



# 50 State Pay Equity Desktop Reference

What Employers Need to Know about US Pay Equity Laws



2022 Q2 Edition

Dear Clients and Friends,

For organizations that operate in multiple states, tracking the ever-changing requirements related to pay equity can pose daunting challenges, and the growing “ripple effect” of such requirements is being felt across industries and sectors. To simplify the process, we are pleased to provide you with our *Sixth Annual 50 State Pay Equity Desktop Reference: What Employers Need to Know about US Pay Equity Laws*.

This one-stop desk reference provides answers to the following common questions:

- Which protected classes are protected by the Equal Pay laws?
- What are the permissible factors that explain pay differences?
- What type of work must be compared?
- What are the compensation disclosure requirements (including pay reporting)?
- May employers ask about salary history?

This guide addresses laws that impact private employers and is based on a review of state Equal Pay Acts and pay laws. This guide also provides information about the life cycle of a pay equity audit. The information contained in this booklet is purposely condensed and simplified; while it provides a convenient point of reference, always consult with your attorney before making any decisions as the law is constantly changing.

For additional information, please email **[payequity@seyfarth.com](mailto:payequity@seyfarth.com)**.

We hope this booklet proves a useful and informative tool. It does not constitute legal advice or create an attorney-client relationship. Please do not hesitate to contact **[payequity@seyfarth.com](mailto:payequity@seyfarth.com)** if you have any questions.

# Expanding Influence of Pay Equity

Since 1963, the Equal Pay Act has prohibited pay discrimination on the basis of sex. Since that time, there has been a wave of shareholder initiatives and modifications to state pay equity laws. The ripple effect has been far reaching. In 2022 and beyond, we see more litigation and enhanced pay reporting laws.

## FEDERAL LAW

### 1963

The Equal Pay Act of 1963 was signed into law, followed by Title VII in 1964. The EPA prohibits pay discrimination on the basis of sex.

## STATE LAWS

### 2016

Pay equity laws at the state level boomed in 2016. California, New York, and Massachusetts led the charge, and became the first states to adopt more onerous pay equity laws. Other states followed suit and many also enacted salary history bans and pay scale disclosure laws.

## FOCUS ON PAY TRANSPARENCY

### 2022 and Beyond

The legal landscape continues to rapidly change, as more countries around the globe enact pay equity reporting laws.

## SHAREHOLDER INITIATIVES

### 2015

Amidst a wave of activism, including from high profile figures and celebrities, 2015 saw the emergence of shareholder initiatives asking companies to disclose pay differences between men and women.

## LITIGATION

### 2018-2022

In the last few years hundreds of pay discrimination cases were filed. This number is projected to go up.

# Life Cycle of a Pay Equity Audit

Is your organization considering undertaking a proactive pay equity analysis? Changes to state and federal laws in the US and globally make undertaking such an analysis a wise decision and a key risk mitigation priority for your organization.

Seyfarth's Pay Equity team can guide you through this evaluation by developing an analysis that evaluates the key components of pay relevant to your organization. We will partner with you to model the compensation practices for your workforce, or you may choose to target a subset of those

employees. The analysis will be designed to align with your organization's objectives, identify and address unexplained differences in pay and ensure that your organization's practices align with stated business policies and priorities.

**Together, we will guide you through the life cycle of a pay equity analysis:**

1

## **Initial Contact: Identify Goals and Protect the Privilege**

We will kick off the analysis by first identifying your organization's key goals and objectives, including whether to coordinate the timing of the audit with any typical annual review process. We will also identify the appropriate and right-sized internal and external resources necessary to conduct the analysis. Before the substantive components of the project begins, our Pay Equity attorneys will work with you to implement attorney-client privilege protocols to safeguard the analysis to the maximum extent possible.

2

## **Team Kick-Off Call: Identify Scope and Resources**

During our first discussion with the audit team, we will define the scope of the analysis, including identifying the workforce and the components of pay under review. In order to better understand your organization, we will ask for information about compensation structure and pay philosophy and discuss the drivers of employee compensation. Together, we will determine the most appropriate way to group employees for the statistical analysis and identify the job-related factors that are relevant to employee pay.

3

## **Identify Litigation Risks and Possible Mitigation Strategies**

By comparing the organization's compensation structure with industry-specific litigation trends, we can often identify potential drivers of litigation risk and mitigation strategies. Even small changes to policies or systems can significantly impact the defense of an equal pay lawsuit.

# 4

## **Gather the Data**

Our next step will be to partner with the key stakeholders responsible for data collection and maintenance (e.g., HRIS team) to gather relevant data regarding employee pay from the organization's electronic and physical data systems. Because the key data to be analyzed in an audit (such as time with the organization, time in role, job, grade/level, date of hire, performance metrics, and, of course, pay information) may be stored in a variety of systems, we will suggest efficient ways to gather the data.

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# 5

## **Initial Statistical Analysis and Identification of “Hot Spots”**

Once we have gathered the data, we will partner with statistical experts to conduct the statistical analysis. We will interpret the results and identify any “hot spots” within the organization that require further review.

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# 6

## **Deeper Dive and Further Analysis**

Often the initial analysis brings to light errors in the data, individual employees who were slotted in the wrong job or level, or additional factors that drive employee compensation that were not identified initially. We will help your organization identify these issues by leveraging the full force of the statistical tools to identify potential employees or groups of employees that are driving any apparent disparities. We can then work with you to explore additional factors that we may wish to include in the statistical model and data errors that need to be addressed in the further analysis.

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# 7

## **Potential Pay Adjustments and Reclassifications**

After the full investigation of pay differences is complete, we will provide advice related to mitigation strategies if needed. We will present our assessments and preliminary recommendations, and will work with you to develop solutions that stand the greatest chance of success in light of applicable legal, operational, and corporate-culture considerations and constraints. These recommendations may include pay adjustments or reclassification of employee levels or job titles.

