

Evolving Pay Equity and Pay Transparency Laws: What to Know and What to Do

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- Navigating the legal framework—state and federal laws
 - Salary history bans
 - Pay transparency laws
 - Pay data reporting requirements
- Best practices for conducting a pay audit
 - Important privilege considerations
 - Understanding and addressing concerns before litigation or reporting obligations arise

Evolving Pay Equity Issues and Risks

- Ever-changing patchwork of state and local laws
 - External pressures
 - Activist shareholders
 - Fair pay pledges
 - High profile class action litigation
- Internal pressures
 - Affinity groups requesting pay data
 - Employees engaging in protected concerted activity
- Disclosure
 - New state requirements and more to come?
 - Pay transparency requirements for federal contractors

The Legal Framework

Before We Get Started: Defining Terms

Pay Gap

Working men earning more on average than working women, *without considering type of role, job, or level*

Pay Equity

Men and women performing *equal or substantially similar work* being paid equally

Pay Discrimination

Women being paid less than men *based on sex*

Federal Pay Equity Laws

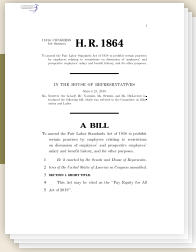
Federal Equal Pay Act

“No employer...shall discriminate, ***within any establishment***...between employees on the basis of sex by paying wages to employees...at a rate less than the rate at which he pays wages to employees of the opposite sex...***for equal work*** on jobs the performance of which requires ***equal skill, effort, and responsibility***, and which are performed ***under similar working conditions***.”

–29 U.S.C. § 206

- Defense: The pay difference is based on:
 - a seniority system;
 - a merit system;
 - a system that measures earnings by quantity or quality of production; or
 - “a differential based on any other factor other than sex.”

Equal Pay Act v. Title VII



Federal Equal Pay Act

- Must show a wage disparity between comparator groups within an “establishment”
- Applies only to gender
- No intent required
- Usually no punitive damages (but liquidated damages are available)
- No conciliation or exhaustion requirements

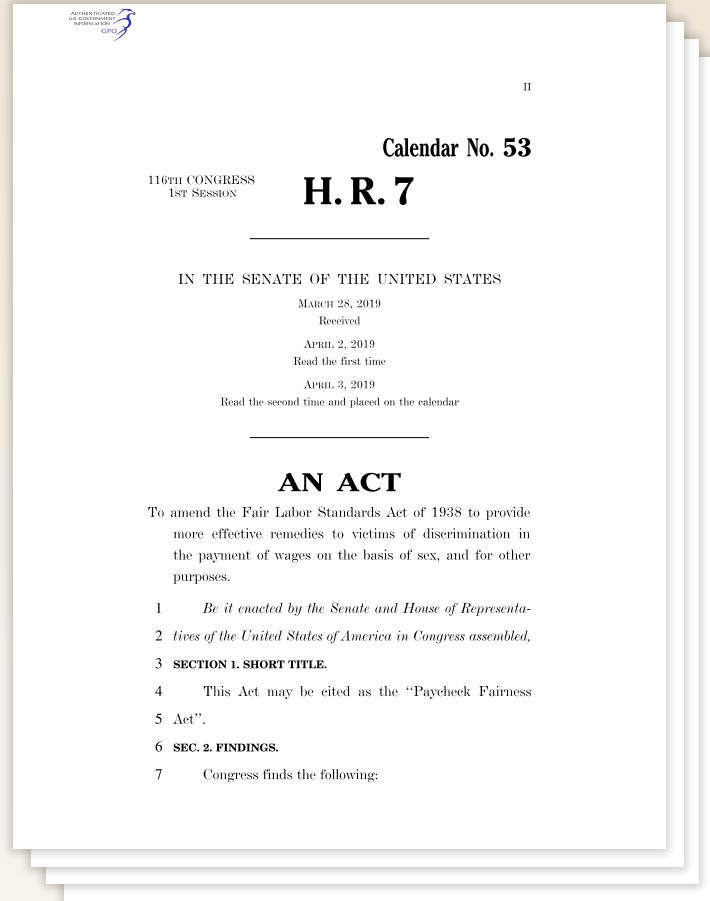
vs.

