Pay Equity

Brief Overview

Implementing, Achieving and Maintaining
Disclaimer

This presentation is for information only, and is not intended to restrict Review Officers or the Pay Equity Hearings Tribunal in their determination of matters. Refer to the Pay Equity Act for exact interpretation.
Agenda

- Regulations/Responsibilities/Liability
- Past – Implementation/Achievement
- Present – Maintenance
- Future – Looking Ahead
- Resources
Purpose of the Pay Equity Act is:
To redress systemic gender discrimination in compensation for work performed in female job classes (Section 4(1))

Systemic gender discrimination is identified by:
Comparing the value and compensation of female and male job classes in the same establishment (Section 4(2))
Requirement to Achieve and Maintain

Subsection 7(1)

“Every employer shall establish and maintain compensation practices that provide for pay equity in every establishment of the employer”.

Subsection 7(2)

“No employer or bargaining agent shall bargain for or agree to compensation practices that, if adopted, would cause a contravention of subsection (1)”. 
Who’s responsible

- Employers must provide for pay equity to female job classes that may have been undervalued and underpaid.

- Bargaining agents are required to negotiate pay equity for their members and agree to a pay equity plan with the employer.

- Employers must be able to show how Pay Equity has been implemented, achieved and maintained in their organizations. Archive all records that may impact on pay equity – you could be asked for documentation at any time for any period.
Liability

Why?
- It is the LAW and…
- Good business sense
- Initiating and maintaining Pay Equity involves employees in the evaluation of their work and builds their understanding of how their work fits into the purpose of the organization

What does this mean to you?
- NO Statute of Limitations for Pay Equity or complaints
- Retroactivity to the date of contravention – obligations retro to 93 + interest
- No defence allowed for non compliance – Human Rights based legislation
- Workplaces monitored for compliance
How can you minimize your obligations

Achieve and maintain pay equity if you haven’t already done so.
Please make us of our extensive tools that are available on this website.

http://www.payequity.gov.on.ca/peo/english/about_us.html
PAST

IMPLEMENT

&

ACHIEVE
The Pay Equity Act applies to:

**Covered**
- Ontario Employees in:
  - Public Sector employers
  - Private sector companies with 10 or more employees
  - Full time and part time employees
  - Seasonal workers

**Not Covered**
- Students employed for vacation periods only
- Federally regulated employers
- Work in a casual position
  *Often short term and not needed to help run the business or fulfill the organisation’s mission.*
Steps to Pay Equity

1. Determine the Employer and Bargaining Agent
2. Determine achievement dates
3. Determine the Establishment(s)
4. Identify the number of plans
5. Determine the female and male job classes
6. Adapt and modify your job evaluation tools
7. Gather job data and evaluate your job classes
8. Compare female job classes to male job classes using Job-to-Job
Steps to Pay Equity

8. Prepare a Job-to-Job pay equity plan
9. Use Proportional Value for female job classes unmatched under Job-to-Job
10. Prepare a Proportional Value (PV) pay equity plan
11. If you are not able to use either the Job to Job or Proportional Value methods of comparison, you must complete and submit a form called: “Notice of Inability to Achieve”.
12. Once a Review Officer has confirmed that you are a public sector employer unable to achieve pay equity for female jobs using the Job-to-Job or PV methods, you will be issued a “Proxy Order”.
Determine the Employer and Bargaining Agent

Tribunal tests to determine “Who Is the Employer”
- Who has overall financial responsibility?
- Who has responsibility for compensation practices?
- What is the nature of the business?
- What is most consistent with achieving the purpose of pay equity?

The role of the bargaining agent
The Pay Equity Act requires that in unionized workplaces, the following be negotiated:
- Definition of establishment
- Job classes
- Method of job comparison
- The pay equity plan itself

If both sides agree to the plan, the plan is signed, posted, deemed approved, then implemented.
Determine Achievement Dates

Non-compliant employers must achieve pay equity retroactive to:

*Public Sector achievement date Jan.1.98

<table>
<thead>
<tr>
<th># of Employees as of Dec 31/87</th>
<th>Job-to-Job</th>
<th>Proportional Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>500 or more</td>
<td>Jan 1/91</td>
<td>Jan 1/93</td>
</tr>
<tr>
<td>100 - 499</td>
<td>Jan 1/92</td>
<td>Jan 1/93</td>
</tr>
<tr>
<td>50 - 99</td>
<td>Jan 1/93</td>
<td>Jan 1/93</td>
</tr>
<tr>
<td>10 - 49</td>
<td>Jan 1/94</td>
<td>Jan 1/94</td>
</tr>
</tbody>
</table>
Determine Job Classes

“Job Class” means those positions in an establishment with:

- Similar duties and responsibilities &
- Similar qualifications &
- Similar recruiting procedures &
- Same compensation schedule, salary grade or range of salary rates
Subfactors
Define each subfactor as they apply to your workplace.

