Understanding the Gender Pay Gap: The Importance of Gender Pay Equity

Over the past century, more and more women have been entering the workforce, obtaining higher degrees, and clocking in more hours. However, despite these advances, women are still earning significantly less than men, especially women of color. This difference in pay is what we call the gender pay gap, and its effects on the workforce and society are quite noticeable.

As an employer, confronting past payment practices can be hard to acknowledge, especially if these practices were unfair. However, understanding how the gender pay gap affects your business can help both you and your employees grow and prosper. To better understand the gender wage gap, we’ll go over the importance of gender pay equity, starting with its history and ending with steps you can take to address the wage gap. Read through for an in-depth look at the gender pay gap, or use the links below to navigate the post.
What Is the Gender Pay Gap?

The gender pay gap, also called the gender wage gap, refers to the pay disparity between men and women. According to the most recent data published by the U.S. Census Bureau for the U.S. Bureau of Labor Statistics, in 2018, full-time working women of all races earned about 82 cents for every $1 earned by full-time working men of all races. This wage gap is an improvement compared to the 62 cents for every $1 full-time working women earned in 1979 compared to men, but it is still a vast and unfair gap in labor compensation that needs to be closed.

While understanding the gender pay gap is important, it’s also important to understand gender pay equity. As you know, the wage gap refers to the difference in pay between men and women for equal or similar work. On the other hand, pay equity dives deeper by looking at the inequalities that might lead to the gender pay gap, such as systemic issues, conscious or unconscious biases, race, ethnicity, sex, and ability. By looking at gender pay equity, it can be easier to understand why mostly white men end up in higher-paying roles, such as CEOs and doctors, compared to women who might work part-time or in traditional fields like education and child care. In fact, women only make up 5 percent of Fortune 500 CEOs. When looking at the gender pay gap, the pay

Only 5% of Fortune 500 CEOs are women.

Source: Center for American Progress
disparities aren’t equal across the board, either. Women of color and those from historically marginalized groups have a much wider gap in pay between white men compared to white women. Below are the wage earnings of women of color compared to white, non-Hispanic males:

- **Black**: $0.62
- **Hispanic or Latino**: $0.54
- **Asian**: $0.90
- **American Indian and Alaska Native**: $0.57

Source: Center for American Progress
As you can tell, the pay gap for women of color is much wider than the pay gap for white women, showing how gender bias and racial bias affect women of color. Additionally, the numbers might not always show the complete picture. These groups aren't monolithic, which means subgroups of different races might face a wider wage gap than others. For example, while the wage gap for Asian women is 90 cents, that number doesn't represent all Asian women. According to The Center for American Progress, Filippino women earned 83 cents, Tongan women made 75 cents, and Nepali women earned 50 cents for every dollar earned by white, non-Hispanic men.

Now that you understand what the gender pay gap is, along with gender pay equity, let's look at the history of the gender pay gap and where we are today.

**History of the Gender Pay Gap**

While the gender pay gap has been an issue for centuries, it emerged on the political scene during the Women’s Suffrage Movement when women’s rights advocates like Susan B. Anthony and Elizabeth Cady Stanton demanded equal pay for equal work. Since then, various reforms have taken place to bridge the gender pay gap—and while progress has been made, the gap is still open. Below, we’ll explore more of the history of the gender pay gap so that you can understand milestones in the fight for equal pay, along with setbacks.

**What Is Equal Pay Day?**

Equal Pay Day occurs every year, but the date rarely falls on the same day. This is because National Equal Pay Day is the day on which the average man in the United States would have to start working in order to earn the same amount for the year as the
average woman in the same job who started work on January 1. This year, Equal Pay Day falls on March 24, 2021. This means women must work an additional 83 days full-time to earn as much as a white male worker.

The National Committee on Pay Equity, which established Equal Pay Day back in 1996, set additional Equal Pay Days for designated groups, which go as follows:

- **Asian American and Pacific Islanders**: March 9, 2021
- **Mothers (as compared to fathers)**: June 9, 2021
- **African American**: August 3, 2021
- **Native American**: September 8, 2021
- **Latinas**: October 2, 2021

2021 Equal Pay Days

- **Asian American and Pacific Islanders**: March 9, 2021
- **All women**: March 24, 2021
- **Mothers (as compared to fathers)**: June 9, 2021
- **African American**: August 3, 2021
- **Native American**: September 8, 2021
- **Latinas**: October 2, 2021

Source: National Committee on Pay Equity
These Equal Pay Days are set to raise awareness about the gender pay gap in the workforce to push federal and state governments to take action and roll out new legislation aimed at closing the pay gap.