Title VII



- Must show either (1) disparate treatment or (2) disparate impact
- Similarity of jobs more relaxed than EPA—can reach comparable jobs, not just equal work
- Not limited to jobs at a single “establishment”
- Applies to discrimination against all protected groups, including discrimination based on race, religion, color, and national origin
- Proof of intent is required for disparate treatment claims
- Punitive damages available

The Paycheck Fairness Act—Pending



Passed House 3/27/2019; introduced again 1/28/2021 and passed in the House on April 15, 2021. If signed into law, would:

- Restrict the use of the bona fide factor defense (in line with many state counterparts; e.g., California, New York, Illinois)
- Eliminate the availability of the defense where an employee can show that an employer refused to adopt an existing alternative business practice to serve the same business purpose without producing any pay differential
- Enhance the non-retaliation prohibitions for discussing salary with co-workers
- Increase civil penalties
- Prohibit employers from relying on prior salary history
- Make it unlawful to require an employee to sign NDA re wages
- Establish EEOC grant program for negotiation skills training programs and studies to address gender pay gap
- Create awards for employers who make “substantial effort” to eliminate pay disparities

The Paycheck Fairness Act—Support From the Administration



THE BIDEN AGENDA FOR WOMEN

He strongly supports Senator Patty Murray and Congresswoman Rosa DeLauro's Paycheck Fairness Act, which codifies and expands critical Obama-Biden protections for workers' paychecks. He will build on it as President and protect workers against retaliation for discussing wages. Today, one in four private-sector workers are in a workplace where they can't talk about their current wage rate with other employees without fear of retribution from their employers.

Status of EEO-1 Component 2?

EEO-1 Component 2 Data:

Aggregated employee wage and hours worked data, categorized by EEO-1 classification, race, ethnicity, and sex



2016

Obama Administration requires employers to report pay data to EEOC

2017

Trump Administration reverses

2019

Following litigation, court compels EEOC to collect pay data

2020

EEOC declines to continue collection until further study, expected to conclude in 2022



Nov. 2019

OFCCP would not “request, accept, or use Component 2 data, as it [did] not expect to find significant utility in the data given limited resources and [the data’s] aggregated nature.”

Sept. 1, 2021

OFCCP rescinds November 2019 notice as “premature and counter to the agency’s interests in ensuring pay equity.” OFCCP will evaluate the data’s utility, “because the joint collection and analysis of compensation data could improve OFCCP’s ability to efficiently and effectively investigate potential pay discrimination.”

**Know Your State Laws Too—
It's A Lot To Keep Up With**

State and Local Pay Equity Laws

- Differences in coverage and definitions
 - Protected classes—not just sex and gender; race and other protected classes in some states
 - Comparison group—“substantially similar work”
 - Some states do not require comparators to work in the “same establishment” or have different definitions of the establishment
- Limited defenses, increased burdens of proof
- Salary history bans
- Pay transparency
- Emerging reporting requirements

Know Your State Equal Pay Laws Too—Who Is a Comparator?



District of Columbia: No separate pay equity law; D.C. Human Rights Act states that it “shall be an unlawful discriminatory practice to discriminate against any individual with respect to his compensation based upon his actual or perceived sex, or gender identity or expression.” (D.C. Code § 2-1402.11(a)(1))



Maryland: Equal pay for work in the same establishment (**defined as the same county**) that is “work of comparable character or work on the same operation, in the same business, or of the same type.” (Md. Code Ann., Lab. & Empl. §3-304(b))



Virginia: Equal pay for “equal work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions.” (Va. Equal Pay Statute, Va. Code Ann. §40.1-28.6)

Other State Laws to Watch*



California: Equal pay for "substantially similar work, when viewed as a composite of skill, effort, and responsibility, and performed under similar working conditions." (Cal. Lab. Code § 1197.5(a))



Connecticut: Effective October 1, 2021 "comparable" work is viewed as a "composite of skill, effort and responsibility under similar working conditions." (HB No. 6380)