Levels
Define levels for each subfactor.

✓ A level measures the degree to which a subfactor is present in a given job.

Weights
Define each subfactor as they apply to your workplace.

✓ Define how important each factor is to your workplace by developing a weighting formula for your organization.
Gender Neutrality

Required In:

- The collection of job information
- The comparison system
- The use of the system to compare jobs

Requires:

- Fairness to all jobs
- The capacity to capture work in female job classes which was previously overlooked
The Three Methods of Comparison

Compare jobs in the following order:

FIRST:
- Job-to-Job
  - Direct comparisons between male and female job classes
SECOND:
- Proportional Value
  - For female job classes, unmatched under the Job-to-Job method
THIRD:
- Proxy
  - For female job classes – public sector only – matched or unmatched under Job-to-Job and PV (only for public sector employers who had employees on July 1/93)
Search Sequence for Job-to-Job Comparisons

1. **Inside** the plan, look for a male job class of *equal or comparable* value; if more than one is available, choose the one with the *lowest* job rate.

2. **Outside** the plan, look for a male job class of *equal or comparable* value; if more than one is available, choose the one with the *lowest* job rate.

3. No male job class of *equal or comparable* value, look out throughout the establishment for male class that is *lower value, but higher paid* than female job class. If more than one is found, use the one with the *highest* job rate as the comparator.
Search sequence for Proportional Value

- Inside the pay equity plan.
- Throughout the establishment for a representative group of male job classes.
Use Proxy (public sector only)

- If any female job classes could not achieve pay equity with the *Job-to-Job* method, the employer shall use the *Proportional Value* method.

- If any female job classes could not achieve pay equity with the Job-to-Job or Proportional Value method, the employer must notify the Commission by submitting this form:
  - “Notice of Inability to Achieve Pay Equity”

- For public sector organizations, a Review Officer will issue an order to use the Proxy method.

- Once the organization is ordered to use *Proxy* and post a proxy plan, all female job classes in the establishment are required to use the Proxy method.

- **Employers using the proxy method of comparison must complete their pay equity comparisons and begin adjustments as of January 1, 1994.**
Proxy Comparison Steps

1. Identify your key female job classes.
2. Select your proxy organization and request job information.
3. Receive information (as of January 1994) from proxy employer within 60 days.
4. Evaluate your own job classes.
5. Determine value of proxy job classes and job rate of proxy job classes.
6. Develop a proxy job rate line and compare your own job classes to the job rate line.
7. Determine pay equity adjustments for your female job classes.
8. Post your pay equity plan.
### Tracking Adjustments and Non Pay Equity Increases

A new chart is completed for each year and the P.E. job rate in column H is brought forward to column B of the next year’s chart, G is brought forward to A.

<table>
<thead>
<tr>
<th>Female Job Class</th>
<th>A</th>
<th>B</th>
<th>C</th>
<th>D</th>
<th>E</th>
<th>F</th>
<th>G</th>
<th>H</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cook</td>
<td>$10.00</td>
<td>$13.25</td>
<td>$3.25</td>
<td>$0.21</td>
<td>$10.21</td>
<td>$3.04</td>
<td>$11.21</td>
<td>$14.25</td>
</tr>
<tr>
<td>Teacher Asst.</td>
<td>$12.00</td>
<td>$16.00</td>
<td>$4.00</td>
<td>$0.19</td>
<td>$12.19</td>
<td>$3.81</td>
<td>$13.19</td>
<td>$17.00</td>
</tr>
<tr>
<td>ECE</td>
<td>$14.00</td>
<td>$18.50</td>
<td>$4.50</td>
<td>$0.19</td>
<td>$14.19</td>
<td>$4.31</td>
<td>$15.19</td>
<td>$19.50</td>
</tr>
<tr>
<td>Program Supv.</td>
<td>$16.00</td>
<td>$23.00</td>
<td>$7.00</td>
<td>$0.19</td>
<td>$16.19</td>
<td>$6.81</td>
<td>$17.19</td>
<td>$24.00</td>
</tr>
</tbody>
</table>

