

PAY EQUITY BEST PRACTICES GUIDELINES

A REPORT FOR THE WOMEN'S FOUNDATION

PREPARED BY:

SONJA ERICKSON, M.A.

INSTITUTE OF PUBLIC POLICY
HARRY S TRUMAN SCHOOL OF PUBLIC AFFAIRS
UNIVERSITY OF MISSOURI - COLUMBIA

Contents

- Research Note 2
- Executive Summary..... 3
- Introduction..... 4
- Pay Gap Facts 4
- Equal Pay Laws 4
- Equal Pay Best Practices 6
 - Best Practice: Employers Should Determine if Gender-Based Pay Disparities Exist 6
 - Pay Equity Self-Audits in the United States 9
 - Policy Considerations 10
 - Short-Term Indicator 11
 - Intermediate Indicator 11
 - Long-Term Indicator 11
 - Best Practice: Re-Evaluate the Current Pay System from an Equity Perspective 11
 - Pay Equity Re-Evaluations in the United States 12
 - Policy Consideration 13
 - Short-term Indicator 13
 - Intermediate Indicator 13
 - Long-Term Indicator 13
 - Best Practice: Promote and Ensure Pay Transparency 14
 - Pay Transparency in the United States 15
 - Policy Considerations 15
 - Short-term Indicator 15
 - Intermediate Indicator 15
 - Long-Term Indicator 15
- Conclusion 15

Research Note

In 1963, both the federal Equal Pay Law was written to ensure equal pay for women in certain types of jobs who perform exactly the same work as men. Over five decades of research shows that current laws have been unsuccessful at closing the gender pay gap because “equal work” is difficult to measure for many jobs, especially professional and managerial positions. Instead, employers should seek ways to achieve gender “pay equity,” with pay rates that reflect the internal and external value each position and worker brings to an organization. Making the distinction between “equal pay” and “pay equity” is an important step in closing the gender pay gap, so the best practices included here will focus on pay equity, rather than equal pay.

Executive Summary

In 2015, the Women’s Foundation contracted with the University of Missouri’s Institute of Public Policy to conduct research on best practices for reaching gender pay equity. This report provides a comprehensive study of these best practices. The findings of this report are summarized below.

Employers should determine whether gender-based wage disparities exist in their organizations.

- Employers should conduct self-audits to evaluate whether their compensation practices promote gender pay equity.
- Quantitative self-audits include analyses of pay by job title, pay band, or department to identify gender-based pay disparities.
- Qualitative self-audits guide employers through open-ended questions to determine if their compensation practices promote pay equity.
- Employers should be accountable for completing self-audits and working toward remediating any gender pay disparities identified during this process.

Employers should evaluate whether their current compensation system is equitable.

- Compensation systems should be evaluated from a gender equity perspective which goes beyond the concept of “equal pay for equal work.” Instead, the goal should be to understand what constitutes fair pay for all workers.
- Employers should use a standardized methodology to assess the internal and external value of each position in their organization. Pay rates should reflect the value of every position regardless of the type of work or job title.
- Employers should consider non-wage compensation, such as opportunities available to part-time workers, and flexible scheduling, in an evaluation of equal pay practices.

Employers should ensure transparency concerning organizational compensation policies.

- Salary ranges for all job titles should be made public and available to all job applicants.
- Employers should develop and implement policies which prohibit pay secrecy and eliminate penalties for discussing pay.
- Employers should consider joint evaluation processes when making pay raise and promotion decisions, and ensure that these decisions are justifiable and well documented.

For each best practice, this report includes: a summary discussion of the practice and how it can help close the gender pay gap in either the public or private sector; examples of how states have followed the best practice; and possible indicators for measuring whether the best practice is shrinking the gender pay gap.

Introduction

In 2015, the Women's Foundation contracted with the University of Missouri's Institute of Public Policy to conduct research on best practices for reaching gender pay equity. The Institute conducted an extensive literature review of research related to gender pay equity, and evaluated the programs of states and municipalities which have recently enacted gender pay laws.

Pay Gap Facts

By now the statistics are well known. Regardless of occupation, women working in America earn less money than men. This income disparity crosses all racial and ethnic groups, educational levels, and most occupations. The wage gap is quantified by using an income ratio, which measures the gap in earnings between the sexes. In the United States in 2013, the median income of male wage and salary workers who worked full-time and year-round was \$50,033, compared to \$39,157 for women.¹ This equals an income ratio of 0.78. In simple terms, this means that full-time, year-round female workers earned 78 percent of what men earned, creating a "wage gap" between the incomes of men and women. The ideal ratio is 1.0, or 100 percent, which signals income parity between men and women.