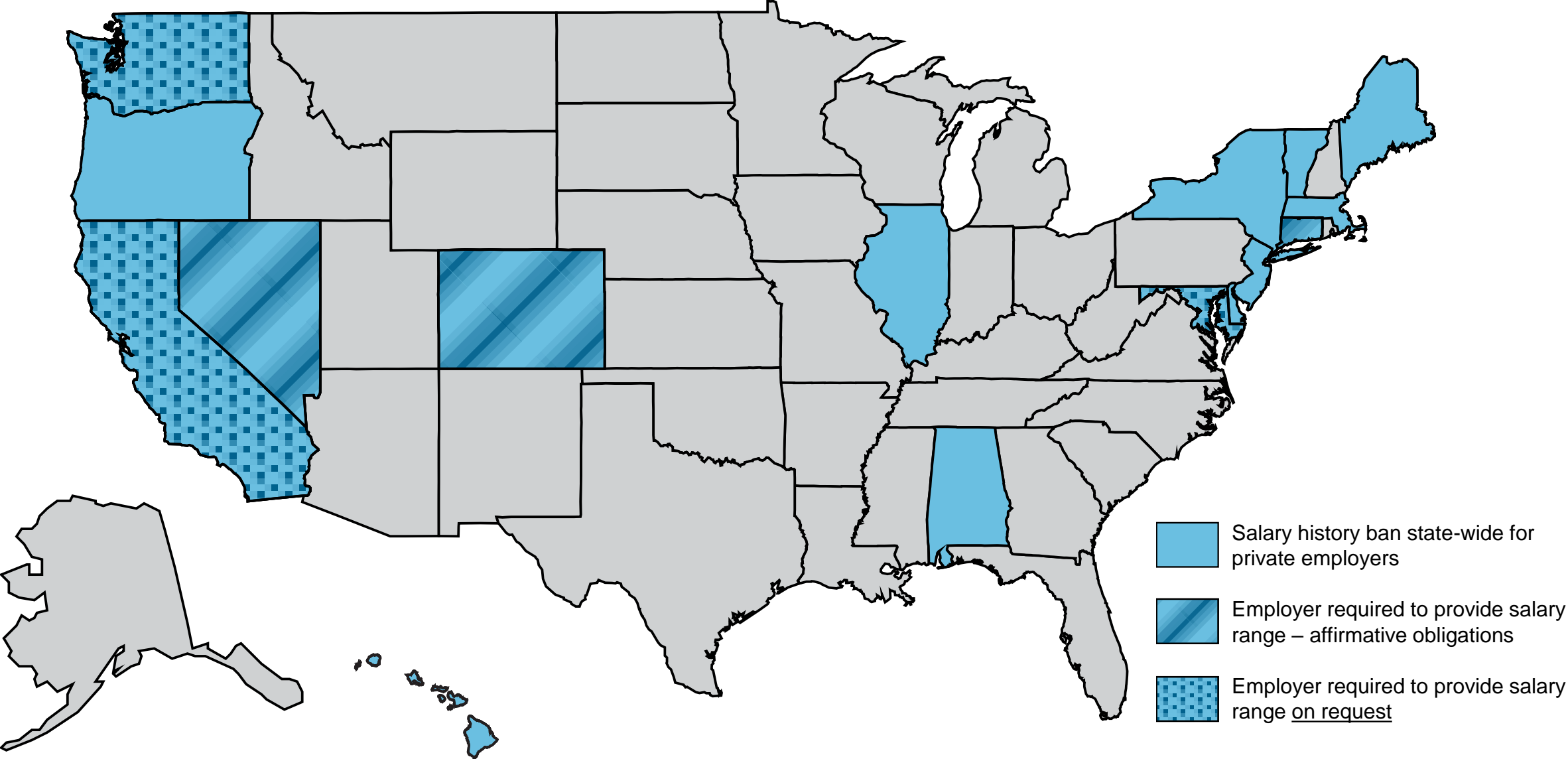


Illinois: Employees must receive equal pay "for the same or substantially similar work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions." (820 Ill. Comp. Stat. 112/10(a))

**See Appendix for further detail*

State Salary History Bans

State Laws—Salary History Bans and Pay Transparency



State Laws—Salary History Bans

- Ban from inquiring about prior salary history candidates for hire before extending offer of employment
- Salary history bans for private employers enacted in:
 - Alabama
 - California
 - Colorado
 - Connecticut
 - Delaware
 - Hawaii
 - Illinois
 - Maine
 - Maryland
 - Massachusetts
 - Nevada
 - Oregon
 - Puerto Rico
 - Rhode Island (effective Jan. 1, 2023)
 - Vermont
 - Washington
 - & numerous localities

State Laws—Salary History Bans



District of Columbia: No law for private employers (district agencies have been prohibited from asking salary history since 2017)



Maryland: Yes, banned. (Wage History and Wage Range, H.B. 123)



Virginia: No law for private employers (state agencies have been prohibited from asking salary history since 2019)

Practical Issues:

- For nationwide employers, do you have one policy or a state specific one?
- What are the pros/cons of inquiring about salary expectations?



POLL 1: Does your company ask salary expectations?

- Yes!
- No!
- Not as a policy, but it definitely happens.
- We're still asking about prior salary.
Is that bad?

Poll 1 Results

Practical Issues:

- Can you ask about “salary expectations”?
- Generally, yes
 - Explicitly legal under Illinois and Nevada laws.
- BUT, Plaintiffs are starting to challenge!
 - See *Jewett v. Oracle*, Case No. 17CIV02669, Superior Court of California (San Mateo), *Plaintiffs’ Memorandum of Points and Authorities in Opposition to Oracle’s Motion for Decertification*, at 12:
 - “Oracle continued to ask job applicants about ‘pay expectations,’ thus obtaining information about prior pay indirectly.”

