



Pay Transparency 2024

Living With SB 1162 and What to Expect Next

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Pay Equity

2024 — Be Prepared for Full Transparency

- Job postings
- Interview process
- Upon request by applicant
- Upon request by employee
- Disclosure to the state
- To shareholders
- And beyond....



Pressure for Pay Transparency

Internal Stakeholders

- Employees
- DEI Committees / ERGs
- Board Requests / Leadership Commitments

External Stakeholders

- Activist Investor Groups (Arjuna)
- ESG Proposals
- Competitor Surveys / Reporting
- Customer Demand



BioSpace's 2024 U.S. Life Sciences Salary Report

Overall, industry salary growth continues, albeit at a slower pace.

Racial gender gap

- Whites more likely to receive a salary increase
 - 67% v. 53% for Blacks/African-Americans
- Blacks/African-Americans at 70% of earnings of Whites

Gender gap went backwards to the 2024 level — women earn 87% of what men earn based on FT earnings averages.

- Men more likely to receive a merit-based raise
- Men more likely to receive bonuses and equity



Hired's 2024 Impact Report: State of Wage Inequality in the **Tech Industry**

2024	Men	Women
White	\$1.00	\$0.95
Asian	\$1.04	\$0.98
Black	\$0.95	\$0.92
Hispanic	\$0.99	\$0.93

Where employers see most common **hiring** bias:

- 17% Gender
- 12% Race (Black, Latino, white, Asian, etc.)
- 11% Age

Where employers see most common **wage** bias:

- 21% Women
- 9% Age
- 7% Race (Black, Latino, white Asian, etc.)



Causes of Pay Gaps → Legislative Policy

(NWLC Reports)

Women are less likely to be hired for high-wage jobs.

Women are offered less money than men.

Using salary history to set starting pay perpetuates wage gaps.

Pay secrecy policies perpetuate pay disparities.

Mothers are perceived as less committed to work.

Lack of access to good childcare

Under review: restrictions on access to reproductive care



Trends in Legislation

Expansion of
protected classes
beyond gender

Pay parity for
“substantially
similar” work vs.
“equal work”

Comparator can
work in another
establishment

No retaliation for
efforts to obtain
equal pay —
discussing wages



Salary History Bans



Slide 9

RA0

Michigan – turn it to teal – banned for state employees only and remove star and reference to star in key

Alonso, Richard E., 2024-01-17T23:39:54.169

Salary History Bans: Local



Cities with Salary Bans for City Employees Only:

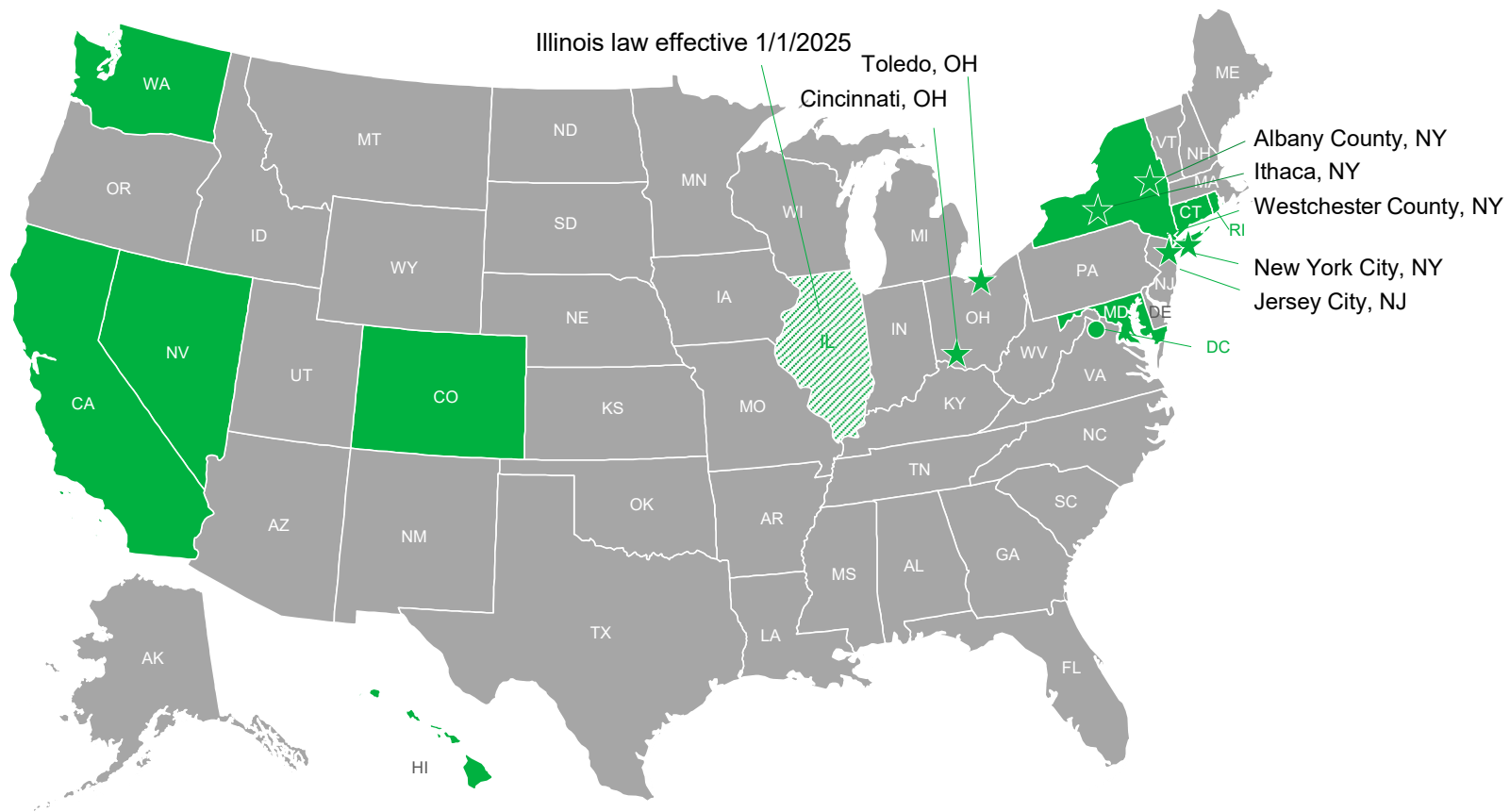
- Atlanta, GA
- Chicago, IL
- Columbia, SC
- Richland County, SC
- Louisville/Jefferson, KY
- Jackson, MS
- Montgomery, MD
- New Orleans, LA
- Pittsburgh, PA
- Salt Lake City, UT
- St. Louis, MO



Salary Disclosure Laws



Pay Band / Range Disclosure Laws



Slide 12

RA0 On map, please make New York, Hawaii, and Rhode Island solid green.

Alonso, Richard E., 2024-01-17T20:59:35.113

RA1 Add a green line from Illinois on the map to the line of text at the top.

Alonso, Richard E., 2024-01-17T21:01:25.353

RA2 Add a star for Albany County, NY

Alonso, Richard E., 2024-01-17T21:02:50.013

Where You Have to Disclose When Job Is Posted

- ✓ Albany County, New York
- ✓ California
- ✓ Colorado
- ✓ Hawaii
- ✓ Illinois (eff. 1/1/2025)
- ✓ Ithaca, New York
- ✓ Jersey City, New Jersey
- ✓ New York State
- ✓ New York City
- ✓ Westchester County, New York
- ✓ Washington State





What if you allow remote or hybrid work?

If the work can be done remotely in these locations, then you must comply with the applicable salary disclosure law:

- **California**
- **Colorado**
- **Illinois** (1/1/2025)
- **New York City**
- **Washington State**
- **Westchester County, NY**

Note: Connecticut DOL requires CT law to apply to CT employers for employees outside of CT.



Is pay scale / salary disclosure required other than posting during the recruiting process?

Upon request after the applicant's initial interview	Maryland Rhode Island or (i) upon request by the applicant at any time, (ii) before discussing comp and (iii) see below
Automatically after the initial interview (even if no request)	Nevada
Upon request after conditional offer of employment	Washington State Toledo, Ohio Cincinnati
When offer is made, or when requested, whichever occurs first	Connecticut Rhode Island



When do you have to provide salary ranges to current employees?

In any posting for a possible transfer or promotion opportunity	Colorado, Ithaca, Jersey City, New York City, Illinois (must make promotion opportunities known to incumbents within 14 days of external posting, or disclose prior to offer, compensation discussion or at applicant's request)
If they are being transferred or promoted	Connecticut, Rhode Island
If they ask for it as part of a transfer or promotion	Washington State; Westchester County, NY; Rhode Island; Nevada (if employee has applied and completed an interview)
If they ask for it at any time, including for their current role	California, Maryland, Rhode Island, Washington State





What do you have to provide?

