



FREQUENTLY ASKED QUESTIONS ... Oregon's Equal Pay Act

August 2018

Who is covered by Oregon's Equal Pay Act of 2017?

Everyone. You may not be discriminated against based upon your belonging to any protected class.

Protected class is defined as a group of persons distinguished by race, color, religion, sex, sexual orientation, national origin, marital status, veteran status, disability or age.

What does equal or fair pay mean?

It means that equal or fair wages, salary and fringe benefits must be paid to employees who are doing comparable work. It is not the same as the job description or title.

What does work of "comparable character" mean?

It is impossible to give a specific answer to this question. Generally, it means work that requires substantially similar knowledge, skill, effort, responsibility and working conditions in the performance of the job. Working conditions include the work environment, hours, time of day, physical surroundings and any potential hazards involved with the job. The job description or title does not matter when determining work of comparable character.

What are valid reasons for paying different salaries/wages?

The law provides that employers may pay employees for work of comparable character at different compensation levels if all of the difference in compensation levels is based on a bona fide factor that is related to the position and is based on:

- Seniority;
- Merit;
- Quantity or quality of production;
- Workplace location;
- Necessary and regular travel;
- Education;
- Training;
- Experience; or
- Any combination of these factors, if they account for the entire difference.

Does the equal pay law include fringe benefits?

Yes.

Can a job application ask for salary/wage history?

No. An employer can only ask for salary/wage history after a job offer has been made that includes an amount of compensation.

Can the job applicant's salary/wage history be asked during an interview?

No. An employer can only ask for salary/wage history after a job offer has been made that includes an amount of compensation.

Can I ask about the salary of an open position during the interview?

Yes. And, employers can also ask you about your salary expectation for the open position. But, employers cannot ask or use your salary history.

Can an employee ask the employer how much another person makes?

Yes, but this is not addressed in the law.

Can an employer punish us if my coworkers and I share information about our wages?

No.

Can an employer determine compensation for a position based on current or previous compensation if the employee is transferring or moving to another position with the same employer?

Yes.

Does the law cover workers in Oregon employed by companies headquartered in other states?

Yes.

Can an employer reduce compensation in order to comply with this law?

No.

To learn more, check out AAUW's helpful resources at www.fightforfairpay.org.

Are employers required to post a notice about Oregon's equal pay law in the workplace?

Yes. Oregon employers are required to post the Equal Pay poster at each work site and in a conspicuous place where employees can regularly view it. The poster is available, in English and Spanish, on the Bureau of Labor & Industries' website

(https://www.oregon.gov/boli/ta/pages/req_post.aspx)

Who is responsible for enforcing Oregon's equal pay law?

The Bureau of Labor and Industries (BOLI) is responsible for protecting the rights of workers and enforcing compliance with state laws.

The law says that if an employer completes a pay equity analysis within 3 years before an employee complaint is filed, it may avoid compensatory and/or punitive damages. What are the requirements for this analysis?

- It needs to be ...
 - Made in good faith;
 - Reasonable in detail and scope based on the size of the employer; and
 - Related to the protected class of the claimant.
- Also, the employer must have eliminated improper wage differentials for the claimant and made substantial progress toward eliminating wage differentials for the claimant's protected class.

When does Oregon's Equal Pay Act of 2017 take effect?

It's complicated! Oregon's Equal Pay Act took effect on October 6, 2017. The remedies come later.

- Claims based on wage discrimination, and screening or setting wages based on current or previous earnings history
 - Can be filed with the Bureau of Labor and Industries or in a civil lawsuit as of January 2019;
 - Back pay and other damages for 2018 may be included in these claims.
- Claims based on asking a potential new hire about earnings history

- Can be filed with the Bureau of Labor and Industries or in a civil lawsuit as of January 2024;
- Back pay and other damages for 2023 may be included in these claims.

When and where can I file a claim or complaint?

The provisions of the new law concerning damages and back pay will not fully go into effect until 2019. You may be able to file a complaint with the Oregon Bureau of Labor and Industries (BOLI) before 2019, but the amount you recover may be less.

Is there a difference between filing a complaint with BOLI and filing a civil lawsuit in court?

- If a complaint is filed with BOLI, an employer is liable only for back pay;
- If a claim is filed in civil court, an employer may be liable for back pay, compensatory and punitive damages and attorney's fees.

Can my employer punish me for filing a claim?

No. Your employer cannot punish you or cut your pay for filing a claim.

How much time do I have to file a claim with BOLI or a civil lawsuit?

Claims and lawsuits must be filed within 1 year from the date of the unlawful pay discrimination.

Are there tools for employers that want to foster equal pay in the workplace?

Oregon's Bureau of Labor and Industries offers free best practice guides of various topics. These can be accessed via the website

(https://www.oregon.gov/boli/TA/pages/Equal_Pay_Best_Practices.aspx)

Where can I find more information about Oregon's Equal Pay Act of 2017?

Oregon Bureau of Labor & Industries' website

(<http://www.oregon.gov/boli/TA/Pages/Equal%20Pay%20Law.aspx>).