



FOLEY & FOLEY ^P_C
ATTORNEYS AT LAW

It's a warm, sunny, Friday afternoon in June. So, as you may expect, we're spending the time...thinking about pay equity. We'd like to say that we're thinking about it so that you don't have to. But, it's something that all Massachusetts employers need to be thinking about now. So, before we all start our weekends, we wanted to: 1) share a reminder of the law; 2) provide practical tips on working with the AG's published calculation tool.

1) The Law: The Massachusetts Equal Pay Act ("MEPA") goes into effect on July 1, 2018. By July 1st, employers must remove salary history questions from job applications and avoid such questions during the interview process. Employees must also be paid equally for comparable work. Employers can create a 3-year affirmative defense by conducting an audit of compensation and creating a plan that addresses impermissible disparities. The AG has released a calculator (see #2) that can help employers to gather pay data and view gender-based compensation variations. We offer two fixed-fee services to help our clients achieve compliance with this new Massachusetts Equal Pay Act (MEPA): a [Turn Key Equal Pay Audit Service](#) and an [Affirmative Defense Audit Service](#).

2) The Calculator: Completion of the [AG's calculation tool](#) will not tell employers whether they have achieved pay equity. Nor will completion create an affirmative defense. But, we recommend that all employers complete the tool as a first step toward achieving that defense.

As we've worked with clients, we've learned that the tool can be a little finicky. We wanted to share these practical tips on how to fill in the calculator efficiently and effectively:

- Employers should populate the first tab of the workbook. This can be done by typing directly into the spreadsheet or copy/pasting. When you paste into the calculator, you **must** avoid columns the gray columns as they have formulas. You may paste into columns A-E, either F-H (for hourly employees) or K-L (for salaried employees), and N-P.
- In the "gender" column, you **must** use either "M" or "F". The tool will not work if you write out "male" and "female."
- In the "job grouping" column, you may use any format that is effective for your organization. This may be numbers or letters. Or, you may choose to use a combination that provides additional information like whether the group is hourly/salary (H1 vs S1), exempt/nonexempt (E1 vs NE1), or represents a certain function (HR1 vs FIN1).

- In the “full/part time” column, you may use any format that is effective for your organization.
- If a cell on the “Calculation Tool” tab shows “#DIV/0!” this means that one of the cells on the “Employer Data” tab should have data but, instead, has a zero. Note the job grouping associated with the “#DIV/0!” error and review the employees in that job code to try to locate the problem.
- If you’d like to use the tool to compile additional data that may be helpful in your analysis, you can add columns at the end (after column S) of the “Employer Data” worksheet or anywhere within/after the yellow portion of the “Worksheet – Further Review” worksheet. You cannot add columns elsewhere in the existing worksheets without causing errors.

We hope these tips help as you complete the tool. And, we hope you have a great weekend! If you would like guidance on conducting an equal pay audit to achieve an affirmative defense, please reach out. We would love to help.