Research shows that many complex factors have created this disparity. For example, because two-thirds of minimum-wage workers are women, annual wage income for all women is lower than for all men. Also, female dominated professions, such as care-giving and hospitality, are often associated with lower wages than male dominated professions, such as engineering and computer science. Even becoming a mother has been shown to have a detrimental effect on women's wages, due in part to the number of women who leave the workforce or reduce their work hours to meet their care-giving responsibilities. Studies have found that employers are less likely to hire women with children, and to pay lower salaries to those mothers who are hired, while men who become parents do not experience a similar pay penalty.²

While educational attainment, career fields, and personal choices can contribute to differences in income, studies which control for divergent life paths have found that, all things being equal, women still are paid less than men for the same work. A significant disparity exists between the wages of men and women regardless of age, race or ethnicity, educational level, and profession, which suggests that a gender bias exists. For example, women 35 years and older experience larger pay gaps than do women in their twenties and early thirties, which could be due to women leaving full-time, paid work during their childrearing years. This does not, however, explain the gap between the wages of men and women at the start of their careers, which is currently 10 percent.³

Equal Pay Laws

The effort to use legislative tools to ensure equal pay for women has been ongoing for more than 100 years, starting when women began entering industrial jobs in the late 19th century. In 1898, the federally appointed Industrial Commission started advocating for equal pay for women working the same factory jobs as men. During World War I, when women's labor was vital to the war effort, the National War Labor Board (NWLB) mandated that, if women must

undertake work normally done by men, they should earn equal pay for that work. Similarly, during World War II, the War, Navy and Labor Departments required that wage rates for women and men be the same, and in 1945, the NWSB issued an “equal pay order,” which allowed companies to raise women’s wages to equal those of men without having to obtain approval from the NWSB.

The right of women to be paid the same wage as men for equal work became federal law in 1963 with the passage of the Equal Pay Act, which amended the Fair Labor Standards Act (FLSA) of 1938. Due to resistance in Congress, the Equal Pay Act passed only after several important standards had been removed. One of the most significant was changing the original fairness standard from “work of comparable character” to “equal” work, which was narrowly defined. The Equal Pay Act was subject to all FLSA exemptions, which meant that women employed in professional, executive and administrative positions were exempt from the act, as were women working in certain industries, including hotels and restaurants. Also, class action lawsuits were prohibited, placing the burden of proof on each individual woman claiming wage discrimination.⁴

Several federal laws and executive orders have been passed since the Equal Pay Act of 1963 to help address gender based wage discrimination in the work place:

- **Title VII, Civil Rights Act (1964)** – Prohibits pay discrimination based on worker’s race, religion, sex or national origin
- **Title IX of the Education Amendments Act (1972)** – Prohibits pay discrimination based on sex at educational institutions which receive federal funding; removed “white collar” exemption from Equal Pay Act (did not modify “equal work” standard)
- **Pregnancy Discrimination Act (1978)** – Amended Title VII to prohibit employment discrimination, including compensation, based on pregnancy
- **Civil Rights Act (1991)** – Amended Title VII to allow plaintiffs who sue for pay discrimination to receive compensatory and punitive damages
- **Lilly Ledbetter Fair Pay Act (2009)** – Amended Title VII to codify the concept that each paycheck containing discriminatory compensation is a separate violation
- **Fair Pay and Safe Workplaces Executive Order (2014)** – Requires that federal contractors publish wage data by sex and race to ensure compliance with equal pay laws

Equal Pay Best Practices

The Equal Employment Opportunity Commission defines a best practice for the workplace as one that allows employers to comply with the law; promotes equal employment opportunity and fairness to all employees; addresses any barriers to equal employment opportunity; addresses management accountability for equal employment opportunity; and is implemented conscientiously and produces noteworthy results.⁵ Once implemented, a best practice should also achieve results that are measurable and can be achieved with a reasonable amount of resources and time.⁶ The following best practices for achieving gender pay equity meet these standards.⁷ The long-term indicator for each of these best practices is that the practice shrinks the gender pay gap.

