

# Know Your Rights: Pay Equity



*Your right to equal compensation.*

## What is Gender-based Wage Discrimination?

Paying a woman less than a man for the same work is a type of sex discrimination that creates barriers for women seeking economic security.

This type of discrimination can take the form of lower wages, limited access to higher education or training required for advancement, and lack of workplace flexibility necessary to meet family caregiving needs.

Discrimination can also be found when women and men are offered unequal “fringe benefits” packages, which include things like medical, hospital, accident, and life insurance; retirement benefits; profit sharing and bonuses; vacation or personal leave time; etc.

Every woman deserves to be paid fairly for her work and to have the opportunity to attain economic security.

## Are There Exceptions to Wage Discrimination?

Being paid a different wage than your male co-worker does not always amount to gender-based wage discrimination. Maine and federal laws carve out exceptions that allow employers to pay workers doing the same job different amounts, so long as the wages are not determined with the purpose of paying women less. A wage difference may not be considered discrimination if it is based on one of the following:

**Seniority** Pay is based on how long you have worked for the company with preference given to workers with more years of service. It may not be discrimination when a male co-worker with five years of experience, for example, is paid more for doing the same job as a female co-worker with only two years of experience.

**Merit** Pay is based on your job performance, as measured by an objective system of evaluation. For example, it may not be discrimination for a company to pay a male salesperson with 15 big clients more than a female salesperson with 5 small clients (assuming that the salespeople were responsible for finding their own clients).

**Productivity** Pay is based on the quantity or quality of the goods you produce. For example, if a male co-worker produces twice as many widgets as you do, it may not be discrimination for your employer to pay him more. Note: Federal law establishes this as an exception to sex discrimination, but no such exception exists under Maine law.

**Another Standard That is Not Based on Gender** Pay is based on objective factors other than gender. For example, it may not be discrimination for a company to pay workers on the overnight shift more than workers during the day shift.

## How is Wage Discrimination Affecting Women?

Nearly 40 years after the Equal Pay Act was enacted, gender-based wage discrimination continues to leave women more vulnerable to poverty, because it leaves women with lower personal assets, lower access to healthcare, and lower retirement income caused by career-long pay disparities.

Nationally, women working full time, year-round, make approximately 78 cents for every dollar earned by men, with Maine women faring slightly better, earning about 80 cents for every dollar earned by their male co-workers (as of 2008).

The gap is even more apparent when the wages earned by various groups are compared to those of white men, who earn the highest salaries nationally. For every dollar earned by a white man, these women earn:

White woman	76.4 ¢
Black woman	65.6 ¢
American Indian or Alaska Native woman	60.4 ¢
Hispanic woman	54.6 ¢

For more information about how you can better negotiate your wages to bridge this wage gap, please visit [WageProject.org](http://WageProject.org). The Wage Project is a non-profit organization that is working to end discrimination against women in the American workplace.



Maine Women's Policy Center

THE VOICE OF MAINE WOMEN

*The Maine Women's Policy Center is a nonprofit organization dedicated to improving the lives of women and girls.*

P.O. Box 85  
Hallowell, Maine 04347  
(207) 622-0851  
[MaineWomensPolicyCenter.org](http://MaineWomensPolicyCenter.org)

## What is the Difference between Equal Pay and Pay Equity?

Both Equal Pay and Pay Equity efforts address the vast wage gap between women and men. In attempting to close this gap, Equal Pay focuses on obtaining equal wages for equal work, while Pay Equity focuses on the way society undervalues work historically done by women.

**Equal Pay** addresses differences in pay when the work is the same or similar to that being done by a member of the opposite sex. To fall under this category, the jobs being compared must require comparable skill, effort and responsibility and must be performed under similar working conditions.

For example, Equal Pay efforts work to ensure that men and women operating the same equipment and doing the same job at a construction site have equal wages. If your employer pays different wages for equal work, it may amount to sex discrimination and remedies may be available to you.

**Pay Equity** addresses some of the most egregious differences in pay, which are often tied to the lower value given to work historically done by women as compared to the work historically done by men. Pay equity efforts seek to ensure that men and women earn the same wages for jobs that require equal skill, effort, and responsibility – even if the jobs have different titles.

For example, there is often a large pay disparity between wages earned by housekeepers (historically jobs filled by women) and janitors (historically jobs filled by men), though the job descriptions are virtually indistinguishable.

## How Do I Report Pay Disparities?

If you believe that you are being paid unfairly because you are a woman, you do have options. If you are paid less to perform the same or similar job as a member of the opposite sex (unequal pay), and the differences in your wages are not related to the exceptions under Maine law (seniority, merit, shift differential), you can file a complaint with the Maine Department of Labor. If you are paid less to perform a job that requires comparable skill to a job historically performed by men (pay inequity), you can file a complaint with the Maine Human Rights Commission.

**Equal Pay** complaints can be made to:

Maine Department of Labor  
Wage & Hour Division  
45 State House Station  
Augusta, ME 04333-0045  
207-623-7900  
800-794-1110 TTY  
[www.maine.gov/labor](http://www.maine.gov/labor)

**Pay Equity** complaints can be made to:

Maine Human Rights Commission  
51 State House Station  
Augusta, ME 04333-0051  
207-624-6050  
207-624-6064 TTY  
[www.maine.gov/mhrc](http://www.maine.gov/mhrc)

Under the equal pay laws, your employer may not fire or discriminate against you because you have exercised your rights or you have helped an investigation into another person's complaint.

## FAQs

**Can my boss prohibit me from talking about my wages or asking my co-workers about theirs?** No, your employer can not prohibit you from disclosing your own wages or from asking about another employee's wages if you are trying to enforce your equal pay rights. However, your co-workers are not obligated to share information about their wages with you.

**I'm worried about my co-workers. Can my boss lower their pay to make it equal with mine?** No, your employer cannot reduce someone else's wages to correct the pay inequity.

**My boss said that he has to pay me less because my benefits are more expensive. Does that make a difference?** No, your employer cannot discriminate against you by giving you lower compensation, benefits or other privileges of employment, because of your gender. Also, your employer can not provide different benefits to workers based on gender, regardless of any difference in the cost to provide those benefits.

## Get Help



### Equal Rights Advocates

EqualRights.org 415-621-0672



### Maine Civil Liberties Union (MCLU)

MCLU.org 207-774-5444



### Maine Human Rights Commission

Maine.gov/mhrc 207-624-6050



### Maine Lawyer Referral and Information Service

MaineBar.org/lawyer\_need.asp 800-860-1460



### Maine Volunteer Lawyers Project

VLP.org 800-442-4293



### Pine Tree Legal Assistance

PTLA.org



### U.S. Equal Employment Opportunity Commission

EEOC.gov 800-669-4000



### WAGE Project

WageProject.org



If you think you have a sexual discrimination claim, contact:

The Maine Human Rights Commission  
51 State House Station  
Augusta, Maine 04333-0051  
207-624-6050

MHRC complaints must be filed within 300 days of the incident, which is a required step before a case can be taken to court. To learn how to file a complaint and what steps will be taken by the Commission, visit [Maine.gov/mhrc](http://Maine.gov/mhrc).

Note: Under Maine law, it is illegal to fire or discipline an employee for filing a complaint or assisting in an investigation.