



## KNOW YOUR RIGHTS:

# Equal Pay

Facts from the NC Justice Center's WORKERS' RIGHTS PROJECT

### ► YOUR RIGHTS to equal pay and freedom from compensation discrimination

Two federal laws protect female employees from compensation discrimination: the Equal Pay Act and Title VII of the Civil Rights Act, which makes it illegal to discriminate based on sex in employment.

These laws protect against discrimination in all payments to employees, including salary, overtime pay, bonuses, stock options, profit sharing and bonus plans, life insurance, vacation and holiday pay, cleaning or gasoline allowances, hotel accommodations, reimbursement for travel expenses, and benefits.

#### What are my rights under the Equal Pay Act (EPA)?

The Equal Pay Act of 1963 makes it illegal for employers to pay unequal wages to men and women who perform substantially equal work.

Your employer can pay different amounts based on seniority, merit, quantity or quality of production, or a factor other than sex. But under the

EPA, employers may not pay unequal wages to men and women who perform jobs that require substantially equal **skill, effort** and **responsibility**, and that are performed under similar **working conditions** within the same **establishment**. Each of these criteria is explained below:

**Skill** – Skill is measured by factors such as the experience, ability, education, and training required to perform the job.

*For example, two bookkeeping jobs could be considered equal under the EPA even if one of the job holders has a master's degree in physics, since that degree would not be required for the job.*

**Effort** – The amount of physical or mental exertion needed to perform the job.

*For example, on an assembly line the person at the end of the line must lift the assembled product as he or she completes the work. That job requires*

*Did you know?*

**North Carolina ranks 39th in the nation on closing the pay gap.** Our state's working women are bringing home 82 cents on the dollar for the same work as similarly situated men.

The pay gap is even larger for women of color. On average, in North Carolina, an African American woman makes 64 cents for every dollar a white man makes. And a Hispanic woman makes only 49 cents for every dollar.

Source: Center for American Progress, "The State of Women in America," September 2013.

This fact sheet is intended to provide accurate, general information regarding legal rights relating to employment in North Carolina. However, this fact sheet does not address exemptions and does not go into detail regarding legal rights. In addition, laws and legal procedures are subject to frequent change and differing interpretations, and the North Carolina Justice Center cannot ensure the information in this sheet is current nor be responsible for any use to which it is put. Do not rely on this information without consulting an attorney or the appropriate agency about your rights in your particular situation.

## ► **YOUR RIGHTS** to equal pay and freedom from compensation discrimination

*more effort than the other assembly line jobs if the extra effort of lifting the product is substantial and is a regular part of the job.*

**Responsibility** – The degree of accountability required in performing the job.

*For example, a salesperson who accepts customers' personal checks has more responsibility than other salespeople. On the other hand, a small difference in responsibility, such as turning out the lights at the end of the day, does not justify a difference in pay.*

**Working Conditions** – This includes (1) physical conditions like temperature, fumes, and ventilation; and (2) hazards.

**Establishment** – The protections of the Equal Pay Act only cover jobs within an "establishment," meaning a distinct physical place of business rather than an entire business or enterprise with several places of business.

### **What can I do if I believe I am experiencing compensation discrimination?**

#### ***Under Title VII***

Title VII makes it illegal to discriminate based on sex in pay and benefits. Therefore, someone who has an Equal Pay Act claim may also have a claim under Title VII.

Under Title VII, there is no requirement that the claimant's job be substantially equal to that of a higher paid comparator, nor is there a requirement that the claimant works in the same establishment as a comparator.

If you believe you have been discriminated against in violation of Title VII, you have to file a discrimination charge with the Equal Employment Opportunity Commission (EEOC) before you can go to court. You can call 1-800-669-4000 or 1-800-669-6820 (TTY) for more information on filing a charge with the EEOC.

The Lily Ledbetter Fair Pay Act of 2009 provides that you have 180 days to file a claim from the last discriminatory paycheck received. The filing deadline may be extended to 300 calendar days if a state or local agency enforces a law that prohibits employment discrimination on the same basis.

You can also learn more about workplace discrimination and learn how to file a complaint by visiting [www.eeoc.gov](http://www.eeoc.gov).

#### ***Under the Equal Pay Act***

If you believe your rights are being violated under the Equal Pay Act, you may go directly to court and are not required to file a charge with the EEOC beforehand. The time limit for filing a charge with the EEOC and the time limit for going to court are the same: within two years of the alleged unlawful compensation practice or, in the case of a willful violation, within three years. The filing of an EEOC charge under the EPA does not extend the time frame for going to court.

**Legislative efforts are underway** in Congress to strengthen and update the Equal Pay Act. The **Paycheck Fairness Act** would, among other provisions, do the following:

- Put gender-based discrimination on equal footing with other forms of wage discrimination, such as race or national origin, and allow women to take legal action for damages.
- Protect workers who discuss salaries with colleagues from retaliation.
- Recognize employers who have good pay practices, and provide businesses support with equal-pay practices.
- Create a negotiation skills program for women and girls.

**The Workers' Rights Project** offers factsheets on a range of topics, including Family and Medical Leave, Health and Safety at Work, Misclassification, Unemployment Insurance, Workers' Compensation, Immigrant Workers' Rights.

You can find all of our factsheets at [tiny.cc/ncworkers](http://tiny.cc/ncworkers).