Best Practice: Employers Should Determine if Gender-Based Pay Disparities Exist

In order to determine whether an organization's compensation policies are equitable for men and women, management must determine if there is a difference in what they pay male and female employees. While the gender pay gap is often represented as a simple comparison between what women and men earn, measuring whether an individual organization pays men and women equally is a more complex process which can yield valuable management information. Such an assessment can shed light on many indicators of pay equity, including whether the current workforce composition reflects the available candidate pool; whether management includes a proportional balance of men and women; and whether men and women are paid equally for performing the same work. This information empowers management to begin to redress any inequities found.

An important step to identifying gender-based pay disparities is for management to conduct pay equity "self-audits" on a regular basis to ensure that women, as a group, are not paid less or more than men. These audits should be designed to capture aggregate data rather than to identify pay disparities between individual workers. A pay equity self-audit must take into account a number of variables, including the size of the group being analyzed, turnover, and years of service and experience of employees.

Management can conduct broad, organization-wide pay equity audits, or more focused audits, such as by department, position title, or pay grade. Such audits can be conducted through an informal process for internal use by management. Alternatively, self-audits can follow a more formal, structured process that includes a reporting component and designated oversight body, which can promote accountability and consistency across departments. Both encourage management to take responsibility for pursuing equitable compensation practices.

There are several approaches that management can take to identify gender-based pay disparities. Managers can conduct a broad analysis by pay band or job title across an organization; conduct similar analyses more narrowly at the individual department or division level; or individual managers can evaluate their own approach to establishing compensation practices and policies.⁸

- **Determine if jobs are segregated by gender.** Job segregation refers to any situation where a job title is completely held by either men or women. Similarly, a gender-dominated position is one in which a significant majority of workers are either male or female. Having positions that are either gender-segregated or gender-dominated can play a large part in creating a gender-based pay disparity if lower paying positions are dominated by one gender while higher paying positions are dominated by the other. For example, if office support staff positions in an organization are largely or entirely held by women while management positions are largely held by men, that organization will likely have a gender-based pay disparity.

Analyzing the job titles in an organization to determine the gender composition of each can provide management with a quick assessment of where and why pay disparities might exist. However, the value of such an analysis is dependent on the number of people who hold the job title. For example, if 100 people work in a given position and 75 of them are women, that position should be considered gender dominated. If four people work in a given position, and three of them are women, this is not a meaningful indication of gender segregation. Therefore, assessing whether any positions are segregated by gender can yield important information about pay differences between men and women, but should be seen as a first step to a more in-depth self-audit. This type of assessment can be done broadly across an organization, or more narrowly by department or division.

- **Conduct a pay equity analysis by job title.** Management can also analyze whether a gender pay disparity exists within individual job titles. When workers are grouped by title but divided by gender, management can quickly evaluate whether there is a significant difference in pay between women and men working in the same position. This approach can also help control for variables such as education or experience requirements, as everyone hired into a given position presumably comes with similar qualifications.

As with measuring gender-based job segregation, however, analyzing for gender pay disparities by job title has some limitations. For example, if an organization does have widespread gender segregation, an analysis by job title cannot produce meaningful information because pay rates for individual positions cannot be evaluated by gender. Also, any given position must be held by enough employees to yield a representative comparison. Finally, within any given job title there may be variation between the tenure of individual workers, which can have a significant impact on pay rates. Despite these caveats, analyzing men's and women's pay by job title is a broad method which management can use to identify, and begin to remediate, gender-based pay disparities either across an organization, or within individual divisions or departments.

- **Conduct a pay equity analysis by pay band.** A more robust approach to determining whether an organization has gender-based pay disparities is to evaluate men's and women's salaries within an individual pay band. Common among public sector

employers, pay bands are used to guide managers' compensation decisions by grouping positions requiring similar skills, education, and responsibilities into a salary range. Pay bands are comprised of positions requiring similar skill levels, but are not necessarily all similar positions. Because positions within a pay band share similar skill-level requirements, men's and women's pay should be equitable within any given pay band. Conducting an analysis by pay band can indicate a true wage disparity at any given level in the compensation system.

An analysis by pay band can be used in conjunction with a job segregation analysis to reveal possible gender-based pay disparities. Dividing pay bands by the number of men and women who work in those bands can quickly show whether an organization has a significant number of gender-segregated or gender-dominated pay bands. This information can also help management determine whether a ceiling exists in the organization where one gender becomes significantly underrepresented as the pay bands increase.

