

Oregon's 2017 Pay Equity Legislation

Key Components - Implications

OR HB 2005-A31

Amending ORS 652, 659A

General Provisions

Makes it an unlawful employment practice to:

- Discriminate between employees on the basis of a “protected class” in payment of wages or other compensation for “work of a comparable character”
- Screen applicants on the basis of current or past compensation
- Seek the salary history of an applicant or employee before an offer of employment is made
- Determine compensation for a position based on current or past compensation of a prospective employee.

What can differentiate compensation?

- Seniority
- Merit
- System measuring quality or quantity of work (i.e., piece rate)
- Work Location
- Travel
- Education
- Training
- Experience or;
- a combination of the above (must account for the entire \$ difference)

Definitions:

“Protected Class” includes Race, Sex, Veteran Status, Disability, Age, Color, Religion, National Origin, Marital Status and Sexual Orientation. (Note: we do not collect data on that last five categories)

“Equal-Pay Analysis” means an evaluation process to assess and correct disparities among employees who perform work of a comparable character

“Work of a comparable character” means work that requires substantially similar knowledge, skill, effort, responsibility and working conditions

Enforcement and Penalties:

- Seeking salary history is prohibited 91 days post adjournment
- Amounts owed to an employee for non-compliance are “unpaid wages”
- Claims must be filed against a public body within 300 days of discovery of the alleged loss or injury – (i.e., every pay period)
- Claims for back pay can be filed beginning January 1, 2019
- Compensatory or Punitive Damages may be available to claimants starting in 2024.
- Employers may move to waive compensatory or punitive damages if a detailed equal-pay analysis is done (specific to complainant’s protected class) and the employer corrected pay discrepancies.

What's next?

- Inactivating current/previous salary field in NeoGov (coming soon)
- Training and information materials for managers, HR/recruiters (in development)
- Process to assure pay equity upon entry into state service (in development)
- Plan statewide equal pay analysis – focus on all bona fide salary distinguishing factors (i.e., seniority, merit, education, training)
- Evaluation of policy and contractual implications
- Continued monitoring of pay equity – utilization of available tools and data in HRIS (3-year cycle).