- **Minimum and maximum salary** employer reasonably expects to pay for the position at time of posting — range cannot be open-ended
 - California, Colorado, Hawaii, Illinois, New York, Washington State
 - Albany County, NY; Ithaca, NY; Jersey City, NJ; New York City, Westchester County, NY
- **Applicable pay scale**, previously determined range of wages for the position, actual wages for employees who currently hold comparable positions, or budgeted amount for the position
 - Connecticut, Rhode Island
- **Benefits / commissions / bonuses / other compensation**
 - Colorado, Illinois, New York (general statement that compensation will be based on commissions is okay), Washington State
- **Job description**
 - New York
- **No definition of pay scale/range provided**
 - Maryland (but wage is all compensation), Nevada
 - Cincinnati, OH; Toledo, OH



Proposed Legislation

- Massachusetts
 - Salary range disclosure on postings / current employees
 - Annual pay data reporting (100+ employees)
 - Awaiting Gov. Healey's signature
- Maine
- Michigan
- New Jersey
- Pennsylvania





Salary Disclosure: Practical Application



What if we post for remote work, but say the job can't be done from California or Colorado?

Rejected: Colorado Labor Department

- Sent warning letters that Coloradans must not be excluded from remote work opportunities
- Has fined at least three businesses for failure to come into compliance
 - Note: One fine waived after company came into compliance

Washington State's Dep't of Labor & Industries' 2024 Guidance cites to Colorado:

- “Employers also cannot avoid these obligations by stipulating that residents of a particular state or locality are not eligible for an advertised role.”
- Colorado’s Department of Labor and Employment has considered and flatly rebuked such efforts to circumvent Colorado law, and employers should anticipate similar enforcement in other states.



We have standardized our job postings and use nationwide hourly wage/salary ranges — so the range is wide because pay will be impacted by geographic location and level of experience?

Washington State Dep't of Labor & Industries' Practical Guidance 2024:

- Posting can include qualifying language explaining that where the applicant will ultimately fall within the range depends on a variety of factors including geographic range and level of experience.
- Notes: Where disclosure of variable compensation (discretionary bonus/equity grants) is outside of disclosure requirements, employer has flexibility to go outside of range.



We target 20% over budgeted amount for a position and use that to post the top of the range.

- How are you creating your range?
- May generate a very wide range
- May not be considered a “good faith” range if too wide
- How do you explain the range to current employees?
- How are you qualifying your ranges?
- Presents challenges when disclosing data to states/agencies/litigation

Design Manager, Supercharger (New York)

Job Category	Charging
Location	Brooklyn, New York
Req. ID	145009
Job Type	Full-time

Apply

Telex participates in the [E-Verify Program](#)

What to Expect

The Supercharger Design Manager role entails active program coordination of all deployment phases of Telex's Supercharger projects, including construction feasibility diligence, layout and design, utility design and assessments, permitting, construction, site commissioning, and closeout. The ideal candidate has relevant hands-on experience managing infrastructure projects (up to thirty projects at one time across multiple states/provinces) and demonstrates a bias to action, logical problem solving, and mastery of a project's technical details. Finally, s/he brings high energy and an optimistic approach to fully completing projects in a swift and quality manner.