As with pay analyses by gender segregation and job title, this approach can be used broadly across an organization or more narrowly within individual departments or divisions. However, such an analysis might yield more useful information at the department or division level, where more detailed data, such as years of service of each employee, can be considered to rule out discrepancies which are not gender-based. Armed with this information, managers can investigate pay bands or job titles with pay disparities to determine whether those disparities are due to gender, or can be explained by other factors, and can begin to redress inequities.

In January, 2016, the federal government took executive action to encourage the private sector to gather the data necessary to conduct a pay disparity analysis by pay band. The Equal Employment Opportunity Commission (EEOC), in partnership with the Department of Labor, published a proposal to collect summary pay data by gender, race, and ethnicity each year from businesses with 100 or more employees. Pay would be reported across 10 EEOC job categories and by 12 pay bands. This proposed change would expand the data currently collected by the EEOC through its EEO-1 compliance report, with a goal of improving enforcement of federal pay discrimination laws and supporting voluntary compliance with those laws.⁹

- **Use a self-audit tool to assess all compensation practices.** While the previous self-audit methods focus on assessing differences in pay between male and female workers, another approach to conducting a pay equity self-audit asks employers to assess wage-setting policies to ensure that they are fair and applied consistently for all workers. There are several self-audit tools designed to help employers conduct a guided examination of how hiring, pay and promotion decisions are actually made, and to identify any areas where compensation practices disadvantage women.

One such tool, developed by the Business and Professional Women's Foundation, includes a series of detailed questions related to recruitment; internal equity; industry competitiveness; job evaluation; compensation, raises, commissions and bonuses; training and promotion opportunities; and implementing organizational changes.¹⁰ The state of Maine Department of Labor has also developed an equal pay self-audit tool, which includes questions more broadly focused on pay and hiring practices, and employee rewards. It also includes recommendations for improving any areas of concern, and for complying with state equal pay laws.¹¹

Some private-sector organizations have also developed tools for businesses to use when conducting gender pay self-audits. One of the most well-known is the EDGE (Economic Dividends for Gender Equality) assessment methodology. Developed in 2009 as part of The Gender Equality Project (now called EDGE Certified), the EDGE assessment methodology uses a business approach to gender pay self-audits which includes benchmarking, metrics and accountability, and is applied across five different areas: equal pay for equivalent work; recruitment and promotion; leadership development training and mentoring; flexible working; and company culture. The certification process requires companies to complete the EDGE online assessment (including statistical data, a policies and practices questionnaire, and an employee survey); analyze and report the results; develop an action plan to address any inequities; and apply for certification with a third party auditor (accredited and trained by EDGE) who makes the certification decision.¹²

Another self-audit resource has been developed by the Gender Equality Principles Initiative, a public-private collaborative formed by the San Francisco Department on the Status of Women, Calvert Group Ltd., and Verité, in 2008. The Gender Equality Principles Initiative has created a website with tools to help businesses move toward gender pay equity. These tools include a web-based assessment which helps businesses identify their strength and weaknesses related to gender equality, including whether compensation rates are equitable, and whether women are proportionally represented in management positions.¹³

Pay Equity Self-Audits in the United States

In 2009, the Governor of New Mexico issued Executive Order #2009-049, which instituted a pay self-audit and reporting requirement for state government divisions, as well as for private sector businesses seeking contract work with the state. State government departments are required to submit pay reports annually, while private businesses with 10 or more employees must submit annual reports while working for the state, and as part of the bidding process in response to requests for proposals (RFP). New Mexico's reporting process includes the following requirements:

- Contractors must submit a report consisting of the number of employees by gender in each EEO-1 job category, and any gender pay gap (as a percent) for each category.

- Reports are produced using spreadsheets developed by state government, which are available for download. These spreadsheets include embedded formulas for computing wage gaps. These results are exported to a final report format, which is submitted to the state. Only the number of male and female employees, and the wage gap percent is reported to the state. Employers do not report the dollar amount of the gap, nor whether the wage gap favors men or women.
- State government departments must submit their pay gap reports to the governor's office each year, while private contractors submit theirs with their RFP bid. Both are public information, and are subject to audit by the Office of the State Auditor.

