



EMPLOYERS SHOULD KNOW ...

Oregon's Equal Pay Act

August 2019

Oregon employees are entitled to fair pay. As an employer, you:

- **Cannot pay less** (including benefits) because of an employee's sex, race, color, religion, sex, sexual orientation, national origin, marital status, age, disability or veteran status;
- **May be able to pay at different levels for a similar job based only on the following factors:** a seniority system, a merit system, a system that measures earnings by quality or quantity of production or piece-rate work, education, training, experience, workplace location, necessary and regular travel, or any combination of these factors if they account for the entire compensation differential;
- **May be able to pay employees at different levels if one or more of the factors listed above are contained in a collective bargaining agreement;**
- **May be able to pay employees at different levels for light or modified duty** as long as the payment level relates to a worker's compensation claim or if a medical condition results in an employee temporarily performing modified work, as long as it is authorized by a medical professional or has been requested by the employee;
- **Cannot screen job applicants based on current or past pay** or determine the amount of salary on that basis;
- **Cannot ask a potential new hire about past or current pay** until after you make a job offer that includes a compensation amount;
- **Cannot cut an employee's pay** to follow the law; or
- **Cannot discriminate, discipline or retaliate** against employees for discussing equal pay.

If you violate these rules, an employee is owed back pay and attorney's fees. The employee may also have the right to money for compensatory and punitive damages as well as a jury trial. Even if an employee agreed to be paid less than they are entitled, you could still owe unpaid wages.

Employer Equal Pay Analysis. If you have conducted an analysis of your pay practices within 3 years before an employee files a claim, an employee may only have the right to back pay and attorney's fees.

- This analysis must be reasonable in detail and scope in light of the size of your business and you must have made substantial progress towards eliminating pay inequities for all your employees.
- The fact that you have increased an employee's pay as a result of conducting an equal pay analysis cannot be considered as an admission of liability in a civil action.

Earnings History Claims. A claim based on discriminatory pay practices may be filed by an employee now, but claims based on asking a potential new hire about earnings history can only be filed as of January 2024.

Remember: Employees can ask and talk about wages without fear of discipline.

Oregon's Bureau of Labor and Industries (BOLI) provides the following tools for employers ...

- Rules <https://secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=3833>
- Best practices guides https://www.oregon.gov/boli/TA/pages/Equal_Pay_Best_Practices.aspx
- Required workplace poster https://www.oregon.gov/boli/ta/pages/req_post.aspx

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