



VCU

VIRGINIA COMMONWEALTH UNIVERSITY

Equity and Access Services

Executive Order 13665

Non-Retaliation for Disclosure of Compensation
Information

January 2016

Agenda

- Background
- Final Rule Summary
- Definitions from the Final Rule
- Posting Requirements
- Best Practices
- What Does This Mean for You in Your Role?
- Scenarios

Background

- A part of the Obama Administration's goal to eliminate the gender wage gap that inspired the Lilly Ledbetter Fair Pay Restoration Act
- Created to help workers determine if they receive compensation equal to their coworkers
- Effective January 11, 2016

Background

- VCU is required to comply with this Executive Order because VCU is a Federal Contractor
 - VCU holds federal contracts in excess of \$10,000
 - Federal contracts include student financial aid and federally funded research contracts

Final Rule Summary

- Federal contractors are prohibited from discharging or discriminating against employees or applicants who inquire about, discuss, or disclose their own compensation or the compensation of another employee or applicant
- Protections do NOT apply to employees who have access to compensation information as a part of their essential job duties and discuss this information with individuals who would otherwise not have access to this information
- Contractors are NOT required to make any additional compensation disclosures



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Definition: Compensation

- Salary
- Wages
- Overtime pay
- Shift differentials
- Bonuses
- Commissions
- Vacation and holiday pay
- Allowances
- Insurance and other benefits
- Stock options and awards
- Profit sharing
- Retirement



Definition: Essential Job Function

- The access to compensation information is necessary to perform that function or other routinely assigned business tasks
- The function or duties of the position includes protecting and maintaining the privacy of employee personal records including compensation information



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Posting Requirements

- Physically and/or electronically post the [Pay Transparency Policy Statement](#)
- Post the [“EEO is the Law” Poster Supplement](#), which includes information on Pay Secrecy

Pay Transparency Best Practices

1) Review policies, practices, and personnel documents

- If a policy or practice might “tend to prohibit” discussions of compensation, the policy or practice should be modified.

2) Determine which employees have access to other employees’ compensation information as an essential part of their job duties

What does this mean for you in your role?

- After January 11, anyone who feels they have been discriminated against because they discussed compensation should report their concern to [Equity and Access Services](#)
- Employees and applicants can ask you about your compensation, but you are NOT required to discuss it
- Anyone who gains knowledge of other employees' compensation as an essential function of their position cannot discuss it with other employees



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Scenario 1

Jane works as a Payroll Administrator. She accesses and processes compensation data as part of her essential job function.

Jane's coworkers, Maria and Sanjay, are in the same role. While processing this month's payroll Jane notices that Maria's pay is less than Sanjay's pay. Jane reveals this to Maria who would otherwise not have known about the pay difference.

Can management lawfully discipline Jane for telling Maria she makes less than Sanjay?

YES



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Scenario 2

Over lunch, Sanjay tells Jane how much he makes. Later that day, Maria also tells Jane how much she makes. Jane mentions to Maria that Sanjay is getting paid more than Maria.

Can management lawfully discipline Jane for telling Maria she makes less than Sanjay?

NO



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Contact Us

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