- **A**: 1993 Job Rate (from proxy job rate line)
- **B**: P.E. Achieved Job Rate
- **C**: Wage Gap (A – B)
- **D**: P.E. Adjustment (Using 1% of previous year’s payroll hrs paid)
- **E**: P.E. Adjusted Rate (A + D)
- **F**: Remaining Wage Gap (C – D)
- **G**: Non-Pay Equity Increases (e.g., a $1.00 increase is added to the P.E. adjusted rate)
- **H**: New P.E. Target Job Rate
**Do Not Widen the Wage Gap**

### The Effect of a 5% Increase on Current and Target Rates

<table>
<thead>
<tr>
<th>Female Job Class</th>
<th>Current Job Rate</th>
<th>Percentage Increase Effect</th>
<th>Target Rate</th>
<th>Percentage Increase Effect</th>
<th>Wage gap widened by:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cook</td>
<td>$10.00</td>
<td>.50</td>
<td>$13.25</td>
<td>.66</td>
<td>.16</td>
</tr>
<tr>
<td>Teacher Assistant</td>
<td>$12.00</td>
<td>.60</td>
<td>$16.00</td>
<td>.80</td>
<td>.20</td>
</tr>
<tr>
<td>ECE</td>
<td>$14.00</td>
<td>.70</td>
<td>$18.50</td>
<td>.93</td>
<td>.23</td>
</tr>
<tr>
<td>Program Supervisor</td>
<td>$16.00</td>
<td>.80</td>
<td>$23.00</td>
<td>1.15</td>
<td>.35</td>
</tr>
</tbody>
</table>

Dollar adjustments do not have the same effect as percentage increases.
## Deemed Approved Process

<table>
<thead>
<tr>
<th>Bargaining Unit Plan</th>
<th>Non-Bargaining Plan</th>
</tr>
</thead>
<tbody>
<tr>
<td>- The plan is agreed upon and signed by the employer and bargaining agent,</td>
<td>- for <strong>90 days</strong> after posting the plan, employees can bring questions or concerns to the employer,</td>
</tr>
<tr>
<td>- The plan is posted in the workplace.</td>
<td>- following this 90-day period, the employer has <strong>7 days</strong> to post a notice of changes and a copy of the revised plan,</td>
</tr>
<tr>
<td></td>
<td>- after this, employees have <strong>30 days</strong> to object to the plan to the Commission.</td>
</tr>
</tbody>
</table>

If you think your employer and union have not complied with the Act, you may complain to the Commission. If at the end of this 127-day period no objection has been received by the Commission, the plan is deemed approved.
Maintaining Your Pay Equity Plan
Obligation to Maintain Pay Equity

- The onus is on the Employer to achieve and maintain compensation practices that provide for pay equity.
  
  *(Subsection 7(1) of the Pay Equity Act)*

- Bargaining Agents are prohibited from condoning an employer’s failure to maintain pay equity.
  
  *(Subsection 7(2) of the Pay Equity Act, York Region Board of Education)*

- Bargaining Agents have an on-going role in maintenance. Results of maintenance agreements are deemed to form part of the collective agreement.
  
  *(Parry Sound District General Hospital)*
Key Maintenance Areas

- **Changed Circumstances**
  - Internal changes that impact on pay equity and deemed approved plans (Sec 14.1 & 14.2)
    - Ex: new jobs, value of jobs, vanishing jobs, changes in union status

- **Sale of Business**
  - External changes that impact on pay equity and deemed approved plans, such as: a sale of business, merger, lease, transfer, acquisition or amalgamation (Sec 13.1(2))
Choosing the Method of Comparison to Maintain Pay Equity

- If only the *Job-to-Job* method was used, maintain using the same approach.

- If both the *Job-to-Job* and *Proportional Value* methods were used, maintain using both methods.
  
  - If you use only *Proportional Value* to maintain pay equity, the advantages to the female job classes must be equal or greater than under the *Job-to-Job* method.

- If *Proxy* was used, maintain using that method.
  
  - Continue using *Proxy* to maintain pay equity. In Proxy situations where new job classes are introduced, maintaining is calculated using the rates of 1994 and brought forward to current job rate by adding increases allocated to job classes in the organization.
Changed Circumstances for Non-Union Employees

- “...if the employer is of the view that because of changed circumstances in the establishment the pay equity plan for the establishment is no longer appropriate, the employer may amend the plan and post in the workplace a copy of the amended plan with amendments clearly indicated.”

[Sec. 14.2(1)]
Changed Circumstances and Bargaining Units

- “If, ... the employer or the bargaining agent is of the view that because of changed circumstances in the establishment the pay equity plan for the bargaining unit is no longer appropriate, the employer or the bargaining agent, as the case may be, may by giving written notice, require the other to enter into negotiations concerning the amendment of the plan.”

