



Employment Law Alert: Equal Pay Is Coming Your Way

Less than a handful of states do not have laws that prohibit gender-based compensation discrimination, and the federal pay equity laws have been on the books for years. California, New York and Massachusetts seem to be competing to have the most aggressive pay equity laws, with other states in the race. While this alert focuses on Massachusetts, we are happy to answer questions about your state's equal pay laws or the federal law.

Is your company covered by the new **Massachusetts pay equity law**? Yes, all employers in Massachusetts with the noted exception of the federal government are covered by the new law: for-profit; not-for-profit; large and small; in all industry sectors. Unlike most employment laws, the number of individuals employed is not relevant - your company is covered.

The assessment of gender-based pay inequity in Massachusetts has changed significantly. The standard is different. The definitions are different. Exposure is different. Potential corrective measures are different. Defenses are different. The conversation about salary history and employee wages will be significantly different.

Many find that the guidance recently issued by the Massachusetts Attorney General raised as many questions as it answered. The good news is that the Attorney General's guidance includes a basic self-evaluation tool for employers. We recommend using outside counsel as part of this process to protect your findings under the attorney-client privilege. Think of our Pay Equity Audit as a protective cloak: it shields any pay inequities you may discover, and will allow your team to make reasonable progress eliminating pay disparities without creating other distractions.

In less than four months, the Massachusetts law goes into effect and your company must be in compliance. We have been advising our clients for over a year to conduct gender-based pay equity audits to protect their organization against the new exposure and litigation from this law: Several have used our innovative **Pay Equity Audit** already. The Attorney General's guidance has made

it very clear that there are very few clear answers implementing this law-- and that all employers should make compliance a top priority.

Our **Pay Equity Audit** is designed to help your Massachusetts team achieve compliance with the new law and create a rolling affirmative defense to a gender-based pay equity claim. No worries, if you are not located in Massachusetts, we have other state specific Pay Equity Audits. We stand ready to help and can be reached at questions@foleylawpractice.com or 508-548-4888.