



# New Mexico Pay Equity

## **Statute**

- Fair Pay for Women Act, N.M. Stat. Ann. § 28-23-1 et seq.
- Human Rights Act, N.M. Stat. Ann. § 28-1-1 et seq. (specifically § 28-1-7).

## **Classes protected**

- Sex, race, age, religion, color, national origin, ancestry, physical or mental handicap or serious medical condition, sexual orientation or gender identity (15 employees or more), spousal affiliation (50 employees or more)

## **Key language on pay discrimination**

- “No employer shall discriminate, within any establishment in which such employees are employed, between employees on the basis of sex by paying wages to employees in the establishment at a rate less than the rate that the employer pays wages to employees of the opposite sex in the establishment for equal work on jobs the performance of which requires equal skill, effort and responsibility and that are performed under similar working conditions[.]”
- Unlawful discriminatory practice to discriminate in matters of compensation against any person otherwise qualified because of sex, race, age, religion, color, national origin, ancestry, physical or mental handicap or serious medical condition, sexual orientation or gender, or spousal affiliation

## **Exceptions for pay disparities (including affirmative defenses)**

- Seniority system
- Merit system
- System that measures earnings by quantity or quality of production
- Bona fide occupational qualification or other statutory provision

## **Anti-retaliation**

- Anti-discrimination/anti-retaliation provision.

## **Other key provisions**

- Applies to employers with 4 or more employees
- Discrimination on basis of sexual orientation or gender identity applies to employers with 15 or more employees
- Discrimination on basis of spousal affiliation applies to employers with 50 or more employees

## ***Pay Equity Team***

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