
KNOW YOUR RIGHTS: GUIDELINES & RESOURCES FOR PAY EQUITY

I. WHAT IS PAY EQUITY?

Pay equity is being paid equally regardless of your gender or race. You should be paid the same as your male colleagues if you are doing “substantially similar work” when viewed together with your skill, effort and responsibility, and performed under similar working conditions.

II. HOW DO I FIND OUT IF I AM BEING PAID EQUALLY TO MY MALE COLLEAGUES?

1. Conversation to Have with Other Colleagues and the Employer

Under the amended Equal Pay Act, an employer must keep records of wages, wage rates, job classifications, and other terms and conditions of employment for a period of three years.

An employee can ask an employer about how much other employees are paid, however, the amended Equal Pay Act does not require an employer to provide that information. But the rules are slightly different when you are applying for employment. Under Labor Code §432.3, upon reasonable request, an employer shall provide the pay scale for a position to an applicant applying for employment. A reasonable request is one made after an applicant has completed an initial interview with the employer. Section 432.3, as amended, defines “pay scale” to mean a salary or hourly wage range for a position. An employer who intends to pay a set hourly amount or a set piece rate amount, and not a pay range, may provide that set hourly rate or set piece rate in response to a reasonable request for a pay scale. An employer who fails to provide a pay scale in response to a reasonable request for a pay scale violates Labor Code §432.3.

An employer may not prohibit an employee from disclosing his or her own wages, discussing the wages of others, inquiring about another employee’s wages, or aiding or encouraging any other employee to exercise rights under the Equal Pay Act. An employer also may not retaliate against an employee for engaging in such conduct.

2. Check Public Sources

Taking into consideration your education or skill level, years of experience, and other determining factors, here are suggestions for researching a fair and equal salary and compensation package:

- Ask friends and colleagues if they would share their current salary range if they work in the same or substantially similar position as you but at different employer.
- Seek information from industry associations and networking events. Many industry associations perform surveys that are shared with their members on the current state of the industry, including salary ranges. Engage with attendees at networking events and ask what the standard salary is for the same position. You may also be able to post questions to a listserv that can be asked and/or answered anonymously.
- Use online resources such as those listed below to find databases organized by job title or industry to find data on salary and compensation packages.

Organization and Link	Description*
State of California EDD	Employment Development Department OES (Occupational Employment Statistics and Wages) Data Tables, updated quarterly.
CareerOneStop	CareerOneStop is sponsored by the U.S. Department of Labor, allows users to search salary and hourly ranges by zip code and occupation category.
Department of Labor Bureau of Labor Statistics	The Occupational Outlook Handbook provides information about the characteristics of various jobs, the skills, education, and training required for them and typical salaries.
The Department of Labor Bureau of Labor Statistics – O*Net Online	O*NET OnLine is a unique, powerful source for continually updated occupational information and labor market research.
The Office of Personnel Management	The Office of Personnel Management provides policy leadership and expertise on a variety of government-wide pay programs for federal employees, including the General Schedule (GS), Law Enforcement Officer (LEO) Pay Schedules, and the Federal Wage System (FWS).
LinkedIn	LinkedIn Salary provides salary ranges and compensation packages as reported by employees and employer job listings.
Indeed	Indeed.com provides salary ranges as reported by employees, not verified with employers.
SimplyHired	SimplyHired.com has a calculator that allows users to compare salaries with others in the same profession regionally and nationally. Data is taken from job listings by employers.
Payscale	Payscale.com is a database that compiles individual salary profiles through crowdsourcing and big data technologies for use by employers and employees.
Glass Door	GlassDoor.com is a database of information about employers that includes salary reports submitted by both employer and employee users of the site.
Salary	Salary.com has a salary estimator called “What are you worth?” that can help you calculate the salary you deserve based on many data inputs in addition to job title.
Recruiter	Recruiter.com allows you to see and filter by salary ranges and job titles.

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

Other resources to help you determine and negotiate fair and equal pay:

- The American Association of University Women offer free [salary negotiation workshops](#).
- Economic Policy Institute offers a [Pay Gap Calculator](#) to determine what you could be making in a more equal economy.
- [Cost of Living Calculator](#) shows how far your salary would go in another city.

III. WHAT IF I FIND OUT I AM NOT BEING PAID EQUALLY?

If you believe you are not being paid the same as your male co-workers for doing similar work, you may consider:

1. Talking to your coworkers who are doing similar work and asking if they will share how much they are being paid so you can get evidence of whether you are being paid less for doing similar work.
2. Talking to your supervisor or the human resources department to ask how your pay is calculated. You may want to suggest your company “audit” the pay of coworkers doing the same or similar work as you to find out if you are being paid equally. You might also consider following up in writing with your request to determine whether you are being paid the same as your coworkers for doing the same or similar work.
3. Talking to your union representative, if you have one, and asking the representative about any information on pay structure or how your pay is calculated. You can also request your union investigate if you are being paid less for doing the same or similar work.
4. Filing a claim with the California Labor Commissioner’s Office at <https://www.dir.ca.gov/dlse/HowToFileWageClaim.htm> and have it investigated.
5. Consulting with a lawyer to determine if you should file a lawsuit.

