence employee compensation. Take the case of location. A human resources director in New York may earn a different salary than a person performing the same job in Colorado. The cost of living differs by geographical region, as can the pool of available talent.

Similarly, things such as educational attainment, certification, experience, skills, exceptional performance, and length of time working for the company can impact compensation. Even if two people hold the same job title, it is reasonable to expect an employer to pay more for a relevant higher degree or for remaining with the organization over time. What would not be okay is pay disparities between, say, a white woman and an African American woman holding the same credentials.

## **Pay equity laws**

Looking at some of the federal laws and state laws developed over the years to combat wage inequality helps in understanding the concept of pay discrimination.

### **Equal Pay Act of 1963 (EPA)**

The act amends the Fair Labor Standards Act of 1938. Administered and enforced by the U.S. Equal Employment Opportunity Commission (EEOC), the Equal Pay Act prohibits sex-based wage discrimination between men and women in the same establishment who perform jobs that require substantially equal skill, effort, and responsibility under similar working conditions. (Note that “wages” is not just hourly or annual pay but also includes things like bonuses, company cars, and insurance.) Companies should bear in mind that when the EEOC examines cases of potential violation, it considers actual job duties – not job titles or classifications. Also, when correcting a pay differential, proper rectification means the pay of the lower-paid employees gets increased – not reducing the earnings of the higher-paid employees.

### **Title VII of the Civil Rights Act of 1964**

Another product of social initiatives of the 1960s, this act prohibits employment discrimination based on race, color, religion, sex, and national origin.

### **The Age Discrimination in Employment Act of 1967 (ADEA)**

This act protects individuals who are 40 years of age or older from employment discrimination based on age. According to the U.S. Department of Labor (DOL), the ADEA makes it unlawful to discriminate against this group “with respect to any term, condition, or privilege of employment, including but not limited to, recruitment, hiring, firing, promotion, layoff, compensation, benefits, job assignments, and training.”

### **The Americans with Disabilities Act (ADA)**

Title I of the Americans with Disabilities Act of 1990 prohibits private employers, state and local governments, employment agencies, and labor unions from discriminating against qualified individuals with disabilities in job application procedures, hiring, firing, advancement, compensation, job training, and other terms, conditions, and privileges of employment.

### **The Lilly Ledbetter Fair Pay Act**

This piece of legislation was the first thing Barack Obama signed when he took office in 2009. The law overturned a previous Supreme Court decision that severely restricted the time period for filing complaints of employment discrimination concerning compensation. The act states that the 180-day statute of limitations for filing an equal-pay lawsuit regarding pay discrimination resets with each new paycheck affected by that discriminatory action.

### **Massachusetts Pay Equity Act**

This law went into effect in Massachusetts in July 2018 and set a precedent that many other states later followed. The act bans employers in Massachusetts from asking about an applicant’s salary history before offering a job. Without previous salary history information to use as a baseline, employers must come up with figures that truly represent what they are willing to pay for services. This action prevents pay disparity from compounding over the course of a career and helps bridge the gender wage gap. A national version called the Pay Equity for All Act passed the U.S. House of Representatives but experienced problems in the Senate in 2021.

## Pay equity and your company

At the bare minimum, organizations need to be certain to comply with equal pay laws of their state and the federal government. Litigation brought about by workers – often in the form of collective suits or class actions – can be quite costly, time-consuming, and damaging.

But attention to the matter should go beyond legal issues. Earning a reputation as a company with fair pay practices is more important than ever. With low unemployment rates, organizations must do everything they can to attract job candidates and retain existing talent. Being known for wage discrimination in our socially aware climate will not help your cause.

Also, the Internet makes finding out information about a potential employer easier than ever. Don't expect people to take seriously your talk of diversity, equity, and inclusion (DEI) initiatives when review sites contain statements from past or present employees talking about unequal pay among those performing similar work.

### Show your commitment to fairness with actions such as the following:

- Conduct a pay equity audit (PEA) to compare wages among employees doing the same or highly similar jobs at your company. Examine compensation data. If inequalities exist, investigate for answers. A good pay equity analysis looks to see if there are disparities taking place that can't be justified by legitimate reasons such as education or length of service.
- Think about the concept of equal pay for similar work, not job titles. Might your company be undercompensating certain employees because they hold an historically "female" job title? If one's primary duties are sweeping, dusting, emptying trash cans, vacuuming, and cleaning bathrooms, the pay should be the same regardless of whether the label is "maid" or "janitor."
- Do not ask job candidates for a salary history, even if collecting such information is legal in your state. Rather, concentrate on coming up with a thorough job description and what you are willing to pay for those specific services.
- Aim for pay transparency. Reveal compensation data for various positions. Lay out how pay decisions get made, such as increases at career intervals, an addition to one's base salary for a higher educational degree, and the like. These revelations keep employees from filling in a lack of information with their own theories, and it shows a direct pathway to greater reward.
- Train executives and managers on how to make fair pay decisions. Leaders need to possess an understanding of what pay equity is and why it matters. Also, stress the importance of documentation. Should issues arise down the line, it is essential to provide the metrics and reasoning behind compensation decisions.

## The bigger picture

In the current social climate, many people are interested in going beyond just acknowledging that pay discrepancies still exist. They want to know what contributes to this ongoing problem.

Answers are not easy, as they involve tackling complex issues. Consider these three things that affect what jobs

people land and what they earn:

### **Lack of opportunities**

All children are entitled to an education, but all experiences are not the same. Resources often differ at home and at school depending on where one lives and one's circumstances. These discrepancies can make learning harder – from crowded classrooms and outdated textbooks to lack of quiet study space and after school enrichment. Factors such as systemic racism and the cycle of poverty are hard to overcome, and the fact remains that demographics can influence whether someone is more likely to pursue a higher-paying occupation.

### **Parenthood**

Research shows that women and men start their careers at a more equal pay level than at later stages. The gap increase often comes when women take time off to raise children or assume caregiving duties for elderly relatives. Interruptions to the career trajectory can affect seniority and advancement opportunities. Employers and women themselves struggle with how to handle this “penalty.”

### **Biases**

Lastly, while DEI initiatives continue to make strides, long-held prejudices and societal norms can be hard to break. Some teachers still assume girls do not like math and science or would not succeed in an advanced class. Some leaders still prefer mentoring up-and-comers who share their own ethnicity. Childcare and other occupations with a reputation as “women’s work” still post low salaries. And when women enter other career fields in large numbers, average pay within those occupations tend to fall. So while the interest in rectification is there, we still have a long way to go.