State Pay Transparency Laws

State Pay Transparency Laws



District of Columbia: An employer shall not require, as a condition of employment, that an employee refrain from inquiring about, disclosing, comparing, or otherwise discussing the employee's wages or the wages of another employee; or discharge, discipline, interfere with, or otherwise retaliate against an employee who inquires about, discloses, compares, or otherwise discusses the employee's wages or the wages of another employee or is believed by the employer to have done so. D.C. Code. § 32-1452(1)-(2).



Maryland: An employer may not prohibit an employee from inquiring about, discussing, or disclosing the wages of the employee or another employee; or requesting that the employer provide a reason for why the employee's wages are a condition of employment. Md. Code Ann., Lab. & Empl. § 3-304.1(a)(1). An employer may not require an employee to sign a waiver or any other document that purports to deny the employee the right to disclose or discuss the employee's wages; or take any adverse employment action against an employee for inquiring about another employee's wages; disclosing the employee's own wages; discussing another employee's wages if those wages have been disclosed voluntarily; or asking the employer to provide a reason for the employee's wages. Md. Code Ann., Lab. & Empl. § 3-304.1(a)(2)-(3).



Virginia: No employer shall discharge from employment or take other retaliatory action against an employee because the employee (i) inquired about or discussed with, or disclosed to, another employee any information about either the employee's own wages or other compensation or about any other employee's wages or other compensation or (ii) filed a complaint with the Department alleging a violation of this section. Code of Virginia § 40.1-28.7:9.

Disclosure Requirements*



District of Columbia: No disclosure requirement.



Maryland: Wage History and Wage Range, H.B. 123 (effective Oct. 1, 2020)

“On request, an employer shall provide to an applicant for employment the wage range for the position for which the applicant applied.”

“An employer may not retaliate against or refuse to interview, hire, or employ an applicant for employment because the applicant...requested the wage range in accordance with this section for the position for which the applicant applied.”

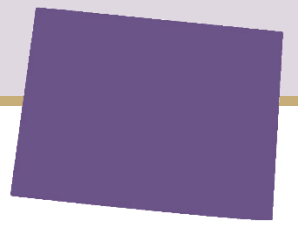
“Wage range” is not defined.



Virginia: No disclosure requirement.

**See Appendix for further detail*

New Developments: Colorado



Colorado: *Effective Date January 1, 2021*

- “An employer is required to ‘disclose in each posting for each job the hourly or salary compensation, or a range of hourly or the salary compensation, and a general description of all of the benefits and other compensation to be offered to the hired applicant.’” C.R.S. s. 8-5-201(2).
- “Employers must include the following compensation and benefits information:
 - (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, including health care benefits, retirement benefits, any benefits permitting paid days off (including sick leave, parental leave, and paid time off or vacation benefits), and any other benefits that must be reported for federal tax purposes, but not benefits in the form of minor perks.” 7 CCR 1103-13, Rule 4.1.1.
- Must also post for promotions. 7 CCR 1103-13, Rule 4.2.

THE WALL STREET JOURNAL.

Many Companies Want Remote Workers—Except From Colorado

After a new state law that requires employers to disclose salaries for open positions, some are advertising jobs available anywhere in the U.S. but Colorado



By Edward Ongweso Jr

May 26, 2021, 9:00am

Why Corporations Won't Hire Remote Workers in Colorado

New Developments: Connecticut



Connecticut, An Act Concerning the Disclosure of Salary Ranges, HB No. 6380

Effective Date October 1, 2021

- Prohibits Connecticut employers from:
 - Failing or refusing to 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) before or at the time the applicant is made an offer of compensation; or
 - Failing or refusing to provide an 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.
- The Act defines "wage range" as "the range of wages an employer anticipates relying on when setting wages for a position."
- "Wage range" "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."
- Violations of the Act are enforced by a private right of action for employees or applicants for employment, who can claim within two years of a violation in order to recover compensatory damages, attorney's fees and costs, and punitive damages.

