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PREPARING FOR THE NEW OREGON LAW ON EQUAL COMPENSATION

On June 1st of this year, Governor Brown signed into law HB 2005 making significant changes to ORS 652.220, the Oregon Equal Pay Act. This new law has a significant impact on how employers in all sectors view compensation going forward. This article provides an overview of the new law, its effects on employers, and begins to explore how employers can ensure they are compliant. For another view point, reference [the article on the same subject by Bullard Law](#).

The overarching change to ORS 652.220 is to move the act from simply a “Pay Equity Law based on Gender,” to a law that prohibits discrimination on the basis of a “protected class,” defined as “a group of persons distinguished by race, color, religion, sex, sexual orientation, national origin, marital status, veteran status, disability or age.” HB 2005’s other major change is to expand “equal pay,” to “equal compensation” which includes wages, salary, bonuses, benefits, fringe benefits and equity-based compensation. More specifically, this law:

1. Makes it illegal to discriminate on the basis of a protected class in the payment of wages or other compensation for work of comparable character and to pay wages or other compensation to any employee at a rate greater than that at which the employer pays wages or other compensation to employees of a protected class for work of comparable character.

Compliance Concepts: The law allows an employer to defend against an “Equal Compensation” claim with evidence from the analysis of a formal compensation study completed within three years of the claim so long as the claimant’s pay was appropriately adjusted at that time. Many employers currently use comprehensive compensation studies as a means of determining market competitive pay and internal equity. These studies will now be an employer’s affirmative defense against a claim of compensation discrimination. Additionally, the law does not allow an employer to lower the pay of a higher paid employee as a remedy.

2. Makes it illegal to screen job applicants based on current or past compensation; to determine compensation for a position based on current or past compensation of a prospective employee; or to seek salary history of an applicant. This does not apply to internal hiring practices.

Compliance Concepts: In the recruiting process, many employers tend to rely upon the candidate’s past or current pay as a measure of making an offer. Instead, employers will now need to have established pay or pay ranges for positions of comparable character and rely on the results of a compensation study to understand the competitive market for compensation. They will also need to educate hiring managers to no longer ask questions about prior or past pay.

3. Provides that the employer may pay employees for work of comparable character at different compensation levels, if the difference in compensation levels is based on a bona fide factor that is related to the position in question and based on:
 - a) a seniority system; a merit system; a system that measures earnings by quantity or quality of production, including piece-rate work; workplace locations; travel, if travel is necessary and regular for the employee; education; training; experience; or
 - b) any combination of factors, if the combination of factors accounts for the entire compensation differential.

Compliance Concepts: The law does allow employers to set differing compensation levels, but they are based on specific criteria that must be well defined and defensible. If an employer sets these criteria, it must be based on a formal compensation study and have the ability to prove and defend the decision.

4. Another requirement the law mandates is that employers post a notice of the new requirements in their workplaces where both employees and applicants can see it.

Compliance Concepts: The Oregon Bureau of Labor and Industry (BOLI) has been tasked with enforcement of this law. Like other employment resources, BOLI will make these posters available for employers. The law cites several other changes and enforcement parameters, all of which can be found in the above referenced Bullard Law article.

To assist our clients and the business community with the changes brought about by HB 2005, HR Answers plans to hold a series of educational sessions on this subject shortly after the close of the 2017 Legislative session. Stay tuned!

COBRA IN A NUTSHELL

When employers grow to 20 or more employees, the COBRA law kicks-in and can be quite complex to navigate. Most insurance companies do not assist with the administration of COBRA. There is a publication developed by the U.S. Department of Labor, Employee Benefits Security Administration (EBSA) that can be very helpful. This is also a great resource for the occasional situation that occurs which is not the regular processing. The Guide can be found at <https://tinyurl.com/y7xbjhva>.

NEW MINIMUM WAGE RATES ARE HERE!

While many states increased their minimum wage in January, Oregon waited until July 1. Because the state of Oregon now has a tiered system based on the geographic location of where work takes place, employers within the state have different minimum wage requirements. There are three separate wage rates. The “standard” minimum wage is \$10.25, while Portland employers within the urban growth boundary will need to pay employees at least \$11.25 an hour, and non-urban employers can pay \$10.00 an hour.