Equal Pay Act of 1963

Since the Women’s Suffrage Movement, one of the biggest pieces of legislation to get approved was the Equal Pay Act (EPA) of 1963, which made it illegal for employers to pay men and women different salaries if they performed similar work. Within the first few years, several amendments were added to the Equal Pay Act to strengthen these laws, including:

- **The Bennett Amendment**: This amendment was incorporated via Title VII of the Civil Rights Act of 1964 to codify into the law the four pay differential “affirmative defenses”: seniority, merit, productivity, or any other factor other than sex.

- **Title VII of the Civil Rights Act of 1964**: This amendment expanded coverage for the EPA to more employers by applying it to virtually all employers with 15 or more employees, regardless of whether they were engaged in interstate commerce or had gross annual revenues in excess of $500,000 (the FLSA coverage determination).

- **Education Amendments of 1972**: Originally, the EPA did not cover most “white-collar” professions, such as executives, administrators, outside salespeople, and other professionals, because the FLSA does not cover them. However, this was corrected 9 years later with the passage of the Education Amendments of 1972.

- **The Pregnancy Discrimination Act**: Another gender equity employment law that helped strengthen the Equal Pay Act was the Pregnancy Discrimination Act, which outlawed discrimination based on pregnancy when it comes to paying, hiring, promoting, training, providing benefits, and assigning job placements for women.
In addition to these amendments to the Equal Pay Act, several notable court cases helped challenge or clarify the laws set forth by the Equal Pay Act. These court cases include:
• **Schultz v. Wheaton Glass Co., (1970; USCA Third Circuit):** The Court ruled that jobs must be "substantially equal" but not "identical" to fall under the protection of the Equal Pay Act. For example, an employer cannot change the job titles of women workers in order to pay them less than men where the content of the job description is substantially equal.

• **Corning Glass Works v. Brennan, (1974; U.S. Supreme Court):** During this case, the U.S. Supreme Court ruled that employers cannot justify paying women lower wages because that is what they traditionally received based on the "going market rate." Additionally, it was found a wage differential imposed "simply because men would not work at the low rates paid women inspectors" for the same work was no longer acceptable.

These are just some of the major court cases that helped shape the Equal Pay Act and work toward equal opportunities for women in the workforce. However, the next significant court case wouldn’t come for a few more decades, when in 2007, a woman named Lilly Ledbetter sued Goodyear Tire and Rubber for receiving a low salary based on her gender.

**Ledbetter v. Goodyear Tire and Rubber**

During her 19-year career, Lilly Ledbetter found she was receiving low performance reviews and salary increases compared to other employees. In 2007, she sued her employer, Goodyear Tire and Rubber, sparking the case Ledbetter v. Goodyear Tire and Rubber. The trial jury found for Ledbetter, awarding her more than $3.5 million, which the district judge reduced to $360,000.

Following numerous appeals, the U.S. Supreme Court ruled, by a 5-4 vote, that Ledbetter's claim was time-barred by Title VII's 180-day statute of limitations. They dismissed Ledbetter's claim that each new paycheck she got was an act of wage
discrimination, instead stating that the law began to run from the date of Goodyear’s last pay change decision. In a somewhat prescient statement, Justice Ruth Bader Ginsburg, writing for the dissent, suggested that ... “the Legislature may [want to] act to correct this Court’s parsimonious reading of Title VII.”

2009 then became the first year since 1994 when there was a Democrat-run House, Senate, and Presidency when the Obama Administration entered the White House. President Obama passed the Lilly Ledbetter Fair Pay Act of 2009, which nullified the 180-day Title VII statute of limitations for gender-based pay disputes by making each new paycheck provided by an employer a possible further act of gender pay discrimination. Because of Lilly Ledbetter, employers must increase their vigilance regarding documentation around pay decisions, such as how they are made, on what factual basis, and so forth.

The Gender Pay Gap Today

Today, more efforts are being made to close the gender pay gap to achieve pay equality. While we’re still far away from achieving full gender pay equality, these efforts are steering us in the right direction. Below, we’ll go over where the gender pay gap stands today.

