



Rules and Standards for Certification

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Rule 1:

Eligibility

To be eligible for certification, employers must agree to adhere to the Rules and Standards set forth herein and to submit to review by a certifying agent acting on behalf of the Fair Pay Workplace (“FPW”).

Rule 2:

Overview

To earn a certification badge, eligible organizations must follow the guidelines set forth below for conducting a pay equity review; collaborate reasonably with the certifying agent to create an acceptable remediation plan that will be reviewed over time for progress achieved as planned; and communicate about certification as described below. Certification signifies that an organization has elected to adhere to the Rules and Standards set forth by the FPW, and agrees to continue to do so over time.

- A. Certification does not necessarily mean or imply that an organization has completed all points on a remediation plan, but that it is committing to do so over a designated period of time.
- B. In addition to following the specified Rules and Standards in this document, employers agree to follow the spirit of avoiding shortcuts and system-gaming approaches to pay equity.
- C. Upon request, organizations agree to submit additional verification of items listed on the following pages, or as requested by the certifying agent for the purpose of conducting a pay equity review or to ensure ongoing compliance with any remediation plan.
- D. "Certifying agent" as used herein refers to an individual with experience and expertise in math, methods, economics, and best practices with respect to conducting pay equity reviews. Certifying agents are selected by the FPW.

Rule 3:

Pay Equity Review

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A single “pay equity review” consists of the following elements.

All elements shall be reviewed by the certifying agent.

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All individuals included in applicable local, state and country-level definitions of “employees” to whom pay equity laws apply should be included as part of the pay equity review. When the status of employees is in doubt, advice of the employer’s counsel shall be requested. Note that in some instances this may require inclusion of employees out on leave. Unionized employees covered under a collective bargaining agreement are included (unless expressly excluded by law). It is up to the employer seeking certification to unilaterally evaluate and determine the extent to which analysis, review, certification and formulation of the Remediation Plan requires disclosure or discussion with represented employees’ duly elected representative or works council, and the timing and actual discussions or disclosures. The certifying agent may suggest inclusion or exclusion of employee populations.

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Employer has exerted **reasonable and good faith efforts** to generate at least one grouping schema in which employees doing comparable work based on skill, effort, responsibilities and working conditions are grouped together.

- I. Job code, level or grade, (or similar) may not be the right grouping schema. Employers seeking to use these as the sole basis for the primary focal grouping schema must present information as to why these are the most appropriate way of organizing the work, as viewed from an outsider’s perspective. By default, these are unlikely candidates.
- II. Job title is often too granular, and by default, is also not a likely candidate for grouping schema, with exceptions where appropriate.
- III. For employers with 500 or more employees, if the number of groups too small for robust statistical analysis is greater than 25% of the total number of groups, this automatically triggers a more thorough and detailed audit of the grouping schema applied.
- IV. For employers with fewer than 500 employees, the percentage of groups too small for robust statistical analysis should be no greater than 45% of the total number of groups to avoid automatic triggering of a more thorough audit of the grouping schema used.
- V. For employers seeking renewal of certification review, the same grouping schema will be used by default unless the nature of the business has changed. If new groups are being added or removed, they should be flagged for review for the certifying agent.

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- VI. Groups should span the entire workforce within at least one country at a time at a minimum. For instance, for global employers, they may group the full US population of employees into one grouping schema, and separately group their European population of employees in a separate grouping schema. They may also elect to combine all employees.
1. In countries in which applicable laws vary by region or state, the employer shall apply the most employee-favorable system to all of the covered employees. For instance, in the United States, if the employer is grouping employees working in Arizona (“Equal” standard), Washington (“Comparable” standard), and California (“Substantially Similar” standard), the employer would apply the comparable standard to all employees.
 2. The Fair Pay Workplace may certify organizations operating in any country or multiple countries. In all instances, certification requires compliance with applicable local, state and federal laws. Certification of employee populations in multiple countries may require review to ensure harmonization of cross-border application of laws. In some instances, this may require the inclusion of legal advice by in-house counsel or counsel obtained by the certifying organization. **If an organization is only seeking certification for a subset of its employee population, that must be made clear in any and all communication about the certification.**

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Pay differences are to be reviewed for differences by the protected categories listed below. Any additional PCs for which the certifying organization has available data may be analyzed as well, and the Fair Pay Workplace certification may record the other comparisons as well. These are reviewed on a case-by-case basis.

- I. Male vs. Non-Male; where Non-Male includes any individuals who do not identify as male.
- II. White vs. Non-White
 1. The Non-White categorization may require tailoring depending on the employer populations being reviewed. This will be discussed with the certifying agent to ensure that the categories are appropriate for the employee population under review.
 2. Subdivisions of the “Non-White” designation are encouraged and in some instances may be necessary. This will be discussed and reviewed with the certifying agent.
 3. International employee populations may be subject to additional scrutiny and review on a case by case basis. In all instances, certification requires adherence to applicable local, state and federal or country-level laws and regulations. This may require or prevent the collection and/or review of certain protected category employee data.
- III. Intersection between I and II. (This tests the composite effect of being both non-white and non-male, in which white males are the default reference category. Deviation from this default is in the discretion of the certifying agent.)