IV. What If My Employer Does Not Adjust My Pay?

If your employer knows you are not being paid equally to your male co-workers for doing similar work and does not adjust your pay, you may consider:

1. Filing a Claim with the Department of Industrial Relations (“DLSE”)

The Labor Commissioner’s Office enforces the Equal Pay Act, which prohibits an employer from paying its employees less than employees of the opposite sex, or of another race, or of another ethnicity for substantially similar work.

a. Who Can File

Any employee who has a claim against his or her employer or former employer for unequal wages and falls under the jurisdiction of the Labor Commissioner, may file a claim with the DLSE. The Labor Commissioner has no jurisdiction over properly classified independent contractors and only limited jurisdiction over employees of public agencies (for example, federal, state, county, or municipal employees).

b. When to File

Under the Equal Pay Act, an employee must file a claim within two years from the date of the violation. If the violation is willful, then an employee must file within three years.

Each paycheck that reflects unequal pay is considered a violation for the purpose of calculating the deadline for filing.

c. What to File

An employee who wants to file a claim must fill out and submit the “Equal Pay Act Complaint” (Form EPA-1). This form can be found online at https://www.dir.ca.gov/dlse/EPA_Complaint_Form.pdf. Instructions on how to fill out the Equal Pay Act Complaint can be found at https://www.dir.ca.gov/dlse/Equal_Pay_Act_Instruction_Guide.pdf.

d. Where to File

Once the employee has completed the Equal Pay Act Complaint, the employee can submit it via mail or in person at the local Labor Commissioner’s Office which for San Diego is located at 7575 Metropolitan Drive, Room 2010, San Diego, CA 92108.

e. What Happens After the Claim is Filed

In most cases, the employee will receive a letter from the Labor Commissioner letting the employee know to whom the Equal Pay Act Complaint has been assigned. After this happens, a deputy will contact the employee for an interview. The deputy will also most likely interview the employee’s witnesses (if any), the employer, and the employer’s witnesses. In addition to the investigation, the deputy may also discuss settlement options with the employee.

Once the initial interviews are completed, in some cases, the employee may be asked to come to the DLSE for a conference or a hearing. If the employee receives one of these notices, the deputy will explain what the employee needs to bring with him or her.

After the deputy concludes his or her investigation, he or she will write a report and the DLSE will make a decision, known as a determination, on the employee’s case. If the decision is in the employee’s favor, the DLSE will work with the employer to enforce the decision. If the decision is in the favor of the employer, the employee will have a right to an appeal, the details of how to file an appeal will be provided to the employee the determination.

It is the employee's responsibility to keep the deputy informed of any address or telephone number changes. If the deputy is unable to locate the employee, the deputy may be forced to close the employee's case.

2. File a Lawsuit

If you believe your employer is violating equal pay laws, talk to an attorney as soon as possible. Hire an experienced and skilled lawyer who you trust. The San Diego County Bar Association Lawyer Referral and Information Service, or other lawyers in the community, may be able to help you find the right lawyer for you. A plaintiff's employment attorney is the type of attorney who helps employees with equal pay claims. An attorney may ask you to provide a timeline or other summary of events, and for a copy of documents, including paystubs, related to your employer's unequal pay.

Most attorneys take equal pay claims on a contingency-fee basis, meaning they do not charge by the hour - they charge a percentage of whatever settlement or verdict they get for you. An attorney should be able to explain the strengths and weaknesses of your potential lawsuit. However, an attorney will not be able to guarantee that you will win your lawsuit, or that you will get a certain amount. Before you hire an attorney, make sure you are comfortable with the attorney and that the attorney answers your questions.

Equal pay lawsuits can take more than a year to resolve. During your lawsuit, you will need to be available to answer questions and provide the attorney with information and documents. You also may be deposed, meaning you will have to answer questions, under oath, asked by your employer's attorney. Being part of a lawsuit can be difficult and time-consuming, but it can be the only way to get justice for unequal pay.

V. CAN MY EMPLOYER RETALIATE AGAINST ME?

No. The Equal Pay Act and various other California laws prohibit employers from retaliating in any way against any employee for reporting a violation of the Equal Pay Act. Employees are protected against all forms of retaliation and can file separate retaliation claims with the Labor Commissioner or in court.

The California Labor Code provides that employees who prevail in retaliation claims are entitled to reinstatement, back pay, interest on back pay, and other potential remedies. Retaliation claims can be brought either with the Labor Commissioner, which must be filed within six months of the retaliatory act, or as a civil suit, which must be filed within one year of the retaliatory act.

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