Paycheck Fairness Act

There have been several efforts to pass a Paycheck Fairness Act, with four bills originating in Congress that never made it out. However, when Democrats regained control of the House in 2018 with a 38 seat majority, the Paycheck Fairness Act resurfaced.
Rep. Rosa DeLauro (D-CT03) introduced the Paycheck Fairness Act of 2021 on January 30, 2021 (exactly two years to the day prior), and it was voted out of the Education & Labor Committee on March 24 with 26 yeas and 22 nays. The bill modifies the Fair Labor Standards Act of 1938 (FLSA) to improve gender pay equality requirements, many of which have not been amended since the Equal Pay Act of 1963. The bill also takes the opportunity to finalize and commit to national standards, consisting of a range of regulations and laws that have gained traction among states (including gender pay equity reporting nationwide).

Below are the four most prominent provisions of the Paycheck Fairness Act:

- Strengthening the protections of the Equal Pay Act by limiting the impact of the “Bennett Amendment”—thereby restricting the application of the “bona fide factor” defense in justifying pay disparities (§2(b)).
- Introducing a new non-retaliation provision relating to employee discussions of compensation—making nationwide the laws of 19 states and territories and 21 localities as of April 2021 (§2(c)).
- Formalizing and passing into law the requirement for compensation band reporting to be part of the EEO-1 report (§§7-8).
- Introducing a formal, nationwide prohibition on asking applicants about wage, salary, or benefits history, to attempt to curtail the perpetuation of current pay gaps—making nationwide the laws of 18 states as of April 2021 (§8).

Component 2 Reporting

In 2016, the Equal Employment Opportunity Commission (EEOC), under the Obama Administration, announced it would be adding “Component 2” data to the EEO-1 report. This data would include annual pay data in 12 graduated bands of total compensation to the report. It also added hours worked information separated by exempt and non-exempt
FLSA job classifications. The aim of Component 2 data was to strengthen the ability to diagnose pay equity disparities by gathering information on gender to identify industries where the gender pay gap was most prevalent.

However, the Trump Administration issued new mandates in 2017 to reduce the amount of paperwork administrators had to do with the Paperwork Reduction Act, which cut out the need for collecting Component 2 data. In response, the National Women’s Law Center sued the EEOC, ORIA, and OMB to reinstate Component 2 reporting. D.C. Federal Circuit Court Judge Tanya S Chutkan ruled for plaintiffs NWLC and against the Administration detailing a very specific timeline of actions which the EEOC must take in implementing her ruling to restore Component 2 reporting.

This ruling allowed for the continuation of reporting for 2017-2018. However, in 2019, the new EEOC Chair Janet Dhillon, published a notice in the Federal Register indicating her intention to pursue the removal of the Component 2 reporting requirement for the 2019/2020 fiscal year. The National Women’s Law Center reacted, stating their intention to sue again. Currently, if a 60-vote majority cloture vote continues to stall the law in the Senate, the EEOC Chair and the Secretary of Labor could possibly re-impose gender pay equity reporting.

Ban the Question Laws

States and cities are realizing that some traditional recruiting strategies, even though unintentionally discriminatory, may have a discriminatory effect. In an effort to "break the cycle" of gender-based pay inequity, states are now making efforts to prevent pay disparities from occurring. For example, suppose an employer makes it a policy to offer a standard escalator (say, 5% or 8%) above the candidate’s current salary to qualified applicants. In that case, if the 17.7 percent pay difference is present, that policy could continue the cycle of the same pay gap for new hires.
To address this, states began enforcing “Ban the Question” jurisdictions by enforcing the following:

1. Employers should decide on a range that the job should pay,
2. They should then base the specifics of an individual candidate’s offer within that range on their expertise and experience, and
3. Make questions about salary history off-limits in the recruiting process.

Pay Secrecy Laws

Many employers have stringent rules banning workers from sharing any aspect of their pay arrangements with one another, with consequences ranging from disciplinary action to termination. Because proponents of gender pay equity reform view these policies as preventing workers from deciding whether they are affected by pay disparities, a number of states have enacted legislation making these policies illegal for both public and private employers operating within their borders.

Michigan led the way in 1982 by establishing a pay secrecy law, which prohibits employers from doing any of the following:

- Requiring, as a condition of employment, non-disclosure by an employee of his or her wages;
- Requiring an employee to sign a waiver or other document which purports to deny that employee the right to disclose his or her wages; and/or
- Discharging, formally disciplining, or otherwise discriminating against an employee for job advancement on the basis of having disclosed his or her wages.

