

Employer • Alert

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PRESIDENT OBAMA SIGNS EQUAL PAY LAW

On January 29th, President Barack Obama signed his first act into law, the Lilly Ledbetter Fair Pay Act. This law makes it easier for employees to recover damages for compensation decisions made years earlier that were discriminatory and whose effects continue. The law declares that a discriminatory act related to compensation occurs each time a pay check is issued or other benefit is received that reflects the earlier discriminatory decision. Any claims or lawsuits pending on or after May 28, 2007 are covered by this change. It is important to note that the law does not give employees the right to recover damages for any discriminatory decision on wages or benefits dating from when the decision was made, but rather, it only permits recovery going back 2 years from when the claim was filed.

There are several steps employers should consider taking in light of this new legislation, as undoubtedly new litigation will arise.

Our advice:

- **Review** the criteria that are currently being used to make compensation decisions to ensure that they are objective and are being applied in a non-discriminatory manner. Managers should not be given unlimited or unreviewable discretion in making compensation decisions. A review of these decisions should be undertaken similar to what is done when reviewing discipline or termination decisions with special attention to the treatment of persons in protected categories.



- **Analyze** past compensation practices with attention to whether there is any disparity in the compensation of persons in comparable positions. This should include a review of the documentation when there is a disparity to see if there is a legitimate reason for any difference. This may require a statistical analysis.
- **Remind** and train decision-makers, when necessary, about the prohibitions against applying criteria in a discriminatory manner or applying criteria that have an adverse impact on a protected employee group. They should be aware of the costs associated with such conduct and the impact such decisions can have on the business and on the productivity of employees.
- **Retain** personnel records regarding compensation decisions in the same manner and for the same duration as general personnel or employment records, at least one year after an employee's separation from employment.

QUESTIONS OR ASSISTANCE?

We will continue to provide updates to you as new information and/or guidance becomes available. If you have any questions or concerns regarding this matter, please feel free to contact Gabriel J. Jiran at (860) 251-5520, Gary S. Starr at (860) 251-5501, Robin G. Frederick at (203) 324-8114 or Shari M. Goodstein at (203) 324-8161.

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