The “standard” minimum wage applies to the entire state with the exception of the area of Portland within the urban growth boundary and outlying rural counties (mainly in the southern and eastern parts of the state).

Portland area employers (in Clackamas, Multnomah and Washington counties) who are unsure if they must pay the higher minimum wage may find Metro’s look-up tool helpful. Below is the link to the database that allows users to enter an address and determine what rate applies to their area. <http://www.oregonmetro.gov/library/urban-growth-boundary/lookup>

Non-urban counties (where the new minimum wage is \$10.00) include Baker, Coos, Crook, Curry, Douglas, Gilliam, Grant, Harney, Jefferson, Klamath, Lake, Malheur, Morrow, Sherman, Umatilla, Union, Wallowa and Wheeler.

Employers can expect minimum wage increases every July 1 of \$.50 to \$.75 an hour, depending on their location. Starting in 2023 increases will be tied to the Consumer Price Index.

The increase in the state minimum wage means employers must ensure they are displaying a current minimum wage poster for both employees and applicants to view. New posters may be downloaded from the [Oregon Bureau of Labor](#).

Also available is an all-in-one poster, that will be updated automatically, if required, because of changes in the law. This poster may be purchased from [Poster Compliance Center](#) (use the discount code HRANSWER for special pricing).

Some requirements about Oregon minimum wage are not changing. These include: a) no “training” wage; b) minor employees must be paid at least the full minimum wage; and c) tip credits are not allowed. If you have questions about the new minimum wage, HR Answers can help!

DO ANY OF YOUR EMPLOYEES FEEL LEFT OUT?

Most of us have experienced it at one time or another; the feeling that we are being overlooked, left out of the group, or being ignored. When this happens at work on a repeated basis it can be considered ostracism, a form of bullying.

Have you ever felt that your office resembles a grown-up version of high school? Are there gabby cliques and BFFs gossiping near the coffee machine, while a few lonesome individuals stand off to the side, ignored? A study out of Ottawa, Canada says workplace ostracism — being ignored or excluded from a group — may be far more harmful than most suspect.

Researchers at the [University of British Columbia’s Sauder School of Business](#) studied the impact of ostracism on employee health and morale and discovered it can be more harmful to one’s mental and physical well-being than harassment or other forms of bullying. Employee job satisfaction, performance and happiness may all be impacted. The results of the study are available at this link: [published online in April in the journal Organization Science](#). Other research in neuroscience has shown that experiencing ostracism creates a pattern in the brain that **mimics the experience of physical pain**.

Editor: Deborah Jeffries, PHR, CPC. Advantage is published monthly and is designed to provide information on regulations, HR practices and management ideas and concerns. The intended audience is managers, supervisors, business owners, human resource and employee relations professionals. If you have questions about the content, an opinion about the information, questions about your subscription, or if you need additional Advantage binders, please give us a call at (503) 885-9815 or e-mail djeffries@hranswers.com.

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University of British Columbia professor Sandra Robinson, told Science Daily that, “Ostracism actually leads people to feel more helpless [than bullying], like they’re not worthy of any attention at all. This is because the impact of ostracism isn’t so much about being left out or alone,” says Robinson, “but rather the psychological impact: Why was I left out? Why am I ignored? What does this say about me?” Citing examples of people being ostracized, Robinson included:

- People may fail to invite someone to meetings they should go to.
- Conversation stops when someone approaches a common area.
- One employee is being given the silent treatment.

More examples include:

- Manager focuses on one employee and excludes another from training or mentoring.
- An employee is asked for their ideas and they are not acknowledged while others are.
- Projects are handed out to a few employees while excluding another.
- Manager prevents the development of one employee while providing opportunities to others.
- Manager permits some employees to provide subpar service while another is held to standards.
- An employee seeks information and is redirected to someone who has a pattern of being unresponsive.

This is a pattern of behavior – not an unintentional overlooking of someone. The variety is endless, but the sense is that you’re not receiving what you normally would expect in a given situation. Bullying in workplaces is often viewed as a one-on-one event. The problem with placing the blame on just one individual, however, is that it lets organizations, their management teams, and boards off the hook.

