

Talk about your pay

It's the best way to fight discrimination

By Deborah McKenna
Connecticut Post
April 23, 2009

It's time to end one of the last taboos of the workplace: talk about your salary with co-workers.

If we really want to end the disparity between what men and women are paid for the same work, we must start talking about our salaries. It will be an eye-opener. April 28 is "Equal Pay Day." The National Committee on Pay Equity established Equal Pay Day in 1996 to help raise public awareness of the disparity between men's and women's wages.

Equal Pay Day is always a Tuesday -- typically the day on which women's wages catch up with men's wages -- from the previous week.

The federal Equal Pay Act was passed in 1963, at a time when women earned approximately 59 cents to every dollar earned by men. In 2007, 44 years later, the American Association of University Women Educational Foundation published a study disclosing that women still earn only 80 percent of what men earn one year after college.

According to the study, women earn 69 percent of what men earn 10 years after college. The choice of major did not dictate the discrepancy. For example, female education majors earn 95 percent of what male educators earn one year after college. Similarly, female biologists earn 75 percent of what male biologists earn one year after college.

The gap is worse for women who are not college graduates and for women of color.

We have seen some positive steps toward remedying wage disparities this year with the passage of the federal Lilly Ledbetter Fair Pay Act.

Lilly Ledbetter worked as a plant supervisor at Goodyear Tire and Rubber for 19 years. Just before taking early retirement, Ledbetter filed a sex discrimination charge alleging that she was paid less than her male counterparts.

Ledbetter struggled all the way to the U.S. Supreme Court with the issue of whether her claim was time-barred because she could not establish that Goodyear acted with discriminatory intent within 180 days of her complaint. The Supreme Court affirmed that Ledbetter's pay discrimination claim was untimely.

Justice Ruth Bader Ginsburg's rousing dissent, however, made many practical points about pay practices. She noted that pay disparities are often incremental and hard to detect; comparative pay information is often secret; employees like Ledbetter are afraid to make waves; and pay disparities are different for other adverse employment actions like promotions, transfers, and hiring and firing decisions because you can't always tell when the adverse action occurs.

Justice Ginsburg's dissent rallied Congress to pass the Fair Pay Act, retroactive to May 28, 2007, the day before the Supreme Court decision; it was the first piece of legislation President Obama signed into law.

The act adopts the "paycheck rule," which restarts the time period for filing a pay discrimination charge with every new paycheck. It applies not only to raises, but also to promotions, transfers and evaluations that could affect pay.

The act did not give employees a blank check with regard to potential claims. For example, the act limits any potential back pay to the two years preceding the filing of the charge. Additionally, there still are many challenges that employees continue to face in attempting to bring an equal pay claim.

However, you might not know you have a legitimate complaint if you don't begin the salary discussion with your co-workers.

Of course, one positive step that employers can take towards helping women achieve true pay equity and at the same time avoid legal liability is to ensure that they create fair, consistent and objective processes for setting and reviewing pay decisions. This requires management training and oversight and a commitment to confronting subtle biases regarding the value of men's versus women's work.

For those employers who choose to continue past practices that permit disparities to persist, they do so at their own risk.

Equal pay for equal work is attainable -- but only if all of us become more willing to end the last taboo of the workplace.

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