PAY EQUITY

In recent months, there have been a lot of news stories and articles on the subject of pay equity. New state regulations and increased attention to the topic can raise the organizational risk associated with issues of pay equity. This newsletter defines pay equity and highlights considerations for conducting a pay equity analysis.

Pay equity does not mean that employees who are doing the same type of work must be paid the same; differences in pay will exist between employees depending on their experience, education and performance.

PAY EQUITY DEFINED

Mickey Silberman, Chair of law firm Fortney & Scott's affirmative action and pay equity practice group, defines pay equity as "paying employees fairly and consistently, without discrimination on the basis of gender, race or other protected categories, but taking into account job-related factors such as education, work experience and tenure."

FEDERAL AND STATE REGULATIONS

According to Silberman, federal law "essentially says to compare employees doing the same job who are similarly situated." All but two states have state regulations related to equal pay or pay equity, and each state takes a different approach to the issue. For example, the California Fair Pay Act, adopted in 2016, requires employers to view similar work as a composite of skill, effort and responsibility. According to Silberman, California employers "must explain and justify the entire wage differential."

PAY EQUITY ANALYSIS

A pay equity analysis drills down to determine whether certain factors (that are less prone to bias) account for differences in pay, which then helps to determine whether a pay disparity exists. Pay equity analysis differs from a wage gap comparison often completed as part of an affirmative action plan that does not account for other factors such as seniority or experience. Legitimate, non-discriminatory factors that can influence compensation may include:

- Job role & responsibilities
- Grade
- Performance
- Education, certifications, licenses
- Date of hire
- Time in position

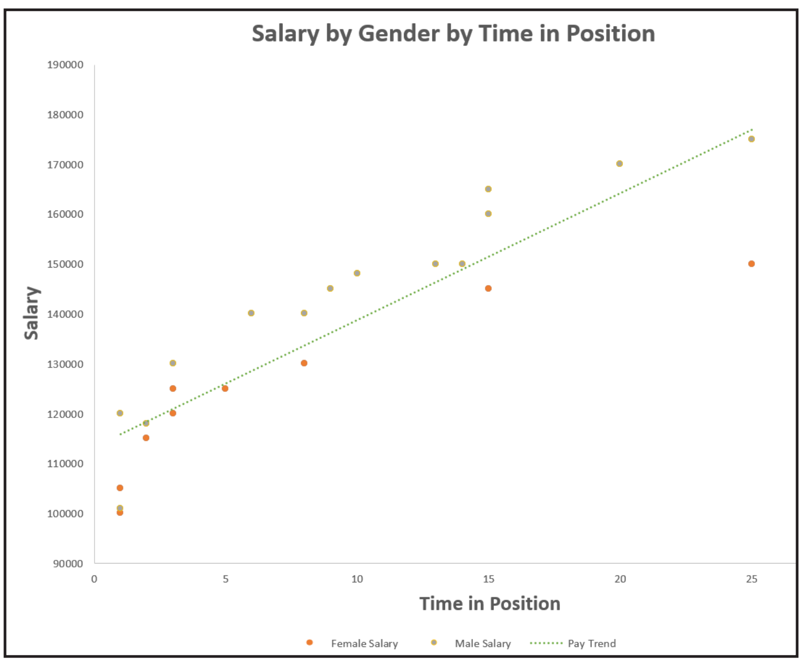
A pay disparity exists when legitimate, non-discriminatory factors do not account for differences in compensation

To test which factors affect compensation levels, a multiple regression analysis is performed. This statistical analysis accounts for the difference in compensation with respect to a “control” (the factors listed above). The regression determines which factors correlate and which do not, and helps identify reasons for a difference in pay between one group and another.

For example, say that a difference occurs in average salary between males and females. To determine if there is a disparity, consider accounting for time in position (the control factor). If the higher payed group has been in the position longer than the other group, this may be sufficient in explaining the difference in average salaries.

A multiple regression analysis measures the impact of factors such as gender and time in position by salary level to determine if the degree to which differences exist in salaries can be explained or justified. This is done by calculating a pay trend from the multiple regression analysis. The pay trend becomes the “expected” outcome which actual compensation can then be compared to. The standard deviation, which is a measurement of the amount of variation or dispersion in a set of data, is also calculated. Any individual (actual) compensation that is above or below the ‘expected’ pay trend is analyzed to determine whether it is considered statistically significant or not. Any individual salary more than two standard deviations from the pay trend is considered statistically significant.

For example, in the graph below, male and female salaries are plotted, with the pay trend calculated. In this particular example, any actual salary that is more than $21,400 from the pay trend is statistically significant.



Pay Equity analyses can be done on an entire workforce or sub-groups; perhaps specific departments or specific locations, depending on the amount and quality of data available.

Considerations need to be made on what groups to include, the timing of when to conduct the analysis, and which control factors to include in the regression model.

REDUCING RISK

Some organizations do not want to conduct a pay equity analysis for fear of what the results might tell them. However, making the effort to look at the data in order to identify any potential issues and “make it right” could be favorably viewed in terms of compliance and reduce the risk from potential pay discrimination claims. While many organizations complete a pay equity study for reasons of legal compliance, organizations can also benefit by improving employees’ perception of the organization’s attitude toward pay equity.

PAY EQUITY *continued ...*

In addition to conducting a pay equity analysis, organizations can take other steps to ensure there are processes and practices in place to support sound, non-discriminatory compensation decisions.

These practices include:

- Having well-written, current job descriptions which describe how jobs differ from one another
- Using a formal, valid and reliable job evaluation method
- Training managers on sources of bias in performance management
- Educating leadership and the Board of Directors on pay equity requirements and compliance

SUMMARY

Ongoing discussions surrounding pay equity are anticipated as state legislatures address the issue and pay transparency remains a hot topic.

Being aware of pay equity regulations, ensuring your practices support pay equity and identifying and addressing discrepancies in compensation will support your organization's efforts to attract and retain employees and reduce risk.

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Foundations Consulting is experienced in conducting pay equity analyses and while our studies do not constitute legal advice, the information we provide can equip you to identify and address issues of pay equity.

For more information on pay equity analyses and how Foundations Consulting can be of assistance, contact Heidi Nelson at 651-282-8446.