What effect does ostracism have on productivity?

It has a negative impact on employee productivity.

- Employees are less likely to go above and beyond when they complete work tasks
- They are less likely to help colleagues.
- Because ostracism can hinder employees’ psychological well-being, employees tend to get run-down and depleted and are at the risk of engaging in more counter-productive behaviors, like lashing out at their colleagues.

So, what can we do?

- Managers and organizations need to take ostracism as a serious form of bullying.
- In policy, define what it is and clarify its unacceptability.
- Provide training and mechanisms for more effective communication and conflict resolution strategies.
- Deal with incidents early and deal with them strongly to avoid contagion.
- Foster a positive climate: hire, model, and reward the conduct you expect.

It’s good to keep an eye out for ostracism, but it’s better to prevent it altogether.

HR Answers conducts Respectful Work Place and Unconscious Bias training. If you are interested in learning more, be sure to reach out to us.

RECRUITING NOTE

A posting on TLNT (<https://www.eremedia.com/tlnt/>) raises an interesting point. A common premise is that it is best to hire individuals who are a fit for our organizations. Usually this mean that they are more likely to be “...just like us...” The posting challenges this theory. Katie Bouton writing in the Harvard Business Review suggests that the criteria ought to be “You share our corporate values.” Further, Bouton says that she advocates for thinking about how collaborative candidates are if collaboration matters in the organization; how entrepreneurial they are if that is what is asked of employees; and, how fiercely independent they are if that is an honored behavior. Bouton goes on to say that “Culture fit is the glue that holds an organization together.” So, making sure you know what your organization values and then inquiring about those criteria when interviewing is likely to improve the “fit” between the candidate and the organization. Gallup released a report titled “How Millennials want to Work and Live” which reinforces they are looking for the right fit. The up and coming generation will be 75% of our workforce by 2025. It is the time to find the commonality between what is being offered and what will be accepted.

THOUGHTS TO THINK ABOUT

No one who achieves success does so without acknowledging the help of others. The wise and confident acknowledge this help with gratitude.

~Author Unknown

Those who won our independence believed liberty to be the secret of happiness and courage to be the secret of liberty.

~Louis D. Brandeis

I like to see a man proud of the place in which he lives. I like to see a man live so that his place will be proud of him.

~Abraham Lincoln

If you take advantage of everything America has to offer, there's nothing you can't accomplish.

~Geraldine Ferraro

The difference between ordinary and extraordinary is that little extra.

~Jimmy Johnson

The day came slow, till five
o'clock, Then sprang before the
hills
Like hindered rubies, or the light
A sudden musket spills...

~Emily Dickinson

CLIENT ACCOLADES

PGE ran a full-page ad in a recent Portland Business Journal to thank businesses who switched to PGE's Clean Wind power. One of the lines in the ad suggested that these organization were doing good for the community and our natural resources and doing well as an organization. And that their success was proof that it was possible to do both. As we were reviewing the material, we noticed that some of our clients and friends were being complimented. So, we want to say, "Way to Go!" to **Miller Paint, R&H Construction, Tosoh Quartz, Department of Administrative Services for the State of Oregon, and Walsh Construction.**

And speaking of **Tosoh Quartz**, they have been recognized by several organizations for their service and reliability as a Supplier. The most recent award was the Intel's Preferred Quality Supplier. Jacklyn Sturm, VP of Technology and Manufacturing Group and General Manager of Global Supply Management at Intel, said, "The focus and dedication of our award winners to meet the highest quality standards is second to none." What a great statement – We are so proud to be associated with an organization that values and produces quality to meet these standards!

Congratulations, Evan Bernstein, on your selection as a 40 Under 40 by the *Portland Business Journal*. This is an honor well deserved!! Evan is our leasing agent with **Pacific-NW Properties**. We so enjoyed our interactions with him when we were looking for new space; it made the decision to go with them and the lovely office space they constructed for us very easy.

JOB DESIGN MATTERS!