A study of the implementation of New Mexico's equal pay self-audit process found little resistance from state agencies or private sector contractors because reporting requirements were phased in gradually. The state also used familiar reporting categories and provided extensive technical assistance while focusing on positive incentives to promote compliance.¹⁴

Minnesota is another state that conducts regular pay equity assessment and reporting. Minnesota statute requires that all state government departments and public jurisdictions, including cities, counties, and school districts, submit pay equity reports every three years to the Equal Pay Office in the Department of Management and Budget.¹⁵ Like New Mexico, this requirement includes qualitative and quantitative analyses, including a list of all job classes; the number of all employees and female employees in each class; an indication of whether each job class is gender dominated or balanced; the work value of each class; and the minimum and maximum salary for each job class.¹⁶ These reports are completed and submitted using an online template, and are reviewed for compliance.

Policy Considerations

➤ **Create a Mechanism for Capturing Gender Pay Disparity Data**

Evaluating whether job titles are segregated by gender, or whether any job title has a gender-based pay disparity, requires a comprehensive data collection process. Hiring departments would be able to compile this information using resumes and other information from agency human resources staff, but this process could be very manual and time-consuming. Creating a mechanism for capturing gender pay data is an important first step to being able to conduct pay equity self-audits by job title.

➤ **Establish a Process for Analyzing and Reporting Pay Information by Gender**

Many organizations are not required to collect, analyze or report gender pay data, so an organization might not have a system in place for conducting regular pay equity self-audits. To do so would require two important steps: creating a process and schedule for conducting such an evaluation, and assigning a position or division to provide oversight for the auditing and reporting process. Developing a system to analyze and report such data ensures that gender pay equity is a priority, and can encourage managers to consider pay equity when making hiring decisions.

Short-Term Indicator

The number of agencies which have conducted a pay equity self-audit.

Intermediate Indicator

The number of gender pay disparities, and the size of the disparities, identified during a gender pay self-audit.

Long-Term Indicator

The pay gap between men's and women's pay decreases.

Best Practice: Re-Evaluate the Current Pay System from an Equity Perspective

The legal requirement of “equal pay for equal work” established by the federal Equal Pay Act of 1963 is predicated on the simple idea that men and women doing the same job should be paid the same wage. The Equal Pay Act afforded women a legal foundation to fight discriminatory compensation practices. However, its exclusive focus on equal pay for equal work does not account for the many factors other than gender that can create a pay difference, such as years of experience, years of service, or individual performance. This can make gender discrimination difficult to prove. Also, this law has placed the burden of proving discriminatory pay practices on employees rather than employers, which has made enforcing the law difficult.¹⁷ During the 53 years since the federal Equal Pay Law was enacted, the 41-cent pay gap in 1963 has shrunk only to a 21-cent pay gap. At this rate, research indicates that, nationally, women's pay won't equal men's until the year 2059.¹⁸

One possible explanation for the slow progress in closing the pay gap is that the Equal Pay Act does not address the more systemic issues of gender pay inequity. Re-evaluating pay systems from an equity perspective moves beyond the concept of “equal pay for equal work” by considering how jobs traditionally held by women are often paid less than those traditionally held by men, regardless of the level of skill, experience or expertise required for each. Organizations can move toward pay equity by creating employment structures that promote equal pay for work of comparable value.¹⁹

While many jobs in the public and private sector are classified and paid according to the type of work done, a more equitable approach considers the value each position adds to the organization. Employers make wage determinations based on the skills, experience, and responsibilities required to do each type of job in their organization, and on the value of each job to the organization (internal equity) and to the marketplace (external equity). Before conducting such an evaluation, managers should receive training to ensure they fully understand the guiding principles of pay equity. Also, employees who are not hiring managers should be a part of the evaluation process to ensure diverse points of view. Because jobs traditionally held by women are often undervalued, ensuring that wage determinations are equitable can help close a gender pay gap.

In addition to evaluating job classification systems to ensure that the internal and external value of each job is fairly compensated, there are other steps that employers can take to re-think compensation practices from a gender equity perspective. For example, management can consider whether part-time positions, which are most often held by women, offer the same opportunities for career development and advancement as do full-time positions. To keep more women in the paid work force, employers can also evaluate whether their scheduling and leave policies can be made more flexible to support all workers' need to balance their professional and personal responsibilities.