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# 8

## **Potential Changes to Policies and Practices**

After reflection on the results of the assessment, we may provide additional recommendations with respect to modifications to policies or practices regarding hiring and starting pay, performance reviews, promotions and bonuses in order to best position the organization for future compliance.

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# 9


## **Follow-Up**

After the audit is complete, we will work with your organization to identify desirability and frequency of routine follow-up analysis, including real-time analysis of pay and promotion decisions. There is no one-size fits all with respect to the audit or follow-up—we have seen nearly every possible pay issue and are able to provide real-time and real-life recommendations on how to ensure that your pay practices are in line with your corporate culture and business objectives.



Jurisdiction	Equal Pay Law Protected Class(es)	Type of Work Compared	Permissible Factors for Pay Differential	Salary History Inquiries Permitted?	Compensation Disclosure Requirements? (Includes Pay Reporting)
<b>AL</b> Alabama	Sex, race	Equal work within the same establishment on jobs the performance of which requires equal skill, effort, education, experience, and responsibility, and which are performed under similar working conditions.	If pursuant to a seniority system; a merit system; a system which measures earnings by quantity or quality of production; or a differential based on any other factor other than sex or race.	While there is no outright ban, employers may not refuse to interview, hire, promote, or employ an applicant for employment, or retaliate against an applicant for employment because the applicant does not provide wage history. Wage history means the wages paid to an applicant for employment by the applicant's current or former employer.	No state law
<b>AK</b> Alaska	Gender	Work of comparable character or work in the same operation, business, or type of work in the same locality.	Not addressed in statute, but addressed in regulations. It is a defense to a complaint of unlawful discrimination to establish by clear and convincing evidence that a distinction in employment prohibited by AS 18.80.220(a) (1) is required by business necessity or the reasonable demands of the position. "Business necessity" or "reasonable demands of the position" means that the distinction is necessary to the safe and efficient operation of the business; the business purpose is sufficiently compelling to override any disproportionate impact on an individual protected by AS 18.80.220(a), and the challenged business practice efficiently carries out the business purpose it is alleged to serve, and there is no available or acceptable policy or practice which would better accomplish the business purpose advanced or accomplish it equally well with less discriminatory impact on the complainant.	No state law	No state law

Jurisdiction	Equal Pay Law Protected Class(es)	Type of Work Compared	Permissible Factors for Pay Differential	Salary History Inquiries Permitted?	Compensation Disclosure Requirements? (Includes Pay Reporting)
<b>AZ</b> Arizona	Gender	Same quantity and quality of the same classification of work in the same establishment.	Difference in seniority, length of service, ability, skill, difference in duties or services performed; difference in the shift or time of day worked, hours of work; or restrictions or prohibitions on lifting or moving objects in excess of specified weight, or other reasonable differentiation other than sex, when exercised in good faith.	No state law	No state law
<b>AR</b> Arkansas	Sex	Comparable work	If pursuant to seniority, experience, training, skill, ability, differences in duties and services performed, differences in the shift or time of the day worked, or any other reasonable differentiation except difference in sex.	No state law	No state law
<b>CA</b> California	Gender, race, ethnicity	Substantially similar work, when viewed as a composite of skill, effort, and responsibility, and performed under similar working conditions.	<p>If based on seniority system, merit system, system that measures earnings by quantity or quality of production, or bona fide factor other than protected category, such as education, training, or experience.</p> <p>Must be applied reasonably and other factors must account for the entire wage differential. Defense does not apply if alternative business practice exists that would serve the same business purpose without producing the wage differential. An applicant or employee's prior salary will not justify disparities in compensation; however, this provision cannot be interpreted to mean that an employer may not make a compensation decision based on a current employee's existing salary, so long as wage differential otherwise permissibly justifiable.</p>	No, unless offered voluntarily and without prompting, employers may not seek an applicant's salary history or rely on it to determine whether to offer employment or what salary to offer.	<p>Employers must provide applicants for employment with the "pay scale" for a position upon "reasonable request." "Pay scale" is defined as a salary or hourly wage range and does not include bonuses or equity ranges. A "reasonable request" is defined as a request made after the applicant has completed the initial interview.</p> <p>Pay Reporting - Employers with 100 or more US employees and at least 1 employee in California are required to submit an annual pay report to DFEH including W-2 wages and hours worked.</p>

Jurisdiction	Equal Pay Law Protected Class(es)	Type of Work Compared	Permissible Factors for Pay Differential	Salary History Inquiries Permitted?	Compensation Disclosure Requirements? (Includes Pay Reporting)
 Colorado	Sex or sex in combination with disability, race, creed, color, sexual orientation, gender identity, gender expression, religion, age, national origin, or ancestry	Substantially similar work, regardless of job title, based on a composite of skill, effort, and responsibility.	If based on a seniority system; a merit system; a system that measures earnings by quantity or quality of production; the geographic location where the work is performed; education, training or experience reasonably related to the work in question; and travel, if the travel is a regular and necessary condition of the work performed. Employers relying on these factors must also demonstrate they are applied reasonably, account for the entire wage rate differential, and that prior wage history was not relied on to justify a disparity in current wage rates.	No. Employers may not inquire about a prospective employee's wage history or rely on a prospective employee's wage history to determine a wage rate. Employers are also prohibited from discriminating or retaliating against a prospective employee for failing to disclose such wage history.	<p>(1) Promotional Opportunity Disclosure: Employers must make reasonable efforts to announce, post, or otherwise make known all opportunities for promotion to all current Colorado employees on the same calendar day and prior to making a promotion decision. A "promotional opportunity" exists when an employer has or anticipates a vacancy in an existing or new position that could be considered a promotion for one or more employee(s) in terms of compensation, benefits, status, duties, or access to further advancement.</p> <p>(2) Compensation Information Disclosure: For roles that will be Colorado based, and remote roles that could be performed in Colorado, employers must disclose in each job posting: (a) the hourly rate or salary compensation (or a range thereof) that the employer is offering for the position; (b) a general description of any bonuses, commissions, or other forms of compensation that are being offered for the job; and (c) a general description of all employment benefits the employer is offering for the position.</p>



