



Equal Pay for Equal Work?

Are you compensating all your employees fairly? To be sure, follow these steps.

Q:

What is “comparable worth”? What should employers do to be sure they’re complying with comparable-worth requirements? Are there guidelines for a nonprofit organization to follow?

A:

Comparable worth, also called pay equity, is a remedy for wage discrimination based on race or gender. The Equal Pay Act of 1963 best sums up the goal—to equalize the level of wages received by all men and women for similar work.

While the Act may not be directed to all nonprofit organizations (it applies only to enterprises engaged in commerce or in the production of goods for commerce), it establishes guidelines every organization should follow. It sets out the following requirements:

“Employers may not pay unequal wages to men and women who perform jobs that require substantially equal skill, effort, and responsibility and that are performed under similar working conditions with the same establishment.”

The following definitions clarify these requirements:

Wages. “Equal wages” take into account all forms of compensation, including salary, overtime, bonuses, commissions, fringe benefits, and even such items as clothing or travel allowances.

Substantially Equal. People deserving equal pay need not have identical jobs, as long as they do similar work. It is job

content, not job titles, that determines whether jobs are substantially equal.

Skill. The key issue is what skills are *required for the job*, not what skills employees may have. For instance, two book-keeping jobs could be considered equal even if one of the job holders has a master’s degree in physics, since that degree would not be required for the job.

Effort. Suppose that men and women work side by side on a line assembling machine parts. The man at the end of the line must also lift the assembled product and place it on a board. The man’s job would *not* be considered to involve equal effort as the other jobs if lifting the product requires substantial effort and is a regular part of the job.

Responsibility. For example, a salesperson who has the duty of determining whether to accept customers’ personal checks has more responsibility than other salespeople. On the other hand, a minor difference in responsibility, such as locking up at the end of the day, would not justify a pay differential. However, employees who work with toxic materials may earn more than those who work with safe materials.

Your Rights as an Employer

As an employer, you have the right to establish different pay rates for males and females if you use one of four wage systems:

1. Seniority. A wage differential is acceptable if it is based on a bona fide seniority system. To be bona fide, it must be an established system that is communicated to employees and consistently applied, and it must not have been adopted with a discriminatory purpose.

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A male physics professor with a Ph.D. in physics could be paid more than a female physics professor with just a master's degree.

2. Merit. You can base a wage differential on a merit system which you communicate to employees and consistently apply. You must base this merit system on objective performance, not subjective criteria. The more subjective the criteria, the more intently the courts will scrutinize them. Thus, in one case, a bank was unable to rely on its purported merit system to justify different pay for male and female tellers because the main consideration in pay decisions was a high official's "gut feeling."

Two bookkeeping jobs could be considered equal even if one of the job holders has a master's degree in physics.

3. Quantity or quality of production. For example, you can pay salespeople a commission for each item they sell. If males tend to receive a greater total salary than females due to their greater volume of sales, there will be no violation of the law.

4. A factor other than gender. For example, an employee's job-related education, experience, or training may justify a wage differential. Thus, a male physics professor with a Ph.D. in physics could be paid more than a female physics professor with just a master's degree.

What Can You Do to Comply?

To assure comparable worth in your organization, follow these steps:

1. Base wages on one of the four wage systems described earlier: seniority, merit, quantity or quality of production, or a factor other than gender. Be sure that you can document that you have communicated this system to all employees, applied it consistently, and not used it in a discriminatory way.

2. Develop records and procedures that define employment standards on the basis of job requirements.

3. Identify working conditions and manner in which each job is performed.

4. Use job evaluations to evaluate the relative value of each job.

5. If you have two jobs—one filled mostly by men and one filled mostly by women—and the jobs are substantially similar in the work performed and knowledge and skill required, pay them the same. (Do so by raising the pay of the female workers, not by lowering the pay of the male workers.)

6. Examine your organization's compensation system to decide if it contains any biases based on race, ethnicity, or gender. If you detect any discrimination, correct them by being sure all workers are paid fairly.

Today, over 30 years after the Equal Pay Act was passed, women are still earning significantly less than men in almost every field. All nonprofits have an obligation to pay all workers fairly for their work and to lead the way in making equal-pay-for-equal-work a reality.

*Wendy Creamer, Li Yun Chen, & Brian Kleiner, Ph.D.
California State University, Fullerton
1724 Sinclair Circle, Placentia, California 92870-2716.*

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