Pay Equity Re-Evaluations in the United States

- **Redefine “equal pay for equal work”** - Several states have tried to remedy the legal shortcomings of the “equal pay for equal work” approach to establishing fair compensation practices by clarifying their equal pay statutes. Equal work is now defined as: “substantially equal, but not identical, skill, effort and responsibility” (Vermont); “substantially similar work” (California); or as “comparable skill, effort, responsibility, under comparable working conditions” (Massachusetts, Idaho, Kentucky, Maine, North Dakota, Oregon, South Dakota, and Tennessee).
- **Re-evaluate the current pay band system** - Some states have also reassessed their public employee pay band system from a pay equity perspective. Minnesota is the most instructive example of this practice. Minnesota’s Local Government Pay Equity Act (1984) requires that men and women employed by all public jurisdictions be paid equally for jobs of “comparable value.” The Minnesota Management & Budget office provides guidance for determining comparable value by using a point system to determine position classifications and pay rates.

For this process, points are assigned to each job according to the level of knowledge and responsibility needed to do the job, making it much easier to determine what constitutes “equal work.” Once jobs are classified, managers can compare gender composition and pay rates for men and women in each job class. For example, if the job title “delivery van driver” (largely male dominated) and the job title “receptionist” (largely female dominated) are both assigned 117 points based on the skill and experience needed for each, wage rates for each job class can be compared. If one is paid less than the other, this indicates a gender-based wage disparity that can then be corrected.

As part of its study of the gender wage gap, the state of New Mexico found that using the Hay Guide-Chart Profile Method of Job Evaluation system for state agencies helped “to minimize disparities due to factors not directly related to qualifications and performance.”²⁰ The Hay system requires hiring managers to consider four factors when determining compensation classifications: “Know-How,” which measures the knowledge and skill needed to do a job; “Problem Solving,” which measures the thinking required in each job; “Accountability,” which measures to what extent the job affects the end result of an organization; and “Working Conditions,” which measures the

context in which a job is being performed.²¹ While any job classification system requires some subjective assessment, using an established method to determine the value of a position to an organization allows each position to be scored and compensation rates set in a more objective and equitable manner.

Policy Consideration

➤ **Develop a Process and Conduct a Pay Equity Analysis**

Conducting a regular analysis to ensure that each job title is assigned a pay grade which reflects the internal and external value of that job would ensure that the organization is supporting pay equity for women and men who work in this system. To conduct such an analysis, the organization could develop a scoring system designed to assign a largely objective score to job titles based on each job's duties and the skill level and experience required for each.

Short-term Indicator

Identify the number of job titles where pay for men and women is not equal.

Intermediate Indicator

Refine the current pay system, including job titles and pay grades, to ensure each affords equitable pay for all employees.

Long-Term Indicator

The pay gap between men's and women's pay in decreases.

Best Practice: Promote and Ensure Pay Transparency

Compensation policies and guidelines, including each job title's starting salaries and pay rates, should be public and transparent, and employees should be free to discuss compensation rates without fear of employer retaliation. When compensation rates are transparent, employees know what pay levels are for a position, and what is required to move up to higher pay levels through raises and promotions. Allowing all workers access to the same information about compensation practices creates an even playing field for salary negotiations, performance evaluations, and opportunities for promotion, all of which can narrow the gender pay gap.

- **Wage Transparency** - Access to wage information allows employees to identify, assess and seek to correct any wage discrimination. To ensure that employees have this information, employers should not have policies which require pay secrecy; ask an employee to waive her or his right to disclose pay information; or retaliate against an employee for disclosing pay information. Ensuring this transparency provides women and men the information they need to negotiate an appropriate and fair starting salary, which lays the foundation for future earnings. Consequently, pay transparency significantly reduces the likelihood of discriminatory pay practices within an organization.
- **Evaluation and Promotion Transparency** – Although women make up almost half of the paid workforce, they are significantly underrepresented in leadership, managerial, and high-earning positions. One recent study found that, among Fortune 500 companies, women:
 - Sit in only 17 percent of company board seats;
 - Comprise only 15 percent of Executive Officer positions;
 - Hold only four percent of Chief Executive Officer positions.²²

The disproportionately small percentage of women in the highest earning positions is a significant reason for the gender pay gap, and can best be addressed by increasing women's opportunities for promotion. One important way to do this is by conducting promotions through a "joint evaluation." Much like the hiring process, a joint evaluation requires employers to compare the work and achievements of all employees in a given job title to determine whose performance merits a raise or promotion, and to ensure that those decisions are consistent, justifiable, and documented.