Jurisdiction	Equal Pay Law Protected Class(es)	Type of Work Compared	Permissible Factors for Pay Differential	Salary History Inquiries Permitted?	Compensation Disclosure Requirements? (Includes Pay Reporting)
<b>CT</b> Connecticut	Sex	Comparable work when viewed as a composite of skill, effort, and responsibility performed under similar working conditions.	Pursuant to a seniority system; a merit system; a system which measures earnings by quantity or quality of production; or a differential system based upon a bona fide factor other than sex, including, but not limited to, education, training, experience, credential, skill, or geographic location. Employers must show that such factors are not based on or derived from a sex-based differential in compensation and are job-related and consistent with a business necessity. Employers may not use this defense if employees demonstrate that an alternative employment practice exists that would serve the same business purpose without producing the pay differential and the employer refused to adopt the practice.	No, unless a prospective employee has volunteered such information or unless the request is pursuant to any federal or state law that specifically authorizes the disclosure or verification. The law does not prohibit an employer from inquiring about components of a prospective employee's compensation structure, so long as the employer does not inquire about the value of the elements of such compensation structure.	Employers must provide an applicant for employment the wage range for a position for which the applicant is applying, upon the earliest of (a) the applicant's request, or (b) prior to or at the time the applicant is made an offer of compensation. Employers must provide a current employee the wage range for the employee's position upon (a) the hiring of the employee, (b) a change in the employee's position with the employer, or (c) the employee's first request for a wage range. "Wage range" means the range of wages an employer anticipates relying on when setting wages for a position, and may include reference to any applicable pay scale, previously determined range of wages for the position, actual range of wages for those employees currently holding comparable positions or the employer's budgeted amount for the position.
<b>DE</b> Delaware	Sex	Equal work that requires equal skill, effort, and responsibility under similar working conditions in the same workplace.	If based on a seniority system; a merit system; a system which measures earnings by quantity or quality of production; or any other factor other than sex; provided, that an employer who is paying a wage rate differential in violation of this subsection shall not, in order to comply with this subsection, reduce the wage rate of any employee.	No, employers cannot seek the compensation history of an applicant or seek the same from the applicant's current or prior employer prior to offer acceptance (after offer acceptance an employer may request only for purposes of confirming compensation history). Employers cannot screen applicants based on their compensation history, including that compensation history meets minimum or maximum criteria.	No state law
<b>DC</b> District of Columbia	No state Equal Pay law; pay discrimination prohibited under non-discrimination statute	N/A	N/A	No state law	No state law

Jurisdiction	Equal Pay Law Protected Class(es)	Type of Work Compared	Permissible Factors for Pay Differential	Salary History Inquiries Permitted?	Compensation Disclosure Requirements? (Includes Pay Reporting)
<b>FL</b> Florida	Sex	Equal work on jobs the performance of which require equal skill, effort and responsibility, performed under similar working conditions.	If pursuant to a seniority system; a merit system; a system which measures earnings by quantity or quality of production; or a differential based on any reasonable factor other than sex when exercised in good faith.	No state law	No state law
<b>GA</b> Georgia	Sex	Equal work requiring equal skill, effort and responsibility, performed under similar working conditions within the same establishment.	If pursuant to a seniority system; a merit system; a system which measures earnings by quantity or quality of production; or a differential based on any other factor other than sex.	No state law	No state law
<b>HI</b> Hawaii	Sex (Fair Employment Practices Law)	Equal work on jobs the performance of which require equal skill, effort and responsibility, and that are performed under similar working conditions within the same establishment. (Fair Employment Practices Law).	If resulting from a seniority system; a merit system; a system that measures earnings by quantity or quality of production; a bona fide occupational qualification; or any other permissible factor other than sex (Fair Employment Practices Law).	No, unless offered voluntarily and without prompting, employers may not inquire about, search public records for, or rely on salary history of applicants in the hiring process. Employer may engage in discussions (without inquiry about salary history) about salary or benefit expectations. If applicant voluntarily and without prompting discloses salary history, employer may consider the salary history and may verify such history.	No state law
<b>ID</b> Idaho	Sex	Comparable work on jobs that have comparable requirements relating to skill, effort, and responsibility.	If differential based on established seniority systems or merit increase systems that do not discriminate based on sex.	No state law	No state law

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<b>IL</b> Illinois	Sex, African-American	Same or substantially similar work on jobs the performance of which require substantially similar skill, effort, and responsibility, and which are performed under similar working conditions.	If pursuant to a seniority system; a merit system; a system which measures earnings by quantity or quality of production; or a differential based on any other factor other than sex or a factor that would constitute unlawful discrimination under the Illinois Human Rights Act, as long as that factor is: (1) not based on or derived from a differential in compensation based on sex, race, or another protected characteristic; (2) is job related and consistent with business necessity; and (3) accounts for the differential in pay.	No, Illinois employers are prohibited from (1) screening job applicants based on their wage or salary history; (2) requiring that an applicant's prior wages satisfy minimum or maximum criteria; and (3) requesting or requiring as a condition of being interviewed or as a condition of continuing to be considered for an offer of employment that an applicant disclose prior wages or salary. Unless a matter of public record or if the job applicant is a current employee, employers are also prohibited from seeking the salary, including benefits or other compensation or salary history, of a job applicant from any current or former employer. However, an employer will not violate the statute when a job applicant voluntarily and without prompting discloses such information, provided the employer does not consider or rely on the voluntary disclosures as a factor in potential employment, compensation, or other benefits. Employers are not barred from engaging in discussions with an applicant about his/her expectations with respect to wage or salary, benefits, and other compensation.	No state law  Pay Reporting - Employers with more than 100 employees in Illinois, who are also required to file a federal EEO-1 Report, must apply to the Illinois Department of Labor for an Equal Pay Registration Certificate. The application includes the submission of employee-level compensation data, and a signed verification of compliance with certain state and federal anti-discrimination laws.
<b>IN</b> Indiana	Sex	Equal work on jobs the performance of which require equal skill, effort and responsibility, and which are performed under similar working conditions.	If pursuant to a seniority system; a merit system; a system which measures earnings by quantity or quality of production; or a differential based on any other factor other than sex.	No state law	No state law
<b>IA</b> Iowa	Age, race, creed, color, sex, sexual orientation, gender identity, national origin, religion, or disability	Equal work on jobs which require equal skill, effort and responsibility, and which are performed under similar working conditions in the same establishment.	If pursuant to a seniority system; a merit system; a system which measures earnings by quantity or quality of production; or a differential based on a factor other than sex.	No state law	No state law