What You'll Do

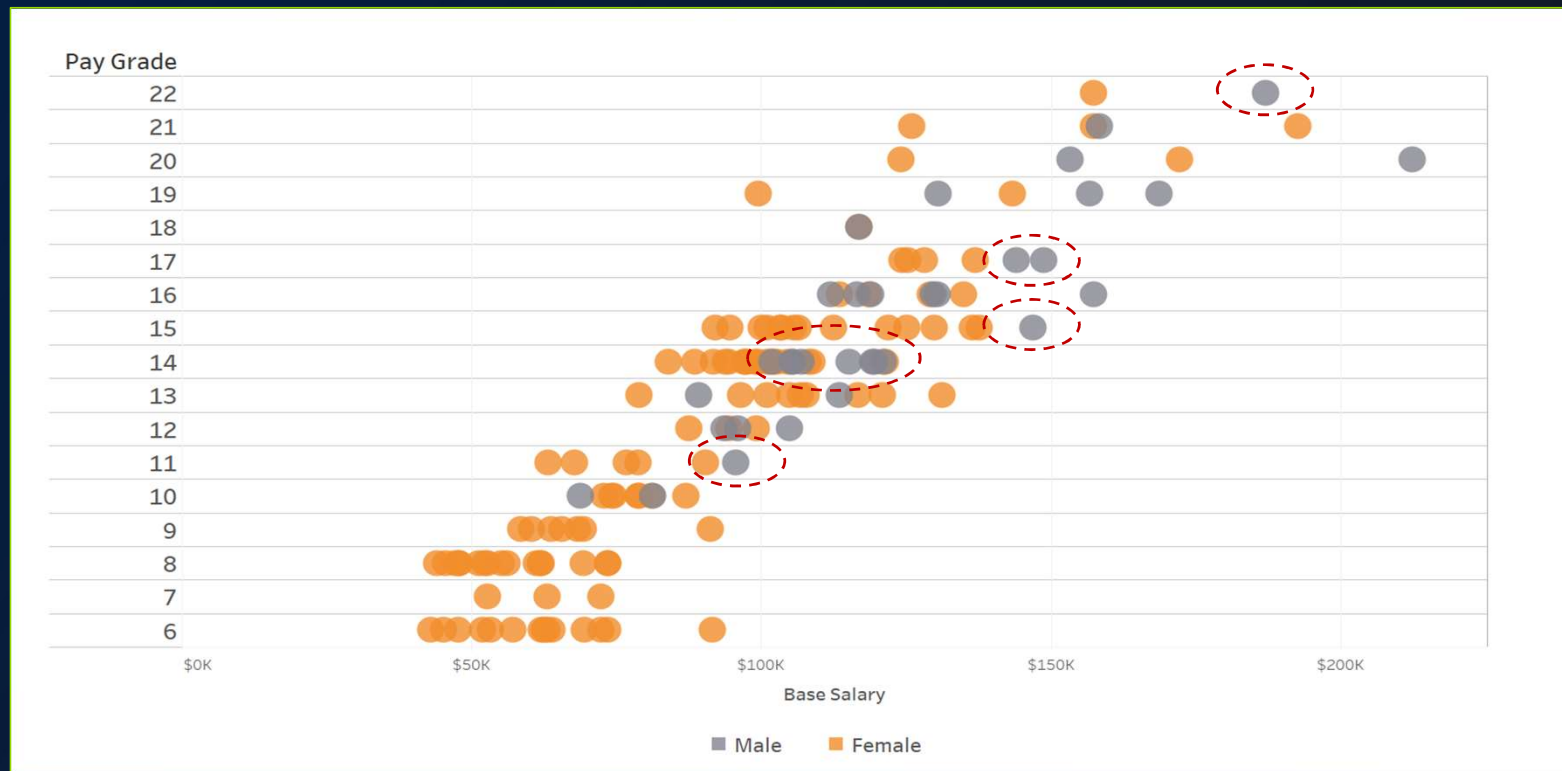
- Manage all phases of design, entitlement, and construction of Supercharger sites within a given territory. A key performance indicator is the number of sites successfully opened for public use.
- Facilitate field site visits for due diligence on construction, engineering, utility, and cost. Provide site reports and sketches as needed.
- Review title reports for ownership, encroachments, and easements; assess construction viability.
- Plan, coordinate, approve, and review legal documents and plans for right-of-way/easement/property acquisitions.
- Serve as the liaison with utility company personnel to determine the best routing of primary electrical service.
- Meet with zoning/permitting personnel to understand jurisdictional approval requirements and opportunities for timeline reduction. Represent Telex and the Supercharger program at public meetings. Track and manage status of all needed approvals.
- Review and approve construction bids and change orders. Provide support as needed to the general contractor during all phases of construction.

Expected Compensation

\$88,000 - \$300,000/annual salary + cash and stock awards + benefits



How are employees distributed across your pay grades?



Pay Data Reporting



EEOC

- **2020** | EEOC asks the National Academies to examine quality of Component 2 data for its intended use and to provide recommendations for future data collections (Study)
- **March 2024** | EEOC Chair Burrows repeats that **pay discrimination is an agency priority** — reaffirming pay equity / class action litigation is an agency focus
- **July 2024** | EEOC releases Study results that Component 2 data “**as collected have value**” but value could be strengthened through various “short-term and longer-term improvements”
- **July 2024** | Kalpana Kotagal confirmed as an EEOC commissioner: pay equity class action attorney



California: SB 1162



What is different about SB 1162?