The way a job is designed can make it far easier to be productive or can complicate the work so much that it impairs the employee trying to meet expectations. One of the easiest examples is to think about the front desk position. Most organizations want the front desk person to be warm and welcoming, with an ability to make visitors feel comfortable. These days with direct phone numbers or so many employees giving out their cell phone numbers, the volume of calls and visitors is declining for many organizations. So, in addition to handling the phones and greeting people, the front desk person is often asked to handle a variety of other duties. They may be alphabetizing for filing; data entering of product codes, payables, new customers; or compiling product or service packets.

When we come into an organization to assist them with developing job description or refreshing their compensation programs, we often end up talking with a variety of employees about their work. One of the most common comments from Receptionist is that "If the phone would just stop ringing, I could get my work done." The fact that the position is primarily to answer phones and greet visitors gets lost in the plethora of other tasks that have been assigned. This is a perfect example of a position that is designed poorly. The skills and abilities that make a good Receptionist are not necessarily the ones that make for a good employee who is responsible for detail work. And then there are the concentration skills that are needed but are constantly interrupted because of an incoming call or a visitor coming for an appointment.

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Positions that are poorly designed are a problem for the employee and the employer, so it makes sense that organizations should try to avoid poor design. There is a common-sense way to do that – think about each aspect of the job and whether someone who had this set of abilities would be able to do each type of task effectively. For organizations that want to be a bit more formal in analyzing positions, there is a process called Job Design Optimization. Created by Harvard Business School, the instrument asks four questions to aid in analyzing whether the design works well or has some inherent challenges.

Question One – What resources does the incumbent have direct control of so that they can get the work done? (span of control)

Question Two – What measures or observations will be used to evaluate the work and have they been advised of the specifics? (span of accountability)

Question Three – Who does the incumbent need to influence so that the work can be completed? (span of influence)

Question Four – How much support will the incumbent receive to assist with the work? (span of support)

This tool can be used by a job search candidate to determine how well the job is designed. And it can be used by an organization to identify positions that are poorly designed and improve them. The whole instrument can be found at <https://cb.hbsp.harvard.edu/cbmp/resources/marketing/multimedia/JDOT/welcome.html>

FOR YOUR CALENDAR

Open up your Daytimers, Outlook, Palm Pilots, and all those Smart Phones. The following is a look at upcoming events, special days and other diverse and fun activities you will want to be aware of and get scheduled. **To register for our workshops, please call any of our offices, or send an e-mail to Petrina Bigford at info@hranswers.com, or fax it to (503) 352-5582.**

JULY

Month of Cell Phone Courtesy, Ice Cream Month, Picnic Month, Horseradish Month, July Belongs to Blueberries Month

- July 4** **Independence Day – Office Closed**
- July 15 Give Something Away Day
- July 19** **HRA Workshop – Tigard**
Legislative Update
1:30pm – 3:30pm
- July 20 National Moon Day
- July 25** **HRA Workshop – Tigard**
Legislative Update
8:30am – 10:30am
- July 26 HR Lunch Bunch – CCBI – Salem
12pm-1pm
- July 27** **HRA Workshop – Tigard**
HR 401 Series: Compensation & Classification
8:30am – 10:30am
- July 29 National Dance Day

- Aug 18 National Ice Cream Pie Day
- Aug 20 National Radio Day
- Aug 21** **Solar Eclipse! HRA OFFICE CLOSED TODAY!**
- Aug 23 National Hug Your Boss Day
- Aug 26 National Women's Equality Day
- Aug 30 HR Lunch Bunch – HRA Office – Salem
12pm-1pm

Planning Ahead:

- Sept 7-** **HRA Workshop - Tigard**
- Sept 19** **HRA Workshop Series – Tigard**
Transitioning Employees to Management
8:30am – 12:30pm
- Oct 26th** **Fall Supervisory Success (8 Part Series)**
8:30am -12:30pm

Flyers for our workshops can be found on our [events page](#) under each workshop.