Jurisdiction	Equal Pay Law Protected Class(es)	Type of Work Compared	Permissible Factors for Pay Differential	Salary History Inquiries Permitted?	Compensation Disclosure Requirements? (Includes Pay Reporting)
<b>KS</b> Kansas	Sex	Work on jobs requiring equal skill, effort and responsibility, and which are performed under similar working conditions in the same establishment.	If pursuant to a seniority system; a merit system; a system which measures earnings by quantity or quality of production; or a differential based on a factor other than sex.	No state law	No state law
<b>KY</b> Kentucky	Sex	Comparable work on jobs within the same establishment that have comparable requirements relating to skill, effort, and responsibility.	If pursuant to established seniority systems or merit increase systems, which do not discriminate on the basis of sex.	No state law	No state law
<b>LA</b> Louisiana	No state Equal Pay law that applies to private employers; pay discrimination prohibited under non-discrimination statute	N/A	N/A	No state law	No state law
<b>ME</b> Maine	Sex	Comparable work on jobs that have comparable requirements relating to skill, effort, and responsibility in the same establishment.	If pursuant to established seniority systems or merit increase systems or difference in the shift or time of the day worked that do not discriminate on the basis of sex.	No, employers are prohibited from asking about a job candidate's compensation history until after a job offer including compensation terms has been presented. In addition, employers may not directly ask a candidate's current or former employer for salary information or stop current employees from discussing their own or another employee's wages. Employers can confirm a candidate's past pay if the candidate voluntarily discloses it, and the law does not apply if an employer "inquires about compensation history pursuant to any federal or state law that specifically requires the disclosure or verification of compensation history for employment purposes."	No state law

Jurisdiction	Equal Pay Law Protected Class(es)	Type of Work Compared	Permissible Factors for Pay Differential	Salary History Inquiries Permitted?	Compensation Disclosure Requirements? (Includes Pay Reporting)
<b>MD</b> Maryland	Sex and gender identity	For employees in the same establishment, work of comparable character or work in the same operation, in the same business, or of the same type.	If based on a seniority system that does not discriminate on the basis of sex or gender identity; a merit increase system that does not discriminate on the basis of sex or gender identity; jobs that require different abilities or skills; jobs that require the regular performance of different duties or services; work that is performed on different shifts or at different times of day; a system that measures performance based on a quality or quantity of production; or a bona fide factor other than sex or gender identity, including education, training, or experience, in which the factor is not based on or derived from a gender-based differential in compensation, is job related with respect to the position and consistent with a business necessity, and accounts for the entire differential.	No, employers are prohibited from retaliating against or refusing to interview, hire, or employ any job applicant who either (a) did not provide wage history on a job application, or (b) who requested information about the wage range for the job to which the applicant applied. Employers are also prohibited from relying on the applicant's wage history as a way to screen job applicants for the position, or when determining the wages for the applicant if that person is hired. Employers are further prohibited from seeking the wage history of an applicant either orally, in writing, or through another employee, an agent, or from the applicant's current or former employer. However, after an applicant has received an initial offer of employment that includes a specific compensation figure, an employer may rely on any wage history voluntarily provided by the applicant to support a wage offer higher than the initial wage offer or seek to confirm the wage history voluntarily provided by the applicant to support the higher wage offer. These additional exceptions, however, are subject to the additional restriction that the higher wage may not create a pay differential based on sex and/or gender identity.	Upon request, the employer must provide to a job applicant the wage range for the position to which the applicant applied.

Jurisdiction	Equal Pay Law Protected Class(es)	Type of Work Compared	Permissible Factors for Pay Differential	Salary History Inquiries Permitted?	Compensation Disclosure Requirements? (Includes Pay Reporting)
<b>MA</b> Massachusetts	Gender	Comparable work, defined as work that is substantially similar in that it requires substantially similar skill, effort, and responsibility and is performed under similar working conditions; provided however, that a job title or job description alone shall not determine comparability.	If based upon the following: a system that rewards seniority with the employer (provided, however, that time spent on leave due to a pregnancy-related condition and protected parental, family and medical leave, shall not reduce seniority); a merit system; a system which measures earnings by quantity or quality of production, sales, or revenue; the geographic location in which a job is performed; education, training or experience to the extent such factors are reasonably related to the particular job in question; or travel, if the travel is a regular and necessary condition of the particular job. A pay difference will be permissible under MEPA if the entire difference is justified by one of these factors, or by a combination of these factors. MEPA does not recognize any other valid reasons for variations in pay between men and women performing comparable work. Note: Noticeably absent from AG guidance regarding defenses to pay differentials is the catch-all “any reason other than gender” defense that exists under the federal EPA and many other state equal pay laws.	No. Generally, employers cannot seek salary history from a prospective employee or the prospective employee’s current or former employer. Under two limited exceptions, an employer may request salary history. The first exception is if a prospective employee has voluntarily disclosed salary history information, then an employer can confirm prior wages or salary or permit a prospective employee to confirm prior wages or salary. The second exception is if an offer of employment with compensation has been made, then an employer may seek or confirm a prospective employee’s wage or salary history. Additionally, employers cannot require that prior wage or salary history meet certain criteria, and prior wages are not a defense to an equal pay complaint.	No state law
<b>MI</b> Michigan	Sex	Equal work on jobs, the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions.	If payment is based on one or more of the following: a seniority system; a merit system; a system that measures earnings by quantity or quality of production; or a differential based on a factor other than sex.	Yes. State law prohibits local jurisdictions from enacting salary history ban laws.	No state law



