



Baltimore Public Library Found Liable In \$190K Gender Pay Bias Claim

Insights

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A federal court in Maryland recently found that Baltimore City's Enoch Pratt Free Library, the City's public library system, violated federal pay equity law and is thus liable for more than \$190,000 in backpay and liquidated damages. In **United States Equal Employment Opportunity Commission v. Enoch Pratt Free Library, et al.**, the court concluded that the Library and two related defendants violated the Equal Pay Act (EPA) when it paid five female librarians less than a male librarian. The court's December 23 decision found that the female librarians performed the same core duties as their male colleague, and rejected the defendants' arguments that the library branches where the female librarians worked accounted for differences in duties sufficient to warrant paying the female employees less. The court further found that the Library failed to follow internal Human Resources guidance instructing city agencies to avoid "internal equity issues" when setting salaries for any new employees within a position's salary range. What can employers across the country learn from this case?

The Librarian Supervisor-1 Position

The Enoch Pratt Free Library consists of 21 branches and two mobile library vehicles. Each branch employs at least one branch manager, generally a Librarian Supervisor-1 (LS-1). The required training, experience, and qualifications for all LS-1s in the system are the same, and all LS-1s perform the same common core duties.

Each of the five female claimants worked for the Library for decades, and had worked at various branches of different sizes serving different demographics. They all performed the same essential job duties, which in general included: (1) supervising staff; (2) managing facilities; (3) overseeing the book and media collection; (4) community outreach and programming; and (5) communicating with the Library's administrators.

In 2014, the City implemented a new salary system that applied to all management and professional positions. Employees had previously been paid according to a step system with salary increases based on length of service. Under the new system and related policy, human resources departments had broader discretion to set starting salaries in order to make the City more competitive in recruiting and retaining talented workers. Further, agencies could offer new employees any salary within the salary range for a particular position, although salary offers above the mid-point required prior approval. Written guidance that accompanied the new policy cautioned that the policy could

prior approval. Written guidance that accompanied the new policy cautioned that the policy could result in pay disparities between current and new employees, and agencies were advised to avoid “adverse internal equity issues” when setting salaries for new employees.

In 2015, the Library hired Willie Johnson for a LS-1 position. Defendants presented sketchy evidence about how Johnson’s starting salary was set, and as the court noted, “at best, the record reflects that the Library set [Johnson’s] salary based solely on Johnson’s say-so.” Johnson’s starting salary was \$68,900, which was higher than the salaries of any of the female claimants, which ranged between \$62,900 and \$67,800. Johnson received a salary increase to \$70,300 in 2016 while the female employees’ salaries remained lower. Nonetheless, Johnson’s essential job duties were substantially the same as those of the female librarians.

The Decision

After a five-day virtual trial held this fall, the court found that the defendants violated the Equal Pay Act because the female librarians demonstrated that Enoch Pratt paid them lower wages than Johnson despite performing substantially equal work. The defendants also failed to show that the pay differentials were justified under one of the statutory exceptions set forth in the EPA, including a “factor other than sex.”

Notably, defendants claimed, in part, that because Johnson’s salary was based on the new salary system and policy, it was based on a factor other than sex and therefore did not violate the EPA. But the court concluded that just because the policy allowed the Library to adjust a new hire’s starting salary upward within the position’s salary range, it did not justify paying the male employee a higher wage for performing the same work as his female counterparts. As the court noted, the City’s Human Resources guidance explicitly instructs agencies to evaluate new hire salaries for “internal equity issues.” There was no evidence that the Library did so, nor did the Library undertake any effort to compare Johnson’s salary with other LS-1s even after one of the female claimants made an internal complaint about the disparity.

Even worse, the Chief Operations Officer/EEO Officer admitted that he withdrew an approved in-range pay adjustment for the claimant who complained internally because she filed a charge of discrimination and in order to avoid “far greater ramifications” for doing so (i.e., larger scale pay adjustments). The Library’s knowledge that pay discrepancies existed and its failure to address them negated its claim that it acted in good faith and resulted in the award of liquidated damages in this case – amounting to the payment of double backpay to the claimants.

Takeaways

This decision is another reminder that employers have a legal responsibility to ensure that employees are paid equally for equal work. As in this case, you may be well-intentioned in adopting written policies promoting pay equity in an effort to meet your legal obligations. However, failure to follow those policies can backfire. Knowing that there are pay equity issues at your company and failing to act upon them also sets the company up for increased liability. When employers fail to

waiting to act upon them also sets the company up for increased liability. When employers fail to proactively conduct internal audits to evaluate pay equity issues, and fail to perform an appropriate comparative salary analysis even after an employee raises a concern about salary differentials based on gender, litigation and liability may follow. Just ask Enoch Pratt.

Service Focus

Pay Equity and Transparency