State Pay Data Reporting Requirements

New Developments: California Reporting Requirements



California SB 973 *Effective Date January 1, 2021*

- Requires covered employers to report EEO-1 information
- Requires covered employers to report the number of employees by race, ethnicity, and sex whose annual earnings fall within each of the pay bands used by the United States Bureau of Labor Statistics in the Occupational Employment Statistics survey, using W-2 information
- Requires covered employers to report the total number of hours worked by each employee in each pay band
- Required to file a report for each establishment, as well as a consolidated report
- DFEH empowered to oversee the collection of pay data and to share information of alleged pay discrimination with the agency responsible for enforcing the California Equal Pay Act, the Division of Labor Standards Enforcement (DLSE)

See *also* [Paul Hastings LLP - DFEH Launches Pay Data Reporting Portal and Issues Additional FAQs in Advance of the March 31 Reporting Deadline](#)

New Developments: Illinois Reporting Requirements



Illinois Public Act 101-0656 *Effective Date March 23, 2024*

- Must obtain an “Equal Pay Registration Certificate” from the Illinois Department of Labor every two years:
 - Send its most recent EEO-1 report to IDOL for each county in which the employer has employees or facilities
 - Submit a statement signed by a corporate officer, legal counselor, or authorized agent, certifying compliance with equal pay laws and providing information about the company’s compliance efforts, and wage setting metrics.
- An employer that fails to obtain the certificate or whose certificate is revoked or suspended is subject to a **substantial** penalty: 1% of the employer’s gross profits.
- Must submit individual employee pay data with the written statement, organized by gender and the race and ethnicity categories used in most recently-filed EEO-1 report, and must include “the total wages . . . paid to each employee during the past calendar year[.]”
- The Director of Labor can also audit employer compliance with this new requirement.

See also: [Paul Hastings LLP - Illinois Employment Law Update: Greater Scrutiny of Employer Pay Practices, Mandated Disclosure of Diversity Statistics, and Expanded Opportunities for People with Convictions](#)

Pay Equity Studies

At the Beginning

A pay equity study is a:

- Self-critical analysis of pay outcomes at one point in time
- Used to identify unexplained gender/race/ethnicity-based disparities after accounting for legitimate factors
- *Pay Gap Analysis*: Generally reported as cents on the dollar difference across the company

Before beginning, know this:

- Results are generally unpredictable
- Results will generally reveal some unexplained gaps
- Do not commit until leadership is committed

Before beginning, consider this:

- Will a pay gap/cents on the dollar analysis also be done?
- Will one/both be conducted under the privilege?
- Will the results of one/both be made public?

Pay Equity Study—What Are Employers Doing?



Poll 2: Does your company conduct pay equity studies? How often?

1. Yes—we do constant, proactive monitoring.
2. Yes—we conduct an annual audit in conjunction with annual adjustments and pay planning.
3. Sort of—we've done this once or twice over the years.
4. No—we want to, but haven't done one yet.
5. No—and we aren't planning to any time soon.
6. No—but we have done pay gap/cents on the dollar analyses.

Pay Equity Study—Privileged or Not?



Poll 3: If you answered yes to any of the previous questions, are your pay equity studies conducted under the privilege, or do you make them public?

1. Public—we put out a media release because we want to be 100% transparent.
2. Public—but we've buried the results in a disclosure report; we don't want the publicity.
3. Privileged—and we have not reported anything.
4. Both—we report cents on the dollar results, but full pay equity study results stay privileged.
5. Both—sometimes we report and sometimes we keep everything privileged; depends on the results.
6. N/A—never done one.

Poll 2 Results

Poll 3 Results

If you are intending to keep a pay analysis or audit privileged, be vigilant from the outset!

- Attorney-client privilege: Confidential communication for purposes of Legal Advice
- Privilege does not protect ordinary business process
- Always assume it will be challenged

Not to Scare You, But...

Actual Requests for Production in pay discrimination class action when Plaintiffs knew about the existence of a pay equity review and report:

- ALL COMMUNICATIONS to or from [head of compensation] RELATING TO THE REPORT.
- ALL COMMUNICATIONS to or from [head of compensation] RELATING TO the origination of THE REPORT.
- ALL COMMUNICATIONS to or from [head of compensation] RELATING TO the results of THE REPORT.
- ALL COMMUNICATIONS to or from [head of human resources] RELATING TO THE REPORT.
- ALL COMMUNICATIONS to or from ANY member(s) of the Board of Directors RELATING TO THE REPORT.
- The minutes, agenda and slide decks from ANY meeting during which THE REPORT was discussed.
- ANY and ALL written agreement(s) between YOU and [third party consultant who prepared the report] RELATING TO THE REPORT.
- ALL DOCUMENTS that provide an evidentiary basis for withholding THE REPORT on attorney-client privilege grounds.
- ALL DOCUMENTS reflecting business actions taken by YOU as a result of THE REPORT.

And Then There Could Be This...