- Amends and expands prior pay data reporting law
- Sec. 432.3 of the Labor Code and Sec. 12999 of Gov't Code
- Employers must now report **mean** and **median hourly rates** for each employee group:
 - Establishment
 - Pay band
 - Job category
 - Race / ethnicity
 - Sex
- Employers must also file a labor contractor's report containing mean and median hourly rates.



What is different about SB 1162?

- **Not conditioned on filing an EEO-1 Report**
 - All employers with at least 100 employees have to file — even if don't file EEO-1
 - Can't use the EEO-1 report to satisfy CA data reporting
- **NEW filing date of second Wednesday in May**
 - Feb. 1: Portal, user guide, Excel templates, .CSV file examples and other resources will be available at www.calcivilrights.ca.gov/paydatareporting.
- **Recordkeeping Requirements**
 - Job titles and wage rates must be maintained for duration of employee's tenure plus three years following termination.
- **Authorizes CRD to obtain penalties for failing to timely file**
 - Against employers and labor contractors
 - \$100 per employee for failure to file / \$200 per employee for subsequent failures PLUS costs. Sec. 12999(f).



SB 1162: Mean and median hourly rates — What do they “mean”?

- The mean and median hourly rates may look very different between employee groups...but they do not control for any legitimate factors. Accordingly, they are simply raw gaps and more similar to Gender Pay Gap reporting in the UK.
- Grouping employees by EEO job category is not equivalent to comparing substantially similar jobs.
 - Consider the findings of the EEOC’s Study: “The 10 job categories... are outdated and encompass a wide range of job responsibilities and pay rates...”
- Due to the broad and basic nature of EEO job categories, very different jobs with very different pay scales may be grouped together, leading to large differences.
 - These differences may erroneously be attributed to race, ethnicity or sex.



SB 1162: Mean and median hourly rates — What do they “mean”?

- Hourly rates are derived by dividing each employee’s W-2 Box 5 earnings by the hours worked in the year. Thus, if an employee is hired mid-year, their hourly rate will presumably be “normalized.” However, W-2 Box 5 earnings are used to place employees in a pay band, so a mid-year hire’s hourly rate will be contained in a pay band that is too low.
- **Conclusion:** The mean and median hourly statistics have the potential to raise many false red flags.
- Given the risks of the CRD misinterpreting or misusing these statistics during an investigation, employers should ensure their pay practices are sound and equitable.
- Only a pay audit that properly accounts for legitimate factors can uncover remaining differences that may be correlated with a protected characteristic.



SB 1162: What about remote workers?

- **Report all employees** — including teleworkers outside of California — **assigned to California establishments.**
- **Report all employees teleworking in California** — even if assigned to out-of-state establishments.
 - This includes reporting to establishments outside the U.S.
- **Same rule applies for Labor Contractor Reports**
 - Report all labor contractor employees assigned to California establishments and/or who work from California.
- **Do not report on employees working outside of California, and assigned to an establishment outside of California.**
 - If they only live in California, but work outside of California, do not report them.



SB 1162: Aggregate Results Available

- **2024 — California Civil Rights Dep’t (CRD) published aggregate results from 2024.**
- **CRD “encourages employers to review these results, as well as to assess their own pay data reports and pay practices, in light of California’s anti-discrimination and equal pay laws.”**
 - Note: CRD will maintain pay data reports “for not less than 10 years.” Sec. 12999(j)
- **In 2024, employers will be provided with visualizations of the certified data it submitted to CRD.**
 - NOTE: California Legislature voted to require pay data reporting to encourage employers to self-assess pay disparities on basis of gender/race/ethnicity and promote voluntary self-compliance with equal pay and antidiscrimination laws.
 - Pay data is intended to allow CRD to more efficiently identify wage patterns and allow for effective enforcement activity.



SB 1162: 2024 Results Published

- Detailed reports are available by industry and Metropolitan Statistical Area.
- Industry categories are very high-level.
- Examples:
 - Accommodation and food services
 - Educational services
 - Finance and insurance
 - Healthcare / social assistance
 - Professional, scientific and technical services



CONTINUED

SB 1162: 2024 Results Published

What can be observed?

- Proportion of employees in each EEO job category, by gender and race/ethnicity
- Proportion of employees in each pay band, by gender and race/ethnicity
 - Data reveals women underrepresented in high-wage work: 35% of those earning \$144,560+
 - Women overrepresented in low-wage work: 54% of those earning less than \$32,239



What will the California Civil Rights Department do with the pay data?

