



Technical Update

Volume 25 Number 1

January 5, 2021

Colorado Equal Pay for Equal Work Act in Effect

The Colorado Equal Pay for Equal Work Act went into effect on January 1, 2021. Enacted in 2019, the Equal Pay Act contains several parts and is designed to protect against wage discrimination based on sex, prohibits employers from asking job applicants about their salary history, and requires employers to disclose compensation and promotion information. The Act applies to any employer with at least one employee in Colorado, including public bodies, schools, and private individuals.

Wage Discrimination

The Act states:

An employer shall not discriminate between employees on the basis of sex, or on the basis of sex in combination with another protected status as described in section 24-34-402 (1)(a), by paying an employee of one sex a wage rate less than the rate paid to an employee of a different sex for substantially similar work, regardless of job title, based on a composite of skill; effort, which may include consideration of shift work; and responsibility (§4 8-5-102)

The Act does allow for wage differentials if the employer has a system for seniority, merit, or to measure quantity or quality of production. Wage differences may also be justified by where the work is performed, if travel is a necessary and regular part of the work, and education, training, or experience reasonably related to the job.

Salary History

Under the Equal Pay Act, employers may not ask applicants about their salary histories or retaliate against an applicant who chooses not to disclose their salary history. Employers cannot base compensation on prospective employees' salary history or prohibit employees from discussing or comparing their wage rates.

Compensation Posting

Another component of the Equal Pay Act applies to job postings, including promotions. The Act requires employers to include the hourly rate or hourly range or the salary or salary range in the job listing. Wage and salary

ranges may consist of the lowest to highest range the employer believes, in good faith, that they may pay for the position, depending on the circumstances. Employers must also include a general description of bonuses, commissions, or other forms of compensation and a general description of employment benefits, such as healthcare, retirement, paid time off, or any additional benefits that must be reported for federal tax purposes.

Promotion Posting

With a few exceptions, employers must also announce all promotional opportunities to employees on the same day and before making a decision. The announcement should include job title, application method, pay, and benefits. All employees must be notified of these opportunities in writing online or in hard copy, even if the position is open only to those who meet certain requirements.

There are three exceptions to these posting requirements: confidentiality, automatic promotion after a trial period, and temporary, acting, or interim hires. For more information about these exceptions, review the Equal Pay Transparency Rules (7 CCR 1103-13) from the Colorado Department of Labor and Employment at https://cdle.colorado.gov/sites/cdle/files/7%20CCR%201103-12%20State%20Labor%20Relations%20Rules_0.pdf.

What This Means for Counties

This Technical Update provides a general overview of the Act as it applies to Colorado employers. A full text of the Act is available at <https://leg.colorado.gov/bills/sb19-085>. Counties should consult their county attorney to determine how the Act impacts them specifically. Failure to comply with the Act may result in fines between \$500 and \$10,000 per violation. Counties should ensure that their job postings, policies, and procedures are in compliance. For more information, contact Dana Mumey, CTSI Human Resources Specialist, at 303 861 0507. 