Actual Interrogatories in pay discrimination class action when Plaintiffs knew about the existence of a pay equity review and report:

- Identify the person(s) (including name, title, company, business unit, and whether each is a practicing lawyer) who asked for THE REPORT to be conducted.
- For what purpose was THE REPORT requested?
- What business unit(s) did THE REPORT analyze?
- What business actions were taken as a result of THE REPORT?
- List ALL individuals (including name, title, business unit, and whether each is a practicing lawyer) who received, at any time, THE REPORT.
- Were the results of THE REPORT communicated to YOUR Board of Directors?
- Is/was THE REPORT stored electronically on YOUR server(s) and/or in a network-accessible drive or cloud-storage location?
- Describe [head of compensation]'s involvement with THE REPORT.
- Describe [lead in-house employment lawyer]'s involvement with THE REPORT.
- Identify the individual(s) at [third party consulting firm] (including name, title, and whether each is a practicing lawyer) with responsibility for THE REPORT.
- Does THE REPORT contain a statement regarding the purpose of THE REPORT? (If so, please include the statement verbatim in your response.)
- Does THE REPORT contain a statement regarding the objectives of THE REPORT? (If so, please include the statement verbatim in your response).

Protecting Privilege—Best Practices

- *Attorney* retention of experts
- Clear communication protocols
 - Consider how you might be sharing the results from the outset
 - Be careful about uploading to internal servers or shared sites
- Clearly defined team
 - Be able to track, and limit, who is participating
- Pay attention to cyber-security issues

Example of a Recent Public Statement



A core aspect of Salesforce's culture is our deep commitment to equality, which guides everything we do. That's why in 2015, Salesforce made a commitment to equal pay for equal work. Since then, the company has evaluated pay on an ongoing basis to address any gaps among gender and race.

Today, we've completed our FY21 compensation planning process, which included an equal pay assessment of our 50,000 employees (excluding Tableau employees, which completed its own assessment). The assessment found seven percent of employees required equal pay adjustments. Of those who received an adjustment, 96% were due to unexplained differences among genders, and in the U.S., four percent were due to unexplained differences across race and ethnicity.

As a result, we spent \$2.1 million to address any unexplained differences in pay, totaling more than \$12 million spent to date to ensure our global workforce is paid fairly. Our work with equal pay will never be done. We'll continue to iterate on our processes, tools, and practices as we continue to grow our workforce and evolve our business.

[2020 Salesforce Equal Pay Update - Salesforce News](#)

Pay Equity Study – Questions to Consider

Who will you study?

- US-based only, or beyond?
- Bargained unit employees?
- Sales employees?
- Executives?
- Student interns, contractors?

When to study?

- Merit pay/performance rating cycle?
- Potential or pending litigation?
- Disclosure obligations?
- OFCCP compliance review?
- Other corporate events
(Acquisitions, divestitures, reductions in force, reorganizations?)

What pay will you study?

- Base salary/wages?
- Bonuses?
- Commissions?
- Equity?

What should you include in your study?

- Include factors other than the protected characteristics being studied that could lawfully explain pay differentials.

Pay Equity Study – Questions to Consider

What should you potentially include in your study?

Job information

- Job family group
- Job family
- Job grade/band
- Job code

Employee information

- Does the employee manage others
- Number of reports
- Level (how far from CEO?)
- Geographic location
- Years worked at employer (consider years in position)
- Years of prior relevant experience

Education

- Level (years of schooling)
- Type (major, certificate, degree)

Experience

- Firm specific experience (grade, job, other experience)
- Prior work experience (at level, other professional experience, unrelated experience)
- **Performance?**
- **Starting pay?**
- **Acquisition?**

What Will You Do With the Results?

