

# Understanding Your Right to Pay Equity in New York!

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Today, women in the workforce, especially women of color, continue to face high rates of pay discrimination, which can follow them throughout their lives. Not only are women paid less for doing the same work as men, women are typically segregated into lower-wage jobs where they face higher rates of workplace violations, including sexual harassment and wage theft. While pay discrimination can sometimes be difficult to identify, there are now a number of important protections in New York to challenge unequal pay. Below is a brief overview of core pay equity protections as well as information on how to take action or get further assistance.

## Know Your Rights!

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- **Equal Pay for Substantially Similar Work:** You have the right to be paid equally for doing “substantially similar work,” regardless of your age, race, creed, color, national origin, sexual orientation, gender identity or expression, military status, sex, disability, genetic history, familial status, marital status, or domestic violence victim status. Jobs are compared looking at skill, effort, and responsibility, and the similarity of working conditions. Differences in pay are only allowed based on seniority, merit, quantity, or quality of production, or a “bona fide” factor other than your protected class such as education, training, or experience.
- **Pay Transparency in Job Postings:** As of September 17, 2023, you have the right to know the wage or salary range in an advertisement for any job, promotion or transfer opportunity posted by an employer with four or more employees. This means that, for all qualifying employers, every job opportunity posting must include the salary range. If it does not, you have the right to ask for it and be provided that information whether you are in consideration for the position or not. Similar protections are already in place in New York City, Ithaca, and Westchester.
- **Prohibitions Against Use of Pay History:** When you are in consideration for an employment opportunity, the employer or potential employer cannot ask about, seek out, or rely upon your past pay. This is helpful in combating pay equity because women have traditionally been paid less and that lower salary often stays with them when future employers use it to determine their new salary. Employers may, however, inquire about your salary expectations and consider current employee compensation already known to them.
- **Freedom to Discuss and Disclose Pay:** You have the right to ask about, discuss, or disclose your pay or the pay of another employee. Your employer may not prohibit you from discussing pay; however, your employer may have a written policy provided to all employees establishing workplace and workday limitations on the time, place, and manner in which you do so.
- **Freedom from Retaliation:** You are protected against retaliation. It is illegal for an employer to punish or penalize you for exercising any of the protections explained above or for filing a complaint or lawsuit to assert your rights.

## How to Talk with Your Employer About Pay Equity Concerns:

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If you learn or believe that you have been subject to pay discrimination based on your sex, gender, or other protected characteristic, consider bringing this problem the attention of your employer and seeing if you can resolve it. When having this conversation, consider the following guidance:

- Be prepared with as much information as you have available to you about your pay and comparable pay of your coworkers or workers doing similar jobs.
- Be prepared to outline your experience, skills, performance, and any other contributions you make to the role and to your organization.
- Reference any relevant laws that entitle you to legal protection.
- Identify specific requests or actions you would like your employer to take to correct the problem.
- Document your conversation in writing by following up with an email about what you discussed.

## Get Help to Assert Your Rights:

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It can be difficult to unearth pay inequity, but once identified, it can be hard to ignore. If you have experienced violations of any of the above rights or have concerns that your rights may have been violated there are a number of actions you can take to assert your rights.

- **Contact Legal Momentum or a Legal Advocate:**

There are many actions you can take to challenge pay equity, but they often involve complex requirements and short deadlines, so it's important that you consult an attorney. The Syms Legal Momentum Gender Equality Helpline is available to provide information and assistance, and limited legal representation, for those who have experienced discrimination, including pay discrimination. Contact our Helpline at **1-800-649-0297**, [Help@LMHelpline.org](mailto:Help@LMHelpline.org), or <https://www.legalmomentum.org/get-help-form>.

- **File a Lawsuit:** In many cases, you may be able to go to court directly to file a lawsuit. However, bringing a lawsuit can be complicated, costly, and take time so it's important to consult an attorney to discuss your options for filing a lawsuit and resources that might be available.
- **Contact the Office of the NYS Attorney General:** The New York State Office of the Attorney General investigates complaints, including pay equity complaints, and prosecutes cases alleging a pattern or policy of illegal behavior that affects many people. If you believe that you or other employees are experiencing rights violations by the same employer, you can contact the AG's office by filing a complaint with the Taskforce for Workers' Equality: **(212) 416-8700**, [TaskForceforWorkersEquality@ag.ny.gov](mailto:TaskForceforWorkersEquality@ag.ny.gov), or [ag.ny.gov/labor-complaint](https://ag.ny.gov/labor-complaint).

- **File an Administrative Complaint:** Certain agencies are responsible for enforcing pay equity laws in New York and you can file a complaint with these agencies either on your own or with the help of a lawyer. The following agencies have authority to investigate and enforce the laws described above:

- **NYS Department of Labor:** DOL is responsible for enforcing the pay equity laws discussed above. To file a complaint or for more information, visit <https://dol.ny.gov/salary-historypay-equity> or contact the Division of Labor Standards: **(888) 469-7365**.
- **NYS Division of Human Rights:** Individuals can file general complaints for gender discrimination, including a complaint for intentional pay discrimination with the Division, <https://dhr.ny.gov/complaint>.
- **Local Equal Employment Enforcement Agencies:** You may also be able to file a complaint with your local enforcement agency. For example, for issues related to pay transparency in job postings in NYC specifically, you can file a complaint with the NYC Commission on Human Rights at **(212) 416-0197** or <https://www.nyc.gov/site/cchr/about/report-discrimination.page>.