Research has found that employers who base promotion decisions on a joint evaluation are more likely to base their decisions on performance and less on gender or ethnic stereotypes.²³ In this case, transparency does not mean that individual performance evaluations are made public, but rather that evaluation and promotion processes are clearly defined by management and communicated to employees. This approach, like wage transparency, can foster more equitable compensation practices.

The issue of pay transparency was a key component of the Lilly Ledbetter Fair Pay Act which was passed by Congress and was signed into federal law in 2009. This act extends the amount of time that an employee can file a discrimination charge after she or he receives a discriminatory paycheck or raise (e.g. one that is demonstrably lower than others doing the same job duties in the same position). If compensation practices are transparent, both employers and employees have a clear understanding of how much and why workers are compensated as they are, decreasing the likelihood of discrimination against the employee, and of litigation against the employer.

Pay Transparency in the United States

Several states have passed laws to promote pay transparency and prevent retaliation.²⁴ For example, the state of Illinois prohibited employer retaliation for discussing wages as part of the state's Equal Pay Act of 2003. Similarly, in 2005, Vermont enacted its Wage Disclosure Law, which empowers employees to disclose and discuss their wages without "fear of discipline, discharge or retaliation." California's Fair Pay Act of 2015 promotes pay transparency by making illegal any efforts by employers to prohibit employees discussing wages.

Policy Considerations

- **Develop Clear, Consistent, and Widely Available Compensation Guidelines**
Developing clear compensation guidelines which are applied consistently to all job titles would significantly improve pay transparency.

- **Develop Clear, Consistent, and Widely Available Guidelines for Conducting Personnel Evaluations and Making Promotion Decisions**
Developing clear guidelines for justifying and documenting personnel decisions would improve pay transparency.

Short-term Indicator

Identify the percentage of employees who work under a transparent pay system.

Intermediate Indicator

Measure whether the percentage of employees who work under a transparent pay system changes over time.

Long-Term Indicator

The pay gap between men's and women's pay in decreases.

Conclusion

The best practices included in this report reflect the wide range of options available to employers in the public and private sector for narrowing the nationwide gender pay gap. While some focus on comparisons of women's and men's pay to identify pay disparities, others push employers to consider how compensation policies are developed, and whether those policies contribute to the gender-based pay disparities. All are designed to increase equity and promote fair compensation for all workers.

