

Compensation Inequity: Calling Out Hidden Discrimination



Steps for avoiding inequality during individual compensation negotiations

Can you legally compensate two people doing the same job differently? In fact you can. It happens all the time.

Employees at the same organization often work side by side and receive different compensation. This disparity may often be attributed to **seniority systems, merit systems, and piecework systems**. These employees may also work **different shifts, or at different locations, or, one may travel more than the other**. These explanations for compensation disparity are all valid.

What an organization cannot do, however, is pay workers disparate compensation for work that is essentially the same, where one person is paid less than another based on gender, disability, culture, age, religion, sexual orientation, marital/family status (including pregnancy) or for a conviction for which they have been pardoned. When such characteristics are factored into the equation for compensation, this is discrimination.

There are two types of compensation equality; external and internal

1. **External compensation** refers to your compensation rates compared to those of other organizations. Discrepancies in external compensation may result in losing your best staff to an organization that pays better or attracting employees because you compensate them better in comparison.
2. **Internal compensation** refers to compensation practices within your organization. Discrepancies in internal compensation may result from the fact that some jobs are more valuable, more difficult to fill or have more impact in your organization and, as a result, compensation varies between different jobs.

Considering Internal Equity in Compensation

Within your organization you have the right to establish compensation as you see fit, as long as you conform to the Employment Standards Act with respect to minimum wages and compensations and the Employment Equity and Canadian Human Rights Acts, which means you cannot compensate employees differently based on prohibited grounds for discrimination.

There are two important considerations with respect to ensuring compensation equity.

Compensation Discrimination: Ensure that within a job class (jobs that are the same) you are not compensating individual employees differently based on prohibited grounds for discrimination. For example, you cannot hire an Aboriginal woman as a nurse's aid and pay her less compared than a Caucasian nurse's aid unless you can demonstrate job differences or other established differences (such as seniority, qualifications and more).

Job Class Discrimination Bias: Ensure your job classes are not systematically biased based on prohibited grounds for discrimination. The best-known example of this bias is evident regarding jobs held by women. The bias manifests as systemic undervaluing of paid work performed by women. In lieu of this bias, women are generally more poorly compensated than their male counterparts. In Canada, pay equity laws have been in place for over 20 years. Every organization should take the time to establish a pay equity plan.

How to determine if compensation inequity exists in your organization.

The principle behind internal equity in compensation holds that individuals in the same organization should be compensated equally for jobs that are the same or substantially equal. The term, "substantially equal" means, "requiring the same skill, effort, responsibility, and performed under similar working conditions and in the same establishment".

Determining if there is systematic bias in job class compensation is a complex process. Determining if there is inequity in terms of compensation given to an individual within a given job class is less complex.

5 Steps For Avoiding Compensation Discrimination for Individuals

1. Establish clear parameters for compensation based on different factors within a specific job class. These factors can include:

- Training, education and certification
- Years of experience
- Specific skills
- Working conditions
- Level of responsibility
- Effort required (mental and/or physical)

2. Establish your hiring compensation parameters for the job class including varying levels of compensation based on the combination of factors required for the job.

3. Clearly identify and establish what role job factors such as seniority, merit, and working conditions play in compensation.

4. Create a clear hiring range with well-identified wage ranges within various levels the job class. For example a 4-5 level hiring range based on the job class factors.

- Entry level
- Intermediate
- Established
- Senior
- Supervisory/Leader

5. Compare candidate's qualifications to the requirements for each level to determine compensation offers.

Checks and Balances

By establishing compensation ranges ahead of time, you have a better chance of applying compensation equally. If you have concerns about compensation discrimination, you can:

1. Identify a 3rd party within your organization who knows nothing about a candidate; provide them with your pay range factors and the candidates qualifications without any disclosure of the individuals personal characteristics.
2. Review your compensation packages for all employees within your organization and look for patterns of systematic discrimination in your compensation packages negotiations. If you uncover a pattern, take immediate steps to remedy the situation.
3. Is there room for negotiation? Yes, there can still be room to adjust your compensation package according to the process of an individual negotiation. However, it is important to educate hiring authorities on their potential personal bias.

Hiring and holding on to the right employee is reason to consider increasing compensation packages for an individual. However, if you routinely offer those increased packages to employees of the same race, gender, and economic and social bracket, this is grounds for discrimination.

Resources on Pay Equity

[Pay Equity Information Guide HR Insider](#)