Jurisdiction	Equal Pay Law Protected Class(es)	Type of Work Compared	Permissible Factors for Pay Differential	Salary History Inquiries Permitted?	Compensation Disclosure Requirements? (Includes Pay Reporting)
<b>MN</b> Minnesota	Sex	Jobs that require equal skill, effort and responsibility, and which are performed under similar working conditions.	If payment is made pursuant to a seniority system, a merit system, a system which measures earnings by quantity or quality of production, or a differential based on any other factor other than sex.	No state law	No state law
<b>MS</b> Mississippi	No state law	N/A	N/A	No state law	No state law
<b>MO</b> Missouri	Women	Same quantity and quality of the same classification of work in the same establishment.	Based upon a difference in seniority, length of service, ability, skill, difference in duties or services performed, difference in the shift or time of day worked, hours of work, or restrictions or prohibitions on lifting or moving objects in excess of specified weight, or other reasonable differentiation, or factors other than sex, when exercised in good faith.	No state law	No state law
<b>MT</b> Montana	Women	Equivalent service or form the same amount or class of work or labor in the same industry, school, establishment, office, or place of employment.	Not addressed	No state law	No state law
<b>NE</b> Nebraska	Sex	Equal work on jobs which require equal skill, effort and responsibility, and which are performed under similar working conditions in the same establishment.	If pursuant to: an established seniority system; a merit increase system; or a system which measures earning by quantity or quality of production; or any factor other than sex.	No state law	No state law

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<b>NV</b> Nevada	Sex	Equal work on jobs which require equal skill, effort and responsibility, and which are performed under similar working conditions in the same establishment.	If pursuant to a seniority system; a merit system; a compensation system under which wages are determined by the quality or quantity of production; or a wage differential based on factors other than sex.	No. An employer or an employment agency shall not, orally or in writing, personally or through an agent: (a) seek the wage or salary history of an applicant for employment; (b) rely on the wage or salary history of an applicant to determine: (1) whether to offer employment to an applicant; or (2) the rate of pay for the applicant; or (c) refuse to interview, hire, promote or employ an applicant, or discriminate or retaliate against an applicant if the applicant does not provide wage or salary history.	An employer or an employment agency, must provide an applicant for employment, who has completed an interview for a position, the wage or salary range or rate for the position. An employer or an employment agency, must provide the wage or salary range or rate for a promotion or transfer to a new position if an employee has: (1) applied for the promotion or transfer; (2) completed an interview for the promotion or transfer or been offered the promotion or transfer; and (3) requested the wage or salary range or rate for the promotion or transfer.
<b>NH</b> New Hampshire	Sex	Equal work on jobs which require equal skill, effort and responsibility, and which are performed under similar working conditions.	If made pursuant to: a seniority system; a merit or performance-based system; a system which measures earnings by quantity or quality of production; expertise; shift differentials; or a demonstrable factor other than sex, such as education, training, or experience.	No state law	No state law

Jurisdiction	Equal Pay Law Protected Class(es)	Type of Work Compared	Permissible Factors for Pay Differential	Salary History Inquiries Permitted?	Compensation Disclosure Requirements? (Includes Pay Reporting)
<b>NJ</b> New Jersey	Race, creed, color, national origin, nationality, ancestry, age, marital status, civil union status, domestic partnership status, affectional or sexual orientation, genetic information, pregnancy or breastfeeding, sex, gender identity or expression, disability, atypical hereditary cellular or blood trait of any individual, and liability for service in the U.S. armed forces	Substantially similar work, when viewed as a composite of skill, effort, and responsibility.	A seniority system, a merit system, or a bona fide factor other than a protected characteristic, such as education, experience, training, or the quantity or quality of production so long as it is job-related, and based on a legitimate business necessity, and if the employer demonstrates the factor is not based on, and does not perpetuate, a differential in compensation based on sex or any other characteristic of members of a protected class. The bona fide factor must be applied reasonably, and explain the entire pay differential. The factor will not apply if it is demonstrated that there are alternative business practices that would serve the same business purpose without producing the wage differential.	No, employers may not ask job applicants about their salary history, including prior wages, salary, commission, benefits or any other current or previous compensation. Employers may verify and consider salary history if an applicant voluntarily, without prompting or coercion, provides the information. An employer may not use an applicant's refusal to volunteer salary history information as a consideration in hiring decisions. The law does not apply to internal transfers or promotions, when a federal law or regulation requires that salary history be disclosed, or when an employer is considering an incentive or commission component as part of the total compensation package.	No state law
<b>NM</b> New Mexico	Sex	Equal work on jobs which require equal skill, effort and responsibility, and which are performed under similar working conditions in the same establishment.	If pursuant to a seniority system; merit system; or system that measures earnings by quantity or quality of production.	No state law	No state law

