



# 'Say What You Mean and Mean What You Say': Fisher Phillips Partners Explain How Employers Can Promote Gender Equality and Pay Equity in the #MeToo Era at Recent Corporate Counsel Conference

Insights

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The national conversation around issues of gender equality and the demands for pay equity is driving rapid changes in the law. Many states – including New York, California, Massachusetts, Oregon and New Jersey – have passed robust legislation in an attempt to close the pay gap between men and women in the workplace. At the same time, employers are grappling with an uptick in claims alleging sexual harassment and discrimination sparked by the #metoo movement.

An unintended consequence of the #metoo movement appears to have been a rise in gender segregation – men avoiding one-on-one communications and contact with women in the workplace. This phenomenon had led to a decline in private meetings, work-related meals and travel involving colleagues of the opposite sex. Unfortunately, such “gender segregation” may impact the opportunities available to men and women in the workplace and, ultimately, adversely impact the pay and advancement opportunities of women who are excluded. Unconscious bias also plays a role in the opportunities available to men and women, which again, can lead to complaints of discrimination and pay disparities. The convergence of these issues, and the high stakes litigation erupting across the country, has employers asking “What can a company do?”

Kathleen Caminiti and Cheryl Pinarchick, two of the co-chairs of Fisher Phillips’ Pay Equity Practice Group, recently shared their thoughts at the Association of Corporate Counsel’s Annual Meeting in Phoenix, AZ. Here are some of the key takeaways:

- **Build diversity and inclusion into your culture.** Building a culture of diversity and inclusion needs to start from the top with a clear statement of leadership’s commitment to a culture of inclusion and a recognition that a diverse and inclusive workplace benefits employees individually and the organization as a whole. One suggestion offered was to consider linking compensation to D&I goals as a way to build diversity and inclusion into the corporate infrastructure.
- **Say what you mean and mean what you say.** Underscore that bad behavior is completely unacceptable. This includes “*walking the walk*” — company leaders must set the tone by publicly stating that sexual harassment won’t be tolerated and, crucially, they must themselves model appropriate behavior.

- **Train and train some more.** Provide HR teams with detailed training, including tools to address unconscious bias, and ensure that they know how to fully, and fairly, investigate claims – even if they involve senior leaders. Proper investigations are key to building trust within the organization. Train all employees on how to create and maintain a positive, respectful work environment and ensure that everyone in the organization knows what to do if they see or hear something that’s troubling.
- **Establish clear, understandable, actionable metrics.** Create transparent and objective metrics around recruitment, performance, advancement and compensation to help ensure consistency and equality in decision-making across the organization.
- **Be flexible.** Consider policies that allow for flexibility for work/life balance at different stages of an employee’s life and career and encourage male and female employees in leadership positions to take advantage of those policies as a way of assuring employees across the organization that the company supports those policies.
- **Ensure compliance with changing pay equity laws.** Carefully review company policies and handbooks to make sure they are consistent with applicable state laws and local ordinances. Remove policies and statements that prohibit employees from discussing compensation as most states now require transparency. Take note that many states and localities also now prohibit employers from seeking salary history from job applicants and/or using salary history to make compensation decisions. Applications and other hiring documents should be updated to remove requests for salary history.
- **Consider** conducting a privileged pay equity audit to identify any potentially unlawful pay disparities and remedy them before a claim is brought. Fisher Phillips’ [Pay Equity Interactive Map](#) provides a helpful overview of the pay equity laws of states and major cities.

Proactive employers committed to diversity and inclusion will be rewarded with tangible benefits to the organization. The issues around gender relations – and equality -- in the workplace are complicated but cannot be ignored. Now is the time to take action.

### ***Related People***

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