



Hawaii Pay Equity

Statute

- Equal pay; sex discrimination, Haw. Rev. Stat. §§ 378-2.3, 378-2.4, 378-5
- Employer inquiries into and consideration of salary or wage history, Haw. Rev. Stat. § 378-2.4
- Wage discrimination prohibited, Haw. Rev. Stat. § 387-4

Classes protected

- Sex, race, religion, gender identity or expression, sexual orientation, age, color, ancestry, disability, marital status, arrest and court record, reproductive health decision, or domestic or sexual violence victim status if the victim provides notice to the victim's employer of such status or the employer has actual knowledge of such status

Key language on pay discrimination

- "No employer shall discriminate between employees because of any protected category listed in section 378-2(a)(1) by paying wages to employees in an establishment at a rate less than the rate at which the employer pays wages to other employees in the establishment for substantially similar work on jobs the performance of which requires equal skill, effort, and responsibility, and that are performed under similar working conditions."

Exceptions for pay disparities (including affirmative defenses)

- Seniority system
- Merit system
- System that measures earnings by quantity or quality of production
- Bona fide occupational qualification
- Differential based on any other permissible factor other than sex, race, religion, gender identity or expression, sexual orientation, age, color, ancestry, disability, marital status, arrest and court record, reproductive health decision, or domestic or sexual violence victim status if the victim provides notice to the victim's employer of such status or the employer has actual knowledge of such status

Prohibition on salary history inquiry

- Employers and employment agencies are cannot inquire about the salary history of an applicant for employment or rely on salary history to determine salary, benefits, or other compensation for the applicant during the hiring process, including the negotiation of an employment contract

- Can engage in discussions about the applicant's expectations with respect to salary, benefits, and other compensation
- Salary history can be considered and verified if voluntarily disclosed by the applicant, without prompting

Anti-retaliation

- Employer shall not retaliate or discriminate against an employee for, nor prohibit an employee from, disclosing the employee's wages, discussing and inquiring about the wages of other employees, or aiding or encouraging other employees to exercise their rights to do so

Wage Disclosure Requirement

- All job listings must disclose an hourly rate or salary range reasonably reflecting the actual expected compensation. However, this requirement does not apply to: (1) job listings for an internal transfer or promotion with an employee's current employer; (2) public employee positions for which salary, benefits, or other compensation are determined pursuant to collective bargaining; or (3) positions with employers having fewer than fifty employees.

Key Contacts

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Pay Equity Team

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