Jurisdiction	Equal Pay Law Protected Class(es)	Type of Work Compared	Permissible Factors for Pay Differential	Salary History Inquiries Permitted?	Compensation Disclosure Requirements? (Includes Pay Reporting)
<b>NY</b> New York	Age, race, creed, color, national origin, sexual orientation, gender identity or expression, military status, sex, disability, predisposing genetic characteristics, familial status, marital status, and domestic violence victim status	(a) Equal work on a job, the performance of which requires equal skill, effort, and responsibility under similar working conditions in the same establishment, or (b) substantially similar work, when viewed as a composite of skill, effort, and responsibility, that is performed under similar working conditions in the same establishment. Employees are considered to work at the "same establishment" if they work for the same employer at workplaces located in the same geographical region, no larger than a county, taking into account population distribution, economic activity, and the presence of municipalities.	If pursuant to a differential based on: a seniority system; a merit system; a system which measures earnings by quantity or quality of production; or a bona fide factor other than status within one or more protected class or classes, such as education, training, or experience. Such factor: (i) shall not be based upon or derived from a differential in compensation based on status within one or more protected class or classes; and (ii) shall be job-related with respect to the position in question and shall be consistent with business necessity. Such exception shall not apply when the employee demonstrates: (1) that an employer uses a particular employment practice that causes a disparate impact on the basis of status within one or more protected class or classes; (2) that an alternative employment practice exists that would serve the same business purpose and not produce such differential; and (3) that the employer has refused to adopt such alternative practice.	The law prohibits employers from: (1) seeking, requesting, or requiring the wage or salary history from an applicant or current employee as a condition to be interviewed, or as a condition of continuing to be considered for an offer of employment, or as a condition of employment or promotion (also prohibits seeking an applicant or current employee's wage or salary history from other sources); (2) relying on an applicant's wage or salary history in determining whether to offer employment to, or in determining the wages or salary for, such individual; and (3) refusing to interview, hire, promote, otherwise employ, or otherwise retaliate against an applicant or current employee based upon prior wage or salary history, the refusal to provide the same, or because the individual filed a complaint with the department alleging a violation of the law. The law does not prevent an applicant or current employee from voluntarily, and without prompting, disclosing or verifying wage or salary history, including but not limited to for the purposes of negotiating wages or salary.	No state law
<b>NC</b> North Carolina	No state Equal Pay law; there is a general non-discrimination statute, but the statute does not specify prohibited practices.	N/A	N/A	No state law	No state law

Jurisdiction	Equal Pay Law Protected Class(es)	Type of Work Compared	Permissible Factors for Pay Differential	Salary History Inquiries Permitted?	Compensation Disclosure Requirements? (Includes Pay Reporting)
<b>ND</b> North Dakota	Gender	Comparable work on jobs in the same establishment that have comparable requirements relating to skill, effort, and responsibility.	Differentials that are paid pursuant to established seniority systems, systems that measure earnings by quantity or quality of production, merit systems, or a bona fide factor other than gender, such as education, training, or experience, and which do not discriminate on the basis of gender, are not within this prohibition.	No state law	No state law
<b>OH</b> Ohio	Race, color, religion, sex, age, national origin, or ancestry	Work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar conditions.	If pursuant to any of the following: a seniority system; a merit system; a system which measures earnings by the quantity or quality of production; a wage rate differential determined by any factor other than protected class.	No state law	No state law
<b>OK</b> Oklahoma	Sex	Comparable work on jobs that have comparable requirements relating to skill, effort, and responsibility. Differential must be willful.	Where such payment is made pursuant to a seniority system; a merit system; a system which measures earnings by quantity or quality of production; or a differential based on any factor other than sex.	No state law	No state law

Jurisdiction	Equal Pay Law Protected Class(es)	Type of Work Compared	Permissible Factors for Pay Differential	Salary History Inquiries Permitted?	Compensation Disclosure Requirements? (Includes Pay Reporting)
<b>OR</b> Oregon	Race, color, religion, sex, sexual orientation, national origin, marital status, veteran status, disability or age	Work of comparable character, which means work that requires substantially similar knowledge, skill, effort, responsibility and working conditions in the performance of work, regardless of job description or job title.	Employer decisions must be based on an enumerated set of bona fide factors other than protected class; namely, a seniority system, a merit system, a system that measures earnings by quantity or quality of production, workplace location, travel, education, training, or past experience or any combination of the factors listed, if the combination of factors accounts for the entire compensation differential. Exceptions exist for collective bargaining agreements and "system" is defined as a "consistent and verifiable method in use at the time" of the alleged violation. Also, it will not be a violation of the law for an employer to pay a different level of compensation to an employee who receives wages for modified work as a result of a medical condition, provided such was requested by the employee, authorized by the employer in a nondiscriminatory manner, and authorized by a medical professional.	No. An employer cannot seek salary history from an applicant or prior employer before an offer. An employer can confirm prior compensation after an offer that includes compensation, and with the written authorization of the prospective employee. An employer cannot screen job applicants based on current or past compensation or determine compensation based on current or past compensation.	No state law
<b>PA</b> Pennsylvania	Sex	Equal work on jobs, the performance of which require equal skill, effort, and responsibility, under similar working conditions in the same establishment.	If pursuant to a seniority system; a merit system; a system which measures earnings by quantity or quality of production; or a differential based on any other factor other than sex.	No state law	No state law
<b>PR</b> Puerto Rico	Sex	Comparable job functions or duties that require equal skill, effort, and responsibility, and are performed under similar working conditions.	If the result of: (1) a bona fide merit or seniority system, (2) a system which measures profits in terms of quantity or quality of the production, sales, or profits, (3) education, training, or experience if these factors are reasonably related to the specific job, or (4) any reasonable factor other than sex.	No. Employer cannot seek salary history from a prospective employee before an offer. If a prospective employee has voluntarily disclosed salary history information, the employer can confirm prior wages or salary or permit a prospective employee to confirm prior wages or salary.	No state law