The stated purpose of the data collection is to “identify wage patterns and allow for targeted enforcement of equal pay or discrimination laws.”

During an Aug. 11, 2020, hearing, the Assembly Committee on Appropriations suggested the data would “provide insight into hiring or promoting practices that perpetuate ongoing pay disparities in the workplace.”


The CRD will oversee the collection of pay data and maintain pay data reports for at least 10 years.

The CRD is responsible “to receive, investigate, conciliate, mediate, and prosecute complaints.”

The CRD will share pay data reports with the Division of Labor Standards Enforcement (DLSE), which is the agency tasked with enforcing the California Equal Pay Act, to coordinate enforcement.

The CRD has authority to seek an order requiring nonreporting employers to comply, and to recover the costs associated with seeking the order for compliance.



An aerial photograph of a city skyline, likely Chicago, featuring several prominent skyscrapers. A semi-transparent green rectangular box is overlaid on the left side of the image, containing white text. The sky is clear and blue, and the water in the foreground is a deep blue with several small white boats.


Illinois Equal Pay Act — Reporting Updates



EPRC: Equal Pay Compliance Statement

What are you certifying??

- Corporate officer or authorized agent to certify accuracy
- Certify females and minorities are **on average** paid at a rate not consistently below males and non-minorities, and **disparities are corrected** when identified.
- Identify frequency of wage/benefit reviews.
- Identify method used to set wages.
- **Certify compliance with Title VII, EPA, IHRA, et al.**
- Must recertify every two years


ILLINOIS DEPARTMENT OF LABOR

JB PRITZKER GOVERNOR **JANE R. FLANAGAN** ACTING DIRECTOR

Equal Pay Act Registration Certificate Compliance Statement

This compliance statement shall be signed by a corporate officer, legal counsel, or authorized agent of the business for which this compliance statement is being submitted. For businesses that have more than one location in Illinois, this form shall be submitted only once, regarding all operations in Illinois.

Pursuant to the requirements of the Equal Pay Act of 2003 (820 ILCS 112/11(c)(1)), as an authorized representative of _____, hereby known as the "Business," I certify that:

- The Business is in compliance with:
 - Title VII of the Civil Rights Act of 1964 (42 U.S.C. § 2000e);
 - The Equal Pay Act of 1963 (29 U.S.C. § 206);
 - The Illinois Human Rights Act (775 ILCS 5);
 - The Equal Wage Act (820 ILCS 110); and
 - The Equal Pay Act of 2003 (820 ILCS 112);
- The average compensation for female and minority employees at the Business is not consistently below the average compensation for male and non-minority employees within each of the major job categories in the Employment Information Report (EEO-1), taking into account factors such as length of service, requirements of specific jobs, experience, skill, effort, responsibility, working conditions of the job, education or training, job location, use of a collective bargaining agreement, or other mitigating factors;
- The Business does not restrict employees of one sex to certain job classifications, and makes retention and promotion decisions without regard to sex;
- Wage and benefit disparities are corrected when identified to ensure compliance with the wage laws listed in section 1;
- Wages and benefits of employees are evaluated on the following basis to ensure compliance with the wage laws listed in section 1 (Circle one. If methods of calculation are different in different counties, describe the methods for each county):
 - Every _____ months/years (circle); or
 - Other (describe): _____; and
- The Business utilizes the following method(s) to determine employee compensation and benefits (Circle all that apply. If methods of calculation are different in different counties, describe the methods for each county):
 - A market pricing approach;
 - State Prevailing Wage or collective bargaining agreement requirements;
 - A performance pay system;
 - An internal analysis;
 - An alternative approach (describe): _____; and

Certification

The undersigned hereby certifies that they are a corporate officer, legal counsel, or authorized agent of the Business and that the information contained in this Equal Pay Act Registration Certificate Compliance Statement is true and accurate at the time of the signing.

Signature: _____ Date: _____

Printed Name: _____

Title: _____

Business Name: _____



EPRC: Requested Wage Records

What happens after submission?

IDOL reviews and identifies any pay disparity issues.

IDOL will compile aggregate reports that are not confidential.

IDOL can share the wage data it receives with the Illinois Department of Human Rights and Illinois attorney general.

Employees can request anonymized data from IDOL regarding the employee's classification and pay.



What is the impact of state and local legislation?

