



Questions Unanswered? A Review Of The Massachusetts Guidance On Equal Pay

Insights

3.05.18

If you're a Massachusetts employer gearing up to comply with the state equal pay law set to be in effect in just four short months, you probably have questions. The law will prohibit you from paying employees of a different gender at different rates provided they are doing "comparable work," and will also bar inquiries about salary history. But what constitutes "comparable work"? And when comparing employee pay, what counts as "wages" under the statute?

More broadly, which employers are covered by the Massachusetts Equal Pay Act (MEPA)? What if you have a telecommuting worker living in a neighboring state (or on the other side of the country) – are they covered?

Digging deeper, what justifications exist that would excuse disparities in pay between men and women at your workplace? Can salary history ever justify such a pay disparity? And you might be aware that the law creates a safe harbor allowing you to escape liability if you conduct a good faith, reasonable self-evaluation of your pay practices in the recent past and take meaningful steps toward eliminating any unlawful pay gaps you identify—but how exactly does the safe harbor work? How thorough does your self-evaluation need to be? And how much progress do you need to make when taking "meaningful" steps to eradicate pay gaps in order for them to be deemed "meaningful"

We have good news and bad news for you. The state Attorney General [just released guidance](#) regarding MEPA compliance presented in a user-friendly FAQ format, providing answers to these – any many other – questions. That's the good news. The bad news: the guidance does not provide significant illumination on several critical issues, including what constitutes "comparable work," and how to determine an employee's "primary place of work" for purposes of determining telecommuting compliance.

We have generated [a thorough alert](#) summarizing the entire guidance document, including a review of all of the pertinent FAQs, and have done our best to guide you through the guidance. The FAQ does provide some helpful clarity in certain areas, including one or two positive developments for employers, and we have summarized those as well. You can read the full alert [here](#).

Related People



Cheryl Pinarchick

Senior Counsel

617.532.8215

Email

Service Focus

Pay Equity and Transparency