Jurisdiction	Equal Pay Law Protected Class(es)	Type of Work Compared	Permissible Factors for Pay Differential	Salary History Inquiries Permitted?	Compensation Disclosure Requirements? (Includes Pay Reporting)
<b>RI</b> Rhode Island	Sex. Effective 1/1/2023, protected categories include race, or color, or religion, sex, sexual orientation, gender identity or expression, disability, age, or country of ancestral origin.	<p>Equal work or work on the same operations. Effective 1/1/2023, a “comparable work” standard will apply. Comparable work as defined under the amended Rhode Island law means work that requires substantially similar skill, effort, and responsibility, and is performed under similar working conditions. Determining whether jobs are comparable will require an analysis of the jobs as a whole. Minor differences in skill, effort, or responsibility will not prevent two (2) jobs from being considered comparable.</p>	<p>If based on seniority, experience, training, skill, or ability; duties and services performed, either regularly or occasionally; the shift or time of day worked; or availability for other operations or any other reasonable differentiation except difference in sex.</p> <p>Effective 1/1/2023, a wage differential is permitted when the employer demonstrates: (1) the systems are fair and are not being used as a pretext for an unlawful wage differential; (2) the differential is based upon one or more of the following factors: (i) a seniority system (but pregnancy-related disability or parental, family, and medical leave shall not reduce seniority); (ii) a merit system; (iii) a system that measures earnings by quantity or quality of production; (iv) geographic location when the locations correspond with different costs of living; (v) reasonable shift differential; (vi) education, training, or experience, if job-related and consistent with a business necessity; (vii) work-related travel, if regular and a business necessity; or (viii) a bona fide factor other than status within a protected class that is not based upon or derived from a differential in compensation based on protected class that is job-related with respect to the position in question; and that is consistent with business necessity. This factor shall not apply if the employee demonstrates that an alternative business practice exists</p>	<p>No state law. Effective 1/1/2023, employers must not: (1) rely on the wage history of an applicant when deciding whether to consider the applicant for employment; (2) require that an applicant’s prior wages satisfy minimum or maximum criteria; (3) rely on the wage history of an applicant to determine wages to be paid upon hire; or (4) seek the wage history of an applicant.</p> <p>However, after an employer makes an initial offer of employment with compensation, an employer may: (1) rely on wage history to support a wage higher than the wage offered by the employer, if wage history is voluntarily provided by the applicant for employment, without prompting from the employer; (2) seek to confirm the wage history of the applicant for employment to support a wage higher than the wage offered by the employer; and (3) rely on wage history in these circumstances to the extent that the higher wage does not create an unlawful pay differential based on a protected characteristic.</p> <p>Employers will not be penalized for having knowledge of employee’s wage history for employees currently working for the employer.</p> <p>Employers may also verify information voluntarily provided by a job applicant regarding unvested equity or deferred compensation that would be forfeited or canceled due to the applicant’s resignation from their current employer or any</p>	<p>Effective 1/1/2023, upon request, an employer must provide to a job applicant the wage range for the position for which the applicant applied. The employer <i>should</i> provide a wage range prior to discussing compensation. An employer must provide a current employee the wage range for the employee’s position; (1) at hire; (2) when the employee moves into a new position; or (3) upon the employee’s request.</p>

Jurisdiction	Equal Pay Law Protected Class(es)	Type of Work Compared	Permissible Factors for Pay Differential	Salary History Inquiries Permitted?	Compensation Disclosure Requirements? (Includes Pay Reporting)
<b>RI</b> Rhode Island CONTINUED			that would serve the same business purpose without producing the wage differential and that the employer has refused to adopt such alternative practice. (3) The factor(s) relied upon must reasonably explain the differential; or (4) Each factor is relied upon reasonably. An individual's wage history cannot, by itself, justify an otherwise unlawful wage differential. The new law also provides a "safe harbor" if the employer has done a self-evaluation of its pay practices within previous two years and eliminated any identified.	voluntary disclosure of non-wage related information.	
<b>SC</b> South Carolina	No state Equal Pay law; pay discrimination prohibited under non-discrimination statute	N/A	N/A	No state law	No state law
<b>SD</b> South Dakota	Sex	Comparable work on jobs in the same location that have comparable requirements relating to skill, effort, and responsibility, but not to physical strength.	If pursuant to established seniority systems, job descriptive systems, merit increase systems, or executive training programs, which do not discriminate on the basis of sex.	No state law	No state law
<b>TN</b> Tennessee	Sex	Comparable work on jobs in the same establishment, the performance of which require comparable skill, effort, and responsibility, and which are performed under similar working conditions.	If differentials based on a seniority system, a merit system, a system that measures earnings by quality or quantity of production, or any other reasonable differential that is based on a factor other than sex.	No state law	No state law
<b>TX</b> Texas	No state Equal Pay law; pay discrimination prohibited under non-discrimination statute	N/A	N/A	No state law	No state law
<b>UT</b> Utah	No state Equal Pay law; pay discrimination prohibited under non-discrimination statute	N/A	N/A	No state law	No state law