[Hired's 2024 Impact Report: State of Wage Inequality in the Tech Industry.](#)

- Gender wage gap is closing in SF; slower in LA, NY, DC; going backwards in Colorado.
- Black and Hispanic women still suffer largest gaps.
- Most employees report pay transparency laws help them.
- Employers report it can simplify the process.
- Interview opportunities: only slight improvement for women

<p>2018: In 45% of positions – only men received interview requests. 2024: 37% 2024: 38%</p>	<p>2018: In 26% of positions – only whites received interview requests. 2024: 12%</p>
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- 40% of jobseekers report their wages are below disclosed market ranges.
 - 38% of men: 42% of women





What to Expect Next?



What is happening globally?

2017: UK

Employers of 250+ must annually report mean and median pay and bonuses, and publish on their and UK government website.

2019: Denmark

Employers of 35+ must publish “annual gender-disaggregated pay stats” or gender pay reports every three years.

2024: Ireland

Employers of 250+ must report to government on % difference between hourly pay and bonuses of male/female employees, and % of male vs. female employees who received bonuses and benefits.

2024: Japan

Employers of 301+ employees must disclose gender pay gaps annually on website and in annual securities report.

Studies show UK and Danish law have reduced the gender wage gap.



EU Pay Transparency Directive: Adopted April 2024

Salary range postings
required

Salary history ban

Pay secrecy ban will
require review of employee
nondisclosure agreements,
confidentiality policies and
manager/HR training.

Employers with 50+
employees must provide
objective, gender-neutral
criteria used for pay, pay
levels and career
progression.

Employees can request
individual pay level and
on-average pay level data,
by sex, for workers
doing equal value.

Pay data reporting

Mandatory joint pay
assessment/audit in
cooperation with their
workers' representatives if
can't prove pay parity

Provides remedies
for workers, and
member states can
impose sanctions.



EU Pay Transparency Directive

Member States must conduct a **joint pay assessment, in cooperation with worker's representatives, when:**

- “The pay reporting demonstrates a difference in the average pay level between female and male workers of at least 5% in any category of workers;
- and*
- The employer has not justified such a difference in the average pay level on the basis of objective, **gender-neutral criteria.**”

The purpose of the joint pay assessment is to “identify, remedy and prevent differences in pay between female and male workers which are not justified on the basis of objective, gender-neutral criteria.”



EU Pay Transparency Directive

A joint pay assessment will include, in part:

- “An analysis of the proportion of female and male workers in each category of workers;
- Any differences in average pay levels between female and male workers in each category of workers;
- The reasons for such differences in average pay levels, on the basis of objective, gender-neutral criteria, if any, as established jointly by the workers’ representatives and the employer;
- Measures to address differences in pay if they are not justified on the basis of objective, gender-neutral criteria.”

The results of a joint pay assessment must be available to workers and their representatives.



EU Pay Transparency Directive

- U.S.-owned corporations employ ~2.5M workers in the EU.*
- The first reporting deadline for employers with more than 150 employees is 2027.
- However, the pay gap statistics in the initial report will relate to compensation paid in 2026.
- This leaves less than two years for potential pay disparities to be identified and addressed before gap statistics must be made public.
- Employers that now begin to thoroughly understand their pay practices will maximize their ability to correct unfavorable gaps before having to publicly disclose them and face potential legal and reputational harm.

*U.S. Department of Commerce, Bureau of Economic Analysis, "Activities of U.S. Multinational Enterprises, 2021", released November 17, 2023.





Pay Equity Litigation Update



Themes in Gender Pay Litigation

- “Male dominated” culture/decision-makers, including on compensation committee and management teams
 - Sex bias influences decision-making / perpetuates disparities.
- Prior salary history perpetuates disparities.
- Male with less experience is hired at higher salary than more experienced female incumbent.
- Pay disparities are supported by expert statistical analysis.
- Lack of equal opportunity for promotion
- Promotions are delayed for women — resulting in pay gaps vs. male peers.
- Bonuses are lower.
- Requests for compensation adjustments result in retaliation.
- Subjective or secretive compensation/promotion process contributes to ongoing disparity.
- Familial relationship discrimination
- Sexual harassment/discrimination



California CRD Settles Gender Pay Case

- **Dec. 15, 2024** — Press release of \$54 million settlement
 - Settlement requires court approval
 - Claims of denial of promotion opportunities for women
 - Paying women less for substantially similar work under Calif. EPA and FEHA
 - Filed on behalf of W-2 and 1099 workers
 - Settlement in addition to 2024 EEOC Consent Decree and company's 2024 ESG report
 - Will require retention of independent consultant for compensation and promotion policies and training
 - Lawsuit filed in 2024 by CRD after 2 years of investigation



