

Know Your Equal Pay Rights

As of July 1, 2018:

As a Job Candidate...

Prospective employers will no longer be permitted to ask for your current or previous salary prior to making a formal job offer that includes compensation.

As an Employee...

Salary/Wage Information

You will be free to openly discuss and/or disclose your salary with colleagues without fear of retaliation or alienation by your employer.

You can approach your employer for information on the salaries of other employees without fear of retaliation or alienation. Your employer will not be obligated to provide the requested information.

Comparable Worth

If a Massachusetts court of law determines that you are receiving a salary or wages that are less than the salaries or wages paid to colleagues of a different gender for doing comparable work you will be entitled to the difference in pay. Your employer can assert an affirmative defense that may shield it from liability if within the previous three years and prior to your claim it audited its pay practices and can demonstrate that it has made reasonable progress in eliminating a gender pay gap.

The definition of “comparable work” includes work that is “substantially similar” (requiring substantially similar skill, effort and responsibility and performed under similar working conditions). Wage variations are permitted if based on: seniority (however your employer will not be permitted to reduce your seniority and/or corresponding pay in response to your pregnancy, or protected parental, family or medical leaves); a merit system; a system that measures earnings by quantity or quality of production, sales, or revenue; geographic location in which a job is performed; education, training, or experience; or travel.

You will be entitled to recover the difference in pay regardless of whether or not your employer has received your permission in the past, through contract or otherwise, for this discrepancy in pay.

Legal Action

If you choose to take legal action against your employer alleging discrimination on the basis of gender in the payment of wages you will no longer be required to file a charge of discrimination with the Massachusetts Commission Against Discrimination as a prerequisite before filing in court.

You will have up to 3 years from the time of a violation to make a claim for a violation of this statute, G.L. c.149, §105A.

Damages for successful litigants will include unpaid wages, plus liquidated damages in an amount equal to unpaid wages, and costs and reasonable attorney’s fees.

If you file a complaint regarding unequal pay against your employer, he or she is not permitted to terminate your position or retaliate against you in response.

Sources

The following sources were used in development of the explanations provided above:

- <https://malegislature.gov/Laws/SessionLaws/Acts/2016/Chapter177>
- www.blr.com/HR-Employment/Discrimination/Equal-PayComparable-Worth-in-Massachusetts#
- <http://dbslawfirm.com/news/massachusetts-enacts-equal-pay-act-what-employers-can-do-now-to-prepare-for-its-implementation>
- <https://resources.workable.com/blog/massachusetts-equal-pay>
- www.laboremploymentperspectives.com/2016/08/08/how-massachusetts-new-equal-pay-law-impacts-employers
- www.bostonlawyerblog.com/2016/08/05/getting-jump-start-competition-implementing-equal-pay-act
- www.massemploymentbizlit.com/2016/08/massachusetts-passed-unprecedented-pay-equity-legislation-what-employers-should-know
- www.morganlewis.com/pubs/massachusetts-legislature-passes-sweeping-equal-pay-amendments