Jurisdiction	Equal Pay Law Protected Class(es)	Type of Work Compared	Permissible Factors for Pay Differential	Salary History Inquiries Permitted?	Compensation Disclosure Requirements? (Includes Pay Reporting)
<b>VT</b> Vermont	Sex	Equal work that requires equal skill, effort, and responsibility, and is performed under similar working conditions.	If pursuant to: a seniority system; a merit system; a system in which earnings are based on quantity or quality of production; or a bona fide factor other than sex. An employer asserting that differential wages are paid pursuant to this subdivision shall demonstrate that the factor does not perpetuate a sex-based differential in compensation, is job-related with respect to the position in question, and is based upon a legitimate business consideration.	No. Employers may not inquire about a prospective employee's compensation history, require past compensation meet minimum or maximum criteria, or screen an applicant based on their compensation history. If a prospective employee voluntarily discloses the information, an employer may confirm it after making an offer with compensation.	No state law
<b>VA</b> Virginia	Sex	Equal work on jobs the performance of which require equal skill, effort, and responsibility, and which are performed under similar working conditions at the same establishment.	If pursuant to a seniority system; a merit system; a system which measures earnings by quantity or quality of production; or a differential based on any other factor other than sex.	No state law	No state law
<b>WA</b> Washington	Gender	Employees who are similarly employed. The performance of the job requires similar skill, effort and responsibility, and the jobs are performed under similar working conditions; job titles alone are not determinative of whether employees are similarly employed.	Discrimination within the meaning of this section does not include a differential in compensation based in good faith on a bona fide job-related factor or factors that: Are consistent with business necessity; Are not based on or derived from a gender-based differential; and Account for the entire differential. More than one factor may account for the differential. Such bona fide factors include, but are not limited to: education, training, or experience; a seniority system; a merit system; a system that measures earnings by quantity or quality of production; or a bona fide regional difference in compensation levels.	No. Under the salary history ban, the law forbids employers from seeking the wage or salary history of an applicant for employment from the applicant or from the applicant's current or former employer, and requiring that an applicant's prior wage or salary history meet certain criteria. Employers, however, can confirm an applicant's wage or salary history if the applicant has voluntarily disclosed his or her wage or salary history; and may also confirm it after an offer (including compensation) has been negotiated with the applicant.	Upon request of an applicant for employment after the employer has initially offered the applicant the position, the employer must provide the minimum wage or salary for the position for which the applicant is applying. Upon request of an employee offered an internal transfer to a new position or promotion, the employer must provide the wage scale or salary range for the employee's new position. If there is no wage scale or salary range for the position, "the employer must provide the minimum wage or salary expectation set by the employer prior to posting the position, making a position transfer, or making the promotion."

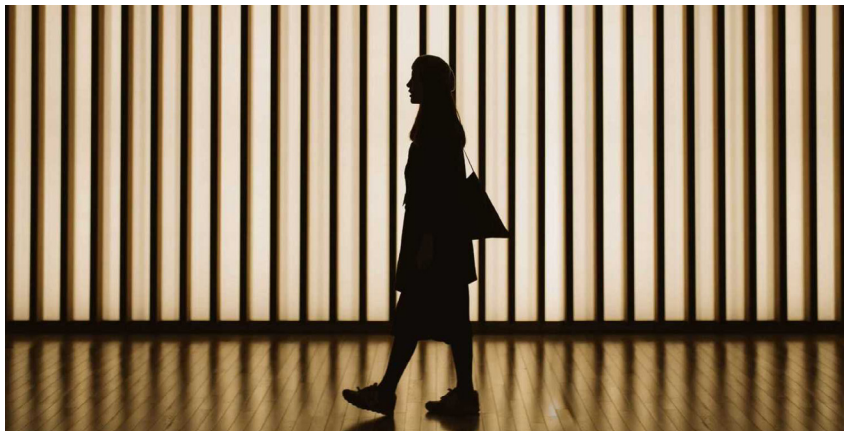
Jurisdiction	Equal Pay Law Protected Class(es)	Type of Work Compared	Permissible Factors for Pay Differential	Salary History Inquiries Permitted?	Compensation Disclosure Requirements? (Includes Pay Reporting)
<b>WV</b> West Virginia	Sex	Work of comparable character, the performance of which requires comparable skills.	If payment is made pursuant to a seniority or merit system which does not discriminate on the basis of sex, or if a differential in wages between employees is based in good faith on factors other than sex.	No state law	No state law
<b>WI</b> Wisconsin	No state Equal Pay law; pay discrimination prohibited under non-discrimination statute	N/A	N/A	Yes. State law prohibits local jurisdictions from enacting salary history ban laws.	No state law
<b>WY</b> Wyoming	Sex	Work that requires equal skill, effort, and responsibility, and which is performed under similar working conditions in the same establishment.	If pursuant to: a seniority system; a merit system; a system which measures earnings by quantity or quality of production; or a differential based on any other factor other than sex.	No state law	No state law
Federal Rule	Sex	For employees in the same establishment, equal work on jobs the performance of which require equal skill, effort, and responsibility, and which are performed under similar working conditions.	If pursuant to a seniority system; a merit system; a system which measures earnings by quantity or quality of production; or a differential based on any other factor other than sex.	No federal law. The Ninth Circuit has held that prior salary, alone or in combination with other factors, cannot justify a wage differential under the Equal Pay Act because prior salary is not job-related. The court stated that an employer may not rely on prior salary to set initial wages. <i>Rizo v. Yovino</i> , 887 F.3d 453 (9th Cir. 2018). This decision is a departure from those of other federal circuits, which have held that, while employers may not rely on salary history alone to support a wage differential, they may do so if prior salary is considered among other factors. On 7/2/20, the Supreme Court declined to review this Ninth Circuit decision.	No federal law

# Additional Resources

## Pay Equity Guide

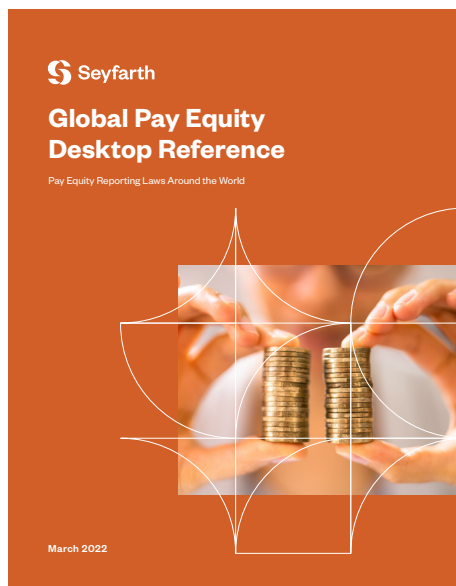


## Pay Equity Issues & Insights Blog



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## Global Pay Equity



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