[View more details and register on our website here!](#)

Coming up:

AUGUST

Month of Family Fun, Catfish, Gold, Peach, Romance Awareness, Eye Exam

- Aug 1** **HRA Workshop – Tigard**
Legislative Update
1:30pm – 3:30pm
- Aug 2 HR Lunch Bunch – HRA Office – Tigard
12pm-1pm
- Aug 6 Root Beer Float Day
- Aug 10** **HRA Workshop – Tigard**
Legislative Update
8:30am – 10:30am
- Aug 15** **HRA Workshop – Tigard**
Customer Service... Is About Building
Relationships
8:30am – 12:30pm

Information and advice offered through Advantage should not be construed as legal opinion. The material contained herein will not apply to all circumstances or to all organizations. Use it as a resource and reference. Should you feel legal advice is required, please consult with your corporate counsel.

ON MY SOAPBOX

There is a picture of my Dad that is one of my favorites. It is black and white, and shows him at lunch early in his architectural career. It depicts him playing Pinochle with three other guys from the office. One of the reasons I am fond of this picture is that my Dad has a mustache which he didn't have as I got older. But now as an HR professional, the picture has a different meaning. It shows the bond between those architects. I remember my Dad talking about what they did at lunch, but that is the only picture of him doing that. I like to fantasize that he is winning.

I was reading an article recently about ping pong tables in the workplace and how they might be an indicator of a positive workplace culture. That certainly is true, but it is not the only sign of a great place to work. My Dad used to tell stories about his workplace. Stories about the Saturday office baseball teams; stories about the golf team's winning ways in the annual tournament at Welches; and, stories about the design competitions they participated in. As I look back on that with an HR eye, I believe that he had what is now described as a "great place to work."

It is not just that picture or even my memories of him talking about the office that helps me arrive at this conclusion. There are other indicators as well.

My Dad was raised by a single woman surrounded by many other family members. His father died when he was eight. There were seven of them living in one house in the University District of North Portland. As with many families of those years, they didn't have much money. When my Dad graduated from Benson Polytechnic on a Friday afternoon, he had very little free time. He started his employment the following Monday as an Office Boy (they were allowed to call them that in those days) for *Pietro Belluschi Architects*. He was a great boss according to my Dad. I concur with that statement because since my father couldn't afford college, Mr. Belluschi enrolled him in an eight-year program of Apprenticeship and Testing. It was an alternative way to get an architectural license. Mr. Belluschi met with my Dad every month to go over his work, his design projects, and his drafting plans, always keeping in mind what Dad needed to know to pass that year's test. Mr. Belluschi wasn't the only one that looked out for my Dad; the guys who already had their license spent a fair amount of time explaining terminology, making sure what was needed for the engineers was incorporated in Dad's work, etc. To hear my Dad talk about it, he was the office's project. Imagine for a moment how cool it would be to have a host of mentors who were sincerely interested in his success. And one last comment about how special this workplace was...Mr. Belluschi didn't hand out Christmas checks or turkeys, he gave gifts of enormous import.

In 1952, he gave Dad a pad and a pencil and asked him to write down how much he still owed on a piece of property that Mom and Dad were buying for our family's someday house. Mom and Dad paid \$25 a month on that land and it would have gone on like that for many more years. My Dad said he was really startled by the question, but he wrote down how much was left. It amounted to a little over 8 years still to pay. Mr. Belluschi left and then came back with a check made out to Dad for the entire amount as his Christmas gift. (I can hardly stop the tears I have just writing that. It is a story of great value within our family.) Mr. Belluschi had a message that accompanied the check...it said, "You have learned so much, it is time to start designing your own home; with this check, I hope you can."

Mr. Belluschi finally reached a point where he had to sell the firm, and it never was again what it had been when he owned it. He had created a place where talent was valued, where co-workers became friends, where generosity and reward were personal, and where pride in the work produced made the firm special. And, this was in the day when the usual business was top down, non-participative, and only a few owners took time with their employees.

There are lessons to be learned from Dad's first employment. Creating a positive workplace takes more than a ping pong table or free coffee. It takes heart, transparency, and a genuine interest in the people of our organizations. When those are present, it doesn't matter if there isn't room for ping pong!

- Judy Clark, President



ANSWERS, Inc.

"Whatever the Question"

PLEASE FEEL FREE TO VISIT OUR WEBSITE:

WWW.HRANSWERS.COM