How the COVID-19 Pandemic Has Impacted the Gender Pay Equity Problem

Over the past decade, momentum for gender pay equity was moving fast. However, when the COVID-19 pandemic put the world on pause in 2020, the gender pay equity
problem took several steps back. With unemployment levels skyrocketing to historic numbers, the ones impacted most were women—particularly women of color.

During the pandemic, **5.4 million women** found themselves without a job, about a million more than men. In December 2020 alone, Black, Hispanic, and Asian women accounted for all of the job losses women faced for that month—154,000, showing the stark reality of the barriers women of color faced during this time.

According to the **Department of Labor**, the pandemic set women’s work participation back more than 30 years due to layoffs and child care forcing many women out of their jobs and into their homes. In February 2021, the DOL found that women’s participation rate was the same as it was in 1987 at 55.8%.

While these realities may be grim, there are ways employers can address the gender pay equity problem in their companies, such as allowing transparency around compensation, breaking down occupational segregation barriers, providing greater access to paid leave for child and elderly care, and so forth. In the following sections, we’ll go over more ways you can tackle the gender pay equity problem head-on.

![Pandemic-Related Job Losses Greater Among Women of Color](image)

Source: Center on Budget & Policy Priorities
How an HCM Suite Can Address the Gender Pay Equity Problem

Not only is addressing gender pay equity the right thing to do, but doing so can help your company stay in compliance with city, state, and federal laws to avoid risk. One of the best ways to avoid discriminatory practices is using an HCM suite to manage and track pay. By using an HCM suite, you’ll be able to:

- Make informed business decisions by analyzing data to perform pay equity audits
- Access basic HRIS to gather data, track and manage human resources, and perform payroll and accounting
- Use compensation planning modules to access summaries of pay comparisons and salary changes
- Review learning management modules and take courses to strengthen your team
- Track and measure metrics that relate to your business’s goals and performance indicators. This may include assessing employee engagement and satisfaction, tracking productivity with performance management software, and recognizing inefficiencies and pain points within a company.

With an HCM suite, you’ll be able to address any pay equity problems and put your company on the right path toward pay equality.
5 Steps Employers Can Take to Address the Gender Pay Gap

Now that you understand the gender pay gap and the importance of gender pay equity, it’s time to take some action. Below are five steps you can take to address the gender pay gap within your company.

1. Understand appropriate job groupings

Your first action to identify de facto pay disparities within your company should be understanding when the quality of two or more workers is fundamentally similar or equivalent, despite their different names.

2. Evaluate permitted factors that explain pay differences

Next, you should evaluate the various factors that might explain the pay differences—this is an essential step to understanding gender pay equity. These factors may differ based on state laws, but each employer can start by determining whether to comply on a state-by-state basis or to comply with the most stringent standards applicable to all states in which they do business. Typically, most states consider the following to be permitted pay differential factors:

• Seniority
• Merit
• Production quantity or quality
• Other bona fide factors (other than gender), such as education, training, or experience
3. Analyze pay

Once you’ve evaluated various factors that might explain pay differences in your company, take time to analyze how much you pay all of your employees. This can be done by using regression analysis to see how much pay disparities are explained by permissible factors like success or experience vs. impermissible factors like gender or race.

4. Offer managerial and supervisory training/re-training

Those responsible for handling employee pay should also stay on top of best practices and any city, state, or federal law changes. Consider requiring key supervisors (those in charge of recommending pay changes or incentive awards) to revisit this training at least once a year and before each merit or bonus distribution period.

5. Modify policies

From employee handbooks to separate statements of compensation procedures, all policies should, for example, exclude any references to bans on workers reporting their compensation to others, in addition to reiterating the employer's adherence to gender-blind pay equality standards. Best practice would recommend that these policy changes be implemented across the board rather than enforcing different policies for employees working in different departments or states.

How Ascentis Can Help

At Ascentis, we’re committed to helping employers create a workplace centered around equality and equity. Ascentis allows you to focus on the bigger picture with integrated HRIS and Learning Management software. We provide real-time data, easy reporting, and the ability to task your employees with virtual trainings to ensure your business is compliant. Learn more about how Ascentis can help your business uplift employees to create a positive and fair work environment.