
ACHIEVING PAY EQUITY: GUIDELINES & RESOURCES FOR EMPLOYERS:

I. WHAT IS PAY EQUITY?

“Pay equity” means paying female employees the same as male employees for “substantially similar work” when viewed together with the employee’s skill, effort, and responsibility, and performed under similar working conditions.

This guide is intended to provide employers with resources and information necessary to design, implement, and effectuate gender-neutral pay practices.

II. LEGAL OBLIGATIONS OF EMPLOYERS

Both federal and state law prohibit pay discrimination. In California, the Equal Pay Act gives job applicants the right to request certain information concerning pay and prohibits employers from asking applicants about their salary history. The Equal Pay Act also allow employees to disclose the employee’s own wages and discuss the wages of others. In addition, the Equal Pay Act requires that pay be set and maintained based upon bona fide factors other than gender and pay disparities must be job related and consistent with business necessity. Employees in substantially similar jobs must be paid in an equivalent manner.

III. CORE VALUES

Employers should consider regularly reviewing their policies and mission statements to identify whether they have communicated that pay equity is a core value for the organization. In addition, employers may wish to examine whether their policies and procedures make wages transparent (such as, for example, making information about pay scales available to internal and external job applicants). Employers should also be able to articulate the process for setting compensation, whether it is simply sitting down and outlining the essential functions and requirements of each position for a small employer or conducting full-scale audits and hiring compensation consultants for larger employers.

IV. POLICIES THAT PROMOTE FAIR PAY

Employers may wish to examine their current policies and consider implementing some or all of the following policies that contribute to achieving pay equity:

1. Policies that support an open dialog with employees regarding concerns they may have in an effort to help them see how their pay fits into the overall compensation

structure. These policies might include an invitation to employees to discuss their pay and pay concerns during annual reviews and providing a “pay equity resource manager” internally at larger employers who employees can approach to discuss these issues.

2. Policies that ensure working parents are accommodated where appropriate and which provide equitable family leave.

3. Policies that allow for flexible starting times and work from home in appropriate circumstances, as well as policies that support work-life balance.

4. Recruiting practices that require inclusive hiring panels (i.e., panels representative of multiple aspects of the employer’s community, such as gender, national origin, and work backgrounds).

5. Policies requiring advertising for positions and recruiting in geographic and racially diverse areas and which use affinity organizations as recruiting mechanisms.

6. Policies that, in accordance with applicable licensing, provide non-traditional considerations for compensation such as life skills and background, military and other community service, and other experiential circumstances rather than solely based on education.

V. TRAINING

Employers should consider implementing training programs that promote fair pay. Those training programs and development plans might include:

1. Training on implicit bias and gender equality.

2. Focused training for women regarding negotiating for compensation, promotion, and other work-related benefits.

3. Targeted leadership development plans to support individuals in the pipeline who are not traditionally supported in the workplace.

4. Implementation of policies that reduce occupational segregation by advancing opportunities for women in jobs in which they are traditionally underrepresented through community engagement programs (panels of role models; provision of sponsors and mentors).

VI. WHAT EMPLOYERS MAY AND MAY NOT ASK

Employers should be aware of certain permitted and prohibited inquiries to job applicants that could directly or indirectly provide information that the employer should not take into consideration when setting pay. Some permitted questions include:

1. What are your salary expectations for this position?

2. Why do you believe your qualifications align with those expectations?
3. What was your title/position in your prior job? How, if at all, did your title or position change during your prior employment (*i.e.*, Were you promoted? Were you assigned additional responsibilities?)?
4. How many people (if any) reported to you in your prior job?
5. Did you have supervisory responsibilities?
6. To whom did you report?
7. What certifications/licenses/degrees do you hold? Are you currently pursuing additional or other educational opportunities?
8. Did you achieve your sales quota for (last) year/prior years? [If applicable.]
9. What were your major accomplishments in your prior position?

Some examples of prohibited questions include:

1. What are you currently earning?
2. What was your bonus last year?
3. How much did you earn in commissions?
4. Do you have a spouse?
5. Does your spouse work?
6. What are your living arrangements? Who lives with you?
7. Do you have children (or are you planning to)?
8. Do you have family support obligations?
9. Are you receiving income from any other source?
10. Do you receive child support/alimony?
11. How much do you spend on child care?

VII. NON-RETALIATION PLEDGES

Finally, employer policies should include non-retaliation pledges, which prohibits the employer from retaliating in any way against any employee for any action taken to invoke or assist in any manner with the enforcement of the Equal Pay Act, the Federal Equal Pay Act, or any laws governing discrimination in the workplace.

VIII. ADDITIONAL RESOURCES FOR EMPLOYERS

Organization and Link	Description
California Commission on the Status of Women and Girls https://women.ca.gov/wp-content/uploads/sites/96/2018/11/13-Guidance-for-Employers-on-Starting-Compensation-approved-01.10.2018.pdf	<p>The California Commission on the Status of Women and Girls identifies and works to eliminate inequities in state laws, practices, and conditions that affect California’s women and girls. Established as a state agency with 17 appointed commissioners in 1965, the Commission regularly assesses gender equity in health, safety, employment, education, and equal representation in the military and the media. The Commission provides leadership through research, policy and program development, education, outreach and collaboration, advocacy, and strategic partnerships.</p>
California Chamber of Commerce	<p>The California Chamber of Commerce provides resources for California businesses to manage employment law compliance issues.</p>
Department of Industrial Relations	<p>The California Department of Industrial Relations is the state agency responsible for administering and enforcing California Labor Law compliance.</p>
The Society for Human Resource Management	<p>The Society for Human Resource Management is a national members-only organization that provides human resources compliance guidance, expertise, and advice.</p>
Guidance from the City of New York	<p>The City of New York has been at the forefront of drafting and developing laws aimed at pay equity in the workplace.</p>

*The data provided was current at the time of this publication and may change.

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