



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

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## Who is covered by Oregon's Equal Pay Act?

Everyone. You cannot be discriminated against based upon your belonging to a "protected class" which includes discrimination based on 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?

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:

- A seniority system;
- A merit system;
- A system that measures earnings by quantity or quality of production;
- Workplace locations;
- Necessary and regular travel;
- Education;
- Training;
- Experience; or
- Any combination of these factors, if they account for the entire difference or if one or more of these factors is contained in a collective bargaining agreement.

## Can an employer pay at different levels of compensation if an employee is on light duty?

Yes, but only if

- Authorized by worker compensation law, or
- The employee is temporarily performing modified work as a result of a medical condition that is either authorized by a medical professional, or has been requested by the employee.

## 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 about 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. Employers can also ask about the prospective employee's wage/salary expectations for the open position. But, employers cannot ask about or use prior salary history.

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

Yes, but this is not addressed in this law.

## Can an employer retaliate against us if I share information about wages with another employee?

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.

To learn more, check out AAUW's helpful resources at [www.fightforfairpay.org](http://www.fightforfairpay.org).

**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.

**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 at

[https://www.oregon.gov/boli/ta/pages/req\\_post.aspx](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 labor laws. You may also file a lawsuit in court.

**The law says that if an employer completes a pay equity analysis within 3 years before an employee files a lawsuit in court, 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
  - Included a review of the employer's practices that were designed to eliminate unlawful wage differentials for all employees
- Also, the employer must also have made reasonable and substantial progress toward eliminating unlawful wage differentials for all of its employees.
- The fact that an employer has increased an employee's pay based on a pay equity analysis cannot be considered by the court.

**If a court determines an employer has conducted a pay equity analysis, does that mean an employee can't be compensated for wages/salaries unlawfully paid under the Equal Pay Act?**

No. If the employee has proven that pay practices violate the Equal Pay Act, the court must award up to two year's worth of unpaid wages/ salaries.

**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, but if a claim is filed in civil court, an employer may be liable for back pay, compensatory and punitive damages plus attorney's fees.

**Can my employer punish an employee for filing a claim?**

No. An employer cannot punish employees or cut pay for filing a claim.

**When did/does Oregon's Equal Pay Act take effect?**

The law is in effect now, except claims based on asking a potential new hire about earnings history cannot be filed with BOLI or in a civil lawsuit until January 2024.

**How much time does an employee 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.

**Where can an employer go if it has additional questions about the Equal Pay Act?**

Official BOLI Rules interpreting the Act:

<https://secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=3833>

Information and Guides about Equal Pay Practices:

[https://www.oregon.gov/boli/TA/pages/Equal\\_Pay\\_Best\\_Practices.aspx](https://www.oregon.gov/boli/TA/pages/Equal_Pay_Best_Practices.aspx)