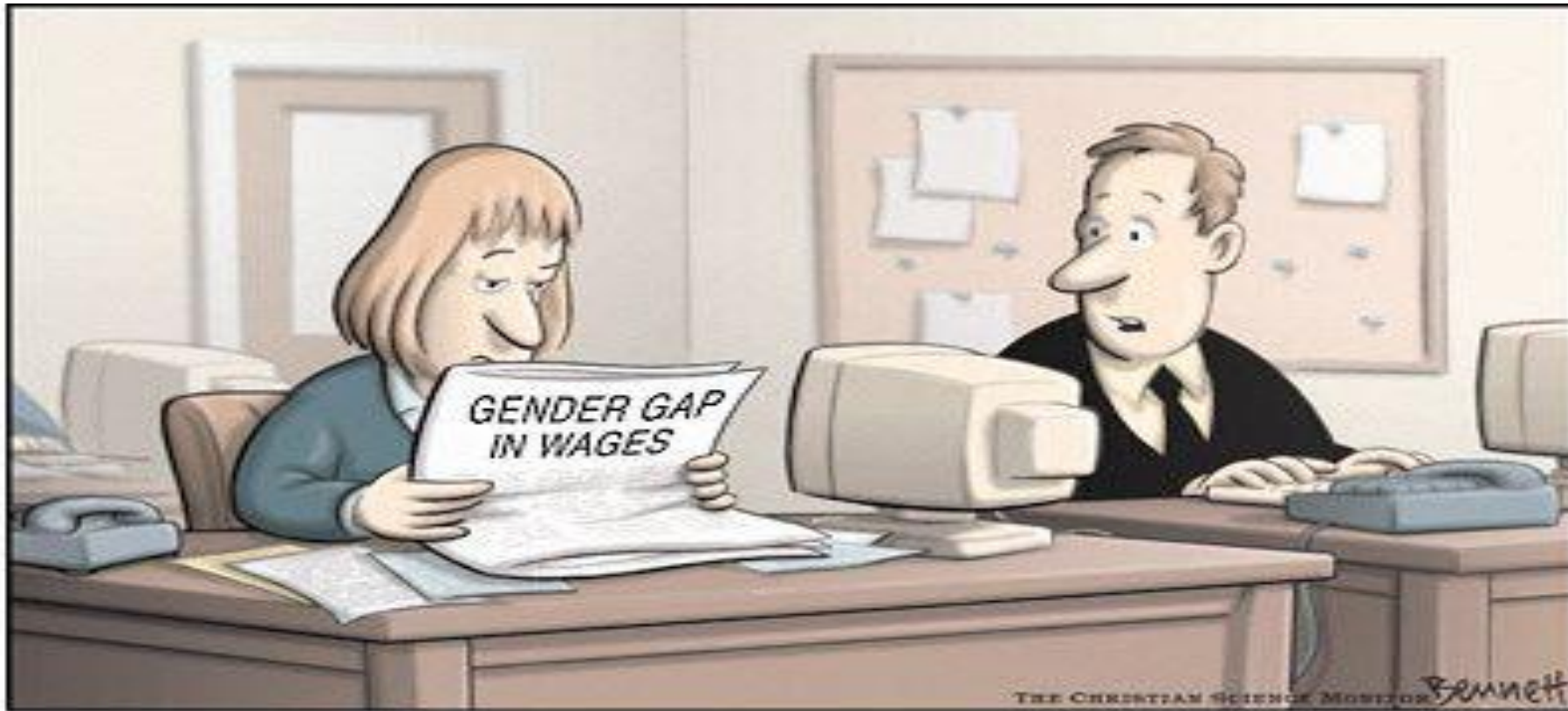
How will you address the results?

- Looking for patterns or pockets of adverse outcomes?
- Fix outliers? Move the curve?
- What are your budget limits?
- Can you do reductions?
- Can you red-circle?

Possible rules of the road

- Need to preserve legitimate pay differences reflecting legal factors.
- No adjustments to employees on PIPs.
- Adjust employees to at least the minimum for pay range.
- Establish minimum/maximum increase amounts.
- No adjustments to employees above “predicted” pay.

Q&A



'Three-fourths of a penny for your thoughts...'

Appendices

Appendix 1—Pay Discrimination Laws

Comparators

Title VII	Equal Pay Act	New York	California	Maryland
<p>Must be <u>equal</u> or <u>similarly situated</u>, i.e., “jobs that require substantially equal skill, effort and responsibility, and that are performed under similar working conditions within the same establishment.”</p> <p>Includes sex, race, religion and national origin.</p>	<p>Must perform <u>equal work</u> in jobs that require equal skill, effort and responsibility, and are carried out under similar working conditions.</p>	<p>Must perform “<u>substantially similar work</u>, when viewed as a <u>composite of skill, effort and responsibility</u>, and performed under similar working conditions.”</p>	<p>Must perform work of a “<u>comparable character or work on the same operation, in the same business or of the same type</u>,” which has been interpreted to align with Title VII's similarly situated standard.</p> <p>Includes <u>gender-identity</u>.</p>	

Appendix 1—Pay Discrimination Laws

Geographic Scope

Title VII	Equal Pay Act	New York	California	Maryland
Establishment or broader	Establishment	Establishment, including workplaces located in “same geographical region” (but no larger than a county) taking into account population distribution, economic activity, and/or presence of municipalities.	Establishment or broader, but employer can still use "geographic location" as a defense subject to the requirements for establishing a "bona fide factor other than sex."	Establishment, including workplaces in the same county