[Sec. 14.1(1)]
 Changed Circumstances and Bargaining Units 

(continued) 

✓ “If the employer and the bargaining agent do not agree on an amendment before the expiry of 120 days from the date on which the notice to enter into negotiations is given, the employer shall give notice of the failure to the Commission”.

[Sec. 14.1(3)]

✓ “Subsection (3) does not prevent the bargaining agent from notifying the Commission of a failure to agree on an amendment by the date referred to ... ”

[Sec. 14.1(4)]
Retroactivity applies to the date of a contravention:

- Whether the changes are to pay rates, to value of job classes, to union status or a sale of business, any adjustments owed are retroactive to the:
  
  ✓ date of the change occurred
  ✓ date of the sale of the business
Access to Education

The Pay Equity Commission provides:

**Free seminars and teleconference training:** To see the current schedule or to request training for groups of 12 +:
www.payequity.gov.on.ca/peo/english/seminar.html

- **Speaker** for women’s groups, associations, large employer/employee/union groups

“Ontario Library Services North” states that if there is enough interest OLS-North will see if they can facilitate workshops.
RESOURCES

The following slides provide you with:

- links to various tools found on our website,
- information on best practices which will assist in you with the Pay Equity process.
## ARCHIVES - samples

<table>
<thead>
<tr>
<th>JOB DATA</th>
<th>PAY EQUITY DATA</th>
<th>CORPORATE DATA</th>
<th>FINANCIAL DATA</th>
</tr>
</thead>
<tbody>
<tr>
<td>Job descriptions originals/amended</td>
<td>Pay Equity plans</td>
<td>Sale of bus. docs</td>
<td># employees 12.31.87</td>
</tr>
<tr>
<td>Job ads</td>
<td>Job Evaluation Tool/System</td>
<td>Change of name</td>
<td>Pay equity calculations</td>
</tr>
<tr>
<td>Job Changes</td>
<td>Comparator information</td>
<td>Downsizing</td>
<td>Proof of payment</td>
</tr>
<tr>
<td>Questionnaires</td>
<td>Permissible differences doc</td>
<td>Adding departments</td>
<td></td>
</tr>
<tr>
<td>Summary Evaluation doc</td>
<td>Maintenance information</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Supporting documentation</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
WEB LINKS

- 10 Steps to Pay Equity: http://www.payequity.gov.on.ca/peo/english/pubs_10steps.html
Best Practices/Committees

A committee can help minimize gender bias if comprised of diverse individuals who, for example:

- Do different jobs
- Come from different levels of the organization
- Have different kinds of backgrounds
- Have different lengths of service
- Represent a balance of men and women
- Are not committed to the current job structure
- Are open-minded, respected by their colleagues, able to make independent judgements and are objective about the current job evaluation system.
Committee members should be trained on:

- Job comparison in general
- The particular job evaluation system being used
- Pay equity and gender neutrality

The committee can avoid gender bias by:

- Considering all relevant job information
- Never just the job titles
- Never on your own perceptions of the job or of the person doing the job
Set up rules and guiding principles

<table>
<thead>
<tr>
<th>About how you will deal with:</th>
</tr>
</thead>
<tbody>
<tr>
<td>✓ Consensus</td>
</tr>
<tr>
<td>✓ Taking notes</td>
</tr>
<tr>
<td>✓ Absence of committee members</td>
</tr>
<tr>
<td>✓ Confidentiality</td>
</tr>
<tr>
<td>✓ Evaluating a committee member’s own job class</td>
</tr>
<tr>
<td>✓ Getting more information about a job class</td>
</tr>
<tr>
<td>✓ Changing a subfactor’s definition that may be weak or inappropriate</td>
</tr>
<tr>
<td>✓ Handling disagreements</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Terms of reference:</th>
</tr>
</thead>
<tbody>
<tr>
<td>✓ Be fair and open</td>
</tr>
<tr>
<td>✓ Apply gender neutrality to each step in the process</td>
</tr>
<tr>
<td>✓ Avoid being the advocate of certain jobs or functions</td>
</tr>
<tr>
<td>✓ Ensure consistency and accuracy of methods</td>
</tr>
<tr>
<td>✓ Respect company values</td>
</tr>
<tr>
<td>✓ Be free of personal biases and assumptions</td>
</tr>
</tbody>
</table>
Help Is Available

- General information and after hours automated line:
  1-800-387-8813 (anytime)
- Email: for general information, pecinfo.pecinfo@ontario.ca
- Website: www.payequity.ontario.ca