



THE CASE FOR INCLUSION

News and Legal Analysis on Issues Related to Diversity and Inclusion

Canada Day Brings Equal P’Eh? Protections for Women

BY CHELSIE A. VOKES • JULY 16, 2018

JULY 1, 2018: EEOC SETTLES WITH THE UNIVERSITY OF DENVER

The University of Denver (the “University”) has agreed to pay \$2.6 Million to settle claims that it [paid its female law school professors less](#) than their male counterparts.

The Equal Employment Opportunity Commission (“EEOC”), the federal agency that investigates discrimination in the workplace, initiated the lawsuit on behalf of seven female professors from the University’s law school. After an investigation into the University’s practices, the EEOC alleged that, on average, the University paid its female professors almost \$20,000 less than its male professors. Despite formally recognizing this pay disparity in a 2013 memorandum, the EEOC alleges that the University did not take any action to adjust the salaries of its female professors.

In addition to paying \$2.6 Million, the University has also agreed to increase the 2018 salaries of the seven female professors, annually publish salary and compensation information to its faculty, and hire an economist to conduct an annual review of its pay equity.

JULY 1, 2018: MASSACHUSETTS UPDATES ITS EQUAL PAY ACT

Coincidentally, the EEOC announced the settlement in a press release on July 1, 2018, the same date that the updated Massachusetts’ Equal Pay Act (“[MEPA](#)”) went into effect. Here are two ways that MEPA seeks to address what went wrong in Denver:

- Equal Pay for “Comparable Work”
 - *EEOC v. University of Denver*: The EEOC [found](#) that the female law professors were paid less than their male counterparts who possessed the same rank and merit.
- MEPA: Under MEPA, employers must pay their employees equal wages for “comparable work,” regardless of gender.

- History Isn't an Excuse
 - *EEOC v. University of Denver*: In 2015, the EEOC **concluded** that, by taking no action to address the known pay disparity, the University was “in effect intentionally condoning and formalizing a history of wage disparity based on sex.”
 - MEPA: MEPA was designed to address historical wage disparity – making clear that employees’ salary histories cannot be used as a defense to liability.

Client Tip: Familiarize yourself with MEPA and the full scope of its requirements—including those set out in the Attorney General’s [Guidance Document](#).