

THE COLORADO EQUAL PAY FOR EQUAL WORK ACT

Effective 1/1/2021

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PROVISIONS

The law seeks to close the gender wage gap by prohibiting pay discrimination for “substantially similar work” between men and women. It is unique in that the requirements span both talent acquisition and internal compensation practices and necessitate comprehensive measures to achieve compliance. It applies to employers that have any employees located in Colorado.

GETTING PREPARED

	REQUIREMENTS	CURA HR SUPPORT
PAY EQUITY	Cannot discriminate based on job worth (composite of skill, effort, & responsibility), unless the difference can be explained by an allowable compensable factor	<p>Conduct a statistical analysis of all employee wages (base, OT, benefits, & incentives). Reference page 2 for details.</p> <p>Safe harbor protections shelter employers that complete a comprehensive audit and remedy unintentional pay disparities.</p>
JOB DESCRIPTIONS	Must have written job descriptions for each position and keep them, including wage rate, for two years post separation	<p>Create job descriptions for each position & create new process for tracking and maintaining compliant records</p> <ul style="list-style-type: none"> - Define content (key accountabilities, job functions & duties) - Align to comparator pay group criteria
PAY PRACTICES	Document pay practices and ensure equitable application, so that pay equity gap remains closed	<p>Review and modify internal practices, and develop to support compensation management</p> <ul style="list-style-type: none"> - For ex: career architecture framework
SALARY BAN	Cannot seek pay history from candidates or restrict employees from discussing pay	<p>Re-define hiring policies & practices to ensure compliance</p> <ul style="list-style-type: none"> - Provide training and guidelines for those involved in hiring
JOB POSTINGS	Must post all positions and promotional opportunities, including salary and benefit information	<p>Update job advertisement process and documents to ensure compliance</p> <ul style="list-style-type: none"> - Job posting templates with new requirements - Job posting and communication process

PAY EQUITY AUDIT – KEY PHASES

STEP 1



DEFINE SCOPE & STRUCTURE ANALYSIS

- Project goals & objectives
- Implement safeguards, such as attorney client privilege
- Group employees by substantially similar work
- Identify compensable factors

STEP 2



DETERMINE VARIABLES & AGGREGATE DATA

- Gather relevant job, employee, and payroll data needed for analysis
- Group data to assess equity by different types of compensation

STEP 3



STATISTICAL ANALYSIS & MEASURE GAPS

- Use a software or tool to run multivariate regressions
- Calculate unadjusted & adjusted wage differential
- Interpret results and determine discrepancies

STEP 4



REMEDIATION ACTIONS & PHASED PLANNING

- Fix identified pay differences and causes
- Model budget impact for correcting wage gap over time
- Integrate findings into ongoing compensation practices

FREQUENTLY ASKED QUESTIONS (FAQ)

Q1: I am a multi-state employer, based outside of Colorado, does the law apply?

Yes. The law defines an employer as having anyone employed in Colorado.

Q2: I am multi-state employer, how do I ensure compliance with the states that I operate in?

It is an employers' responsibility to understand and comply with each pay equity law, in the states which they operate. Best practice is to comply with the jurisdiction with the strictest requirements.

CO along with CA have the most rigid requirements. Below are references to current state laws:

- www.littler.com/pay-equity
- www.fisherphillips.com/equity

Q3: I am a small employer with less than 50 employees, why do I need to conduct a pay equity audit?

Pay differences exist – it is expected. The audit will provide quantitative explanation on how pay decisions and gender interact. In addition, it will explain how other factors (work location, tenure, etc.) influence internal pay.

Q4: What are the benefits to having a third-party consultant conduct the audit?

An external perspective and approach is more conducive to detecting unintended bias.

In addition, employers will be subject to criticism if there are tainted variables, or possible perception of data manipulation

Q5: Our organization continuously monitors equity, what is different about this law?

The law requires evaluating equity differently than external benchmarking or internal pay reviews, by statistically evaluating equity and discerning 'substantially similar work.'

In addition, organizations must prove wage differences are not a result of discriminatory pay practices.

Q6: What is a pay comparator group?

They are groupings, or cohorts of jobs comprised of positions where employees perform equal or substantially similar work.

Courts will reject analysis based on job title alone.

Q7. What statistical methods or concepts are used in a pay equity audit?

There are many mathematical theories or tests used to analyze the behavior of one variable compared to another. Below are common examples:

T-test

- Compare means of two different populations (statistical significance)

Analysis of variance (ANOVA)

- Extension of t-test; involves three or more independent groups, including categorical variables (ie: gender)
- Tests variance among and between groups
- Expressed as an f-ratio

Multiple linear regression (MLR)

- Determines the strength and character of the relationship between one dependent variable and a series of other variables
- Expressed as a p-value

Standard deviation (SD)

- Risk measure that gauges the amount of variation
- Calculates how concentrated the data is around the mean
- Expressed as a z-score