Riot Games Class Action

- **2018:** Lawsuit filed
- **2019:** Proposed agreement to pay \$10 million to female class members
- Calif. DFEH and DLSE opposed settlement: not enough — should be \$400 million
- **2024:** \$100 million settlement approved
 - Independent expert to do gender equity analysis of pay, promotions and job assignments for three years
 - Riot Games to create \$18 million fund for those three years to pay for equity adjustments and diversity initiatives
 - Create full-time W-2 employee roles for class members who were hired as 1099s

The logo for Krotaku, featuring the word "Krotaku" in a bold, yellow, stylized font with a black outline, set against a background of a light gray hexagonal pattern.

Calif. CRD Weighs In on Private Gender-Pay Class Action Against Oracle

- **Nov. 17, 2024:** Press release of amicus brief in support of appeal of trial court decertification of gender pay class action
 - Focused on practice of using prior pay to set starting salary
 - Aggregate statistical evidence of disparate impact alone — using same job codes and ignoring comparators — is enough to get to a trial.
 - **Disaggregation into comparator groups not needed.**
 - **CRD argues analogous to consideration of aggregate data in voting rights or racial justice criminal cases**
 - **Cites to SB 1162 Pay Data in support of argument for reversal**





Goldman Sachs Class Action

- **May 8, 2024** — \$215 million settlement of gender-pay case announced on eve of trial
 - Alleged performance evaluation metrics not gender-neutral — actually systematically placed women at lower rankings than men, resulting in lower pay and less promotions for equally or more qualified women
 - Managers disproportionately allocated resources (admin. support, training and informal mentoring) to men over women
 - Three separate classes including female VPs
 - Settlement also requires ongoing pay equity analysis/studies



EEOC Fact Sheet: “Notable” Gender-Pay Cases

- 2024: Gaming parlor district managers (IL)
- 2024: HVAC project managers (MD)
- 2024: Auto dealership dispatcher (MD)
- 2024: IT systems analyst (TX)
- 2024: Bank manager (ND)
- 2024: Hotel chain supervisors (LA)
- 2020: Hospital IT developer (MI)
- 2020: Insurance co. \$20.5 million to 20 plaintiffs. (CO)
(race and gender)



Questions to Consider Now

- **Compensation decisions:**
 - Does your compensation system accurately document how wage and salary amounts are determined for new employees/promotions?
 - Does salary history impact decisions on what you are offering job candidate? Does it result in compensation outside established ranges? What factors justify the decision other than prior salary history?
 - Do your managers actually apply the factors you are telling employees govern how their salaries/compensation is determined?
 - Consider qualifying language in job posting and factors impacting ultimate salary.
 - Train recruiters and check what your external recruiters are posting.
 - Dealing with range compression for existing employees? May not be a “bona fide” factor.
- **Do you have formal wage/salary ranges for all positions?**
- **Are job descriptions updated to define comparators/factors differentiating compensation?**
- **Processes to provide ranges for promotions and transfers?**
- **Update handbooks and record retention policies**
- **Where are your workers working, including remote workers? Where are you hiring?**
 - Are your remote workers formally assigned to the right establishment for proper counting/reporting purposes?
 - Note: assignment in the “Snapshot Period” governs for California.
- **Where do you use 1099s / staffing agencies / PEOs / labor contractors?**
 - California: Put labor contractors on notice NOW to provide timely and accurate data.
 - Review labor contractor agreements / SOWs for relevant amendments.



Benefits of a Privileged Pay Audit

- Document legitimate business reasons for disparities.
- Proactively implement remedial measures given increased transparency.
- Understand where incumbents are at — or close to — new hires.
- If raising salaries at every level, know why you are adjusting employees. What factors are driving decisions for alignment?
- Address outliers/unicorns.
- Establish privilege vs. nonprivileged OFCCP audit per Directive 2024-01.
- Establish guardrails to document when "coloring outside the lines."
- Evaluate bonus programs / align with performance management and other relevant factors.
- Help reinforce importance of performance management protocols.





Questions?

Timely Alerts From **Faegre Drinker**

[LaborSphere.com](https://www.laborsphere.com)

For further analysis and information on matters related to labor and employment, particularly **pay equity**, visit and sign up for our blog.





National Footprint, Global Reach