Appendix 1—Pay Discrimination Laws

Affirmative Defenses

Title VII	Equal Pay Act	New York	California	Maryland
(1) seniority; (2) merit; (3) quantity or quality of production; or (4) factor other than sex.		(1) seniority; (2) merit; (3) quantity or quality of production; or (4) a bona fide factor other than sex, such as education, training, or experience.	Same as NY, but must also show factor is <u>reasonably applied</u> and accounts for the <u>entire pay difference</u> .	Same as CA and NY, but also: (1) a job that requires different skills or abilities; (2) jobs that require the regular performance of different duties or services; (3) work that is performed on different shifts or at different times of day.
Must demonstrate that <u>challenged practice</u> is job related and consistent with business necessity.		<u>Bona fide factor other than sex</u> must be: (1) not based on or derived from a sex-based differential in compensation; (2) job-related to the position at issue; and (3) consistent with business necessity.		Same as CA
Rebut by showing an alternative practice exists that would have comparable business utility and less adverse impact.	Rebut by showing defendant's reasons are actually a pretext.	Bona fide factor defense not allowed if employee shows: (1) employment practice that causes a disparate impact on basis of sex; (2) alternative employment practice exists that would serve same purpose without causing disparate impact; and (3) employer refused to adopt alternative practice.	Bona fide factor defense not allowed if employee demonstrates alternative business practice exists that would serve same business purpose without producing wage differential.	Rebut by showing defendant's reasons are actually a pretext.

Appendix 2—State Transparency Laws

State	Required or Upon Request Only	Definition of Wage Range	Effective Date
California	Upon “reasonable request”	Pay scale for the position	January 1, 2016
Colorado	Required— <i>in the job posting</i>	Must disclose compensation and benefits, an hourly rate or salary compensation (or range thereof), and a description of any bonuses, commissions, or other forms of compensation being offered for the job; all employment benefits. Obligations apply to promotions too	January 1, 2021
Connecticut	Required—earliest of the request or before the applicant is made an offer	“The range of wages an employer anticipates relying on when setting wages for a position,” “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”	October 1, 2021

See California AB-168; Colorado Wage Act, Connecticut HB No. 6380

Appendix 2—State Transparency Laws

State	Required or Upon Request Only	Definition of Wage Range	Effective Date
Maryland	Upon request only	Wage range (not defined)	October 1, 2020
Nevada	Required, upon completion of an interview or application for promotion or transfer	“Wage or salary range or rate for a promotion or transfer to a new position.” “Wage or salary history” “means the wages or salary paid to an applicant for employment by the current or former employer of the applicant. The terms includes...any compensation and benefits...”	October 1, 2021
Washington	Upon request only	“Minimum wage or salary for the position for which the applicant is applying;” or “wage scale or salary range for [existing] employee’s new position.” “If no wage scale or salary range exists, the employer must provide the minimum wage or salary expectations set by the employer prior to posting the position, making a position transfer, or making the promotion.”	July 28, 2019

See Maryland Wage History and Wage Range, H.B. 123, Nevada SB 293, Washington H.B. 1696



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Carson Sullivan is a partner in the Employment Law practice of Paul Hastings and is the chair of the Washington, D.C. Employment Law Department. Ms. Sullivan represents employers in all aspects of employment law, with an emphasis on the defense of class and collective action suits. She also has a particular focus on litigation involving trade secrets and restrictive covenants. She is a member of the firm's Employee Mobility and Trade Secrets practice group as well as the Pay Equity practice group. She focuses on legal issues and cutting-edge trends relating to pay equity, social media and electronic discovery. She uses her electronic discovery expertise and experience with employee data to counsel clients and lead teams as they identify, locate, collect and produce electronically stored information in complex cases. Ms. Sullivan is particularly skilled at developing strategies for the efficient review and production of data from all sources, including e-mail systems, document management systems, and human resources databases. She has also conducted numerous investigations involving allegations against executives, and she works with clients to develop and deliver anti-harassment training to employees at all levels.

Since the onset of the COVID-19 crisis, Ms. Sullivan has been speaking, writing, and advising numerous clients regarding the many employment-related issues stemming from the pandemic, including issues related to government guidance, orders, regulations, vaccines and return-to-work planning. She is also a member of the Paul Hastings COVID-19 Task Force, participating in a multidisciplinary approach to addressing the legal issues presented by COVID-19.



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Sarah Besnoff is a Senior Associate in the Washington, D.C. Employment Law Department. She represents employers in all aspects of employment law, with an emphasis on the defense of wage and hour and employment discrimination class action suits, and executive compensation and corporate governance disputes. Ms. Besnoff also counsels employers on all aspects of the employer-employee relationship, and conducts investigations, advises on human rights and ESG issues, and complex COVID-19 matters. Ms. Besnoff serves as the associate chair of the DC Office's Pro Bono Committee. In her own pro bono practice, Ms. Besnoff advises non-profits on a range of employment issues and litigation matters; Ms. Besnoff won a class-wide judgment valued at hundreds of millions on behalf of Vietnam Blue Water Veterans and their families.

THE AMERICAS

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Evolving Pay Equity and Pay Transparency Laws: What to Know and What to Do

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