-
- ¹ U.S. Bureau of Labor Statistics. (2014). Highlights of Women's Earnings in 2013. Retrieved from <http://www.bls.gov/opub/reports/cps/highlights-of-womens-earnings-in-2013.pdf>
- ² Correll, Shelley J., and Stephen Benard. (2007). Getting a job: Is there a motherhood penalty? *American Journal of Sociology* 112 (5): 1297-1338.
- ³ U.S. Department of Labor, U.S. Bureau of Labor Statistics. Highlights of Women's Earnings. (2009, 2011, 2013). Retrieved from <http://www.bls.gov/cps/earnings.htm>
- ⁴ Eisenberg, Deborah Thompson. (2010). Shattering the Equal Pay Act's Glass Ceiling. *Southern Methodist University Law Review* 63, 28-29.
- ⁵ Equal Employment Opportunity Commission. (1997). Best EEO Practices Task Force Report. Retrieved from http://www.eeoc.gov/eeoc/task_reports/best_practices.cfm
- ⁶ World Health Organization. Guide for Documenting and Sharing "Best Practices" in Health Programmes. (2008). Retrieved from [file:///C:/Users/ericksonso/Downloads/Guide_for_documenting_and_Sharing_Best_Practice_-_english%20\(1\).pdf](file:///C:/Users/ericksonso/Downloads/Guide_for_documenting_and_Sharing_Best_Practice_-_english%20(1).pdf)
- ⁷ The following studies informed this summary: Burk, M. (2013). The New Mexico Pay Equity Initiative: A Template for Narrowing the Gender Pay Gap, prepared for the U.S. Department of Labor 50th Anniversary of the Report of the President's Commission on the Status of Women, Washington, D.C. Retrieved from <https://www.dol.gov/asp/evaluation/reports/WBPaperSeries.pdf>. Oregon Council on Civil Rights. January (2014). Pay Inequality in Oregon Formal Recommendations. Retrieved from <http://www.oregon.gov/boli/docs/Pay%20Inequality%20Oregon%20012314-Final.pdf>. Colorado Pay Equity Commission. March (2008). Fulfilling the Promise: Closing the Pay Gap for Women and Minorities in Colorado. Retrieved from <http://www.coworkforce.com/PayEquityReport.pdf>. American Association of University Women. November (2013). AAUW Pay Equity Resource Kit.
- ⁸ This discussion of pay gap self-audits draws heavily from Burk, Martha. (2008). Gender Pay Gaps in Six Selected Departments in the New Mexico State Government, pp. 6-8.
- ⁹ U.S. Equal Employment Opportunity Commission. Questions and Answers: Notice of Proposed Changes to the EEO-1 to Collect Pay Data from Certain Employers. Retrieved from http://www.eeoc.gov/employers/eeo1survey/2016_eeo-1_proposed_changes_qa.cfm. The EEO-1 is an annual report required of most federal contractors and other private employers (with at least 100 employees) which includes employee numbers for one pay period by job category, and then by sex, race and ethnicity. The new proposal would refine this reporting structure by detailing the same employee information within 12 specified pay bands.
- ¹⁰ Business and Professional Women's Foundation. (2012). Employer Pay Equity Self-Audit 2012. Retrieved from <http://bpwfoundation.org/about/organizational-information/bpw-foundation-materials/grassroots-tool-kits/equal-pay-day/>. A copy of this tool is included in Appendix C.
- ¹¹ Maine Department of Labor, Bureau of Labor Standards, Wage & Hour Division. Equal Pay Self-Audit for Employers. Retrieved from http://www.maine.gov/labor/labor_laws/publications/epaudit.pdf. A copy of this tool is included in Appendix D. Similar self-audit tools are widely available from a variety of sources, including Equality Human Rights Commission, 2013; National Committee on Pay Equity, 2013; and Thomas, S. (2013). *Compensating Your Employees Fairly: A Guide to Internal Pay Equity*. New York, NY: Apress.
- ¹² More information about the EDGE assessment methodology can be found at www.edge-cert.org.
- ¹³ This assessment tool can be accessed at <http://www.genderprinciples.org/assessment.php>.
- ¹⁴ For a detailed discussion of the development and implementation of pay gap reporting in New Mexico, see Burk, M. (2013). The New Mexico Pay Equity Initiative: A Template for Narrowing the Gender Pay Gap, prepared for the U.S. Department of Labor 50th Anniversary of the Report of the President's Commission on the Status of Women, Washington, D.C. Retrieved from <https://www.dol.gov/asp/evaluation/reports/WBPaperSeries.pdf>.
- ¹⁵ Minnesota Statute §§ 181.-.71 Minnesota also has legislation that requires some state contractors to obtain an Equal Pay Certificate from the Minnesota Department of Human Rights prior to executing a contract with the state, but this does not require a self-audit. See Minnesota Statute § 363A.44.

-
- ¹⁶ A detailed explanation of Minnesota’s pay equity reporting requirements can be found on the Minnesota Management and Budget website at www.mn.gov/mmb.
- ¹⁷ Fewer than 30 percent of the gender pay discrimination claims filed with the Equal Employment Opportunity Commission since 2004 have resulted in favorable outcomes for the woman filing the complaint, while more than half were dismissed with a finding of no reasonable cause.
- ¹⁸ Institute for Women’s Policy Research. (September 2015). Women’s Median Earnings as a Percent of Men’s Median Earnings, 1960-2014 (Full-time, Year-round Workers) with Projection for Pay Equity in 2059. Retrieved from <http://www.iwpr.org/publications/pubs/equal-pay-projection-2059>
- ¹⁹ Oregon Council on Civil Rights. p. 5.
- ²⁰ Burk, M. (2013). p. 6.
- ²¹ Summary of Hay method found at http://www.psc.gov.yk.ca/pdf/hay_summary.pdf
- ²² Catalyst. Women in the United States: Quick Take. (June 10, 2014). Retrieved from <http://www.catalyst.org/knowledge/women-united-states>
- ²³ Bohnet, I., van Gree, A., & Bazerman, M. (2012, March). When Performance Trumps Gender Bias: Joint Versus Separate Evaluation. Faculty Research Working Paper Series. Retrieved from <http://www.hbs.edu/faculty/Publication%20Files/12-083.pdf>
- ²⁴ California, Colorado, Illinois, Louisiana, Maine, Michigan, Minnesota, New Hampshire, New Jersey, and Vermont all have passed pay transparency laws as of December, 2015.