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The default form of compensation analyzed shall be “total annualized discretionary compensation.” This includes all forms of cash compensation excluding equity grants or RSUs, that the employer provides to employees being reviewed. The certifying agent shall review the forms of compensation with the organization to determine if and when deviation from this default is appropriate.

Under some circumstances, review of equity grants may be appropriate or legally required; for instance, if a large percentage of total annualized compensation is in the form of equity grants for a substantial portion of employees and grant variation is subject to management discretion. Such decisions are at the discretion of the certifying agent. Employers may also voluntarily agree to include equity grants in the review process.

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For all groups that have at least 30 employees per group and at least 10 employees per sub-group (e.g. at least 10 men), the PC shall not be considered ruled out as potentially contributing to the explanation of variation of compensation in that group if the p-value for the appropriate parametric test is less than .05. In such instances, employers may apply multivariate regression analysis as described in section 3(G) in this document. If the p-value for the appropriate test is greater than or equal to .05, no further analysis is required.

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For all groups that have fewer than 30 employees per group or fewer than 10 employees per sub-group, no analysis is required if the total percentage of the individuals in this category of groups is less than or equal to 5% of the workforce subject to certification for employers greater than or equal to 500 employees, or less than or equal to 10% of the workforce subject to certification for employers with fewer than 500 employees.

- I. For groups that require analysis in this category, the employer has taken reasonable steps to conduct a "**cohort review**" of these groups, and has set forth a remediation plan (see [Remediation Plan](#) in this document).
- II. Employers agree to random spot checking by the certifying agent of cohort reviews conducted. The employer seeking certification shall provide information to the certifying agent upon request about how the employer arose at the conclusions for remediation or non-remediation in any of the groups in this category. If the reasons provided are not satisfactory, the certifying agent may request that the employer take corrective action with respect to the employees in the group(s) at issue.
- III. If the employer fails to provide information in a reasonable and timely manner, or has not conducted the cohort reviews, or otherwise fails to comply with requests to review cohort groups, certification may be revoked or amended, within the discretion of the Fair Pay Workplace Alliance.
- IV. If the employer fails to provide such information or otherwise comply three times, the certification will be revoked.

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For all groups with at least 30 employees per group and at least 10 employees per sub-group (e.g. at least 10 men), and a p-value of less than .05 for appropriate parametric test for the PC’s coefficient, employers should apply any and all controls as per these Rules and Standards. If the p-value for the coefficient associated with the PC is greater than or equal to .05, no further action is required. If the p-value is less than .05, please refer to the section entitled, “[Remediation Plan](#)” in Rule 3(I).

- I. Model integrity: If the R squared (“variation explained”) for any model is deemed to be insufficiently low by the reviewing certifying agent, the results of the regression model may be subject to refinement in order to achieve or maintain certification. In general, models showing R squared values should be between 65% and 95%. However, this must be reviewed on a case by case basis.
- II. Other standard regression model assumptions apply as well, and will be reviewed by the certifying agent as appropriate.

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Controls refer to factors used to explain gaps in groups in which statistical evidence from the parametric testing suggests that being a member of the PC in question may not be ruled out as likely contributing to explaining variation in compensation. The employer’s selection of which controls to apply to any and all groups shall be reviewed by the certifying agent. The following are standards for the application of controls to groups:

- I. Controls must be neutral. The certifying agent may spot check controls randomly to statistically test the neutrality of applied controls.
- II. Controls must be job-related.
- III. Controls measure differences of skill, output, or effort within a group of comparable employees. For instance, if a company employs 100 engineers, it would be legitimate to differentiate how the company paid those engineers based on years of relevant experience, tenure with the company, location, or educational attainment. Employers may consult with the certifying agent about the integrity and applicability of contemplated controls.
- IV. Direct measures are preferred to indirect measures where available. Indirect measures are disfavored in some instances. Direct measures are exogenous and not created or assigned by the employer (e.g. tenure, years of experience, educational attainment) Indirect measures are endogenous because they are fabricated by the employer and assigned by the employer to employees (e.g. performance evaluation scores).

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- V. If controls are missing a small percentage of values, employers may impute missing records using standard methods for this that allow employees to lend data to the model and avoid being dropped from the model. However, imputation may not be appropriate under certain circumstances—for instance, if too many records are missing (greater than 35%). The certifying agent has discretion to review decisions to impute.
 - VI. Employers are not permitted to over-fit or over-count controls to artificially impact the model. For instance, it is inappropriate to include a variable that tracks tenure in months, AND a second variable that tracks tenure in years in the same regression model. Employers must share information with the certifying agent to ensure that all controls are proper and appropriate under the circumstances. Refer to Section 3(G) above regarding regression model assumptions as well.

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Employers must generate a remediation plan that includes each group for which the PC coefficient is less than .05 net of applied controls. For small groups, a remediation plan is required under conditions set forth under Rule 3(F).

Remediation plans may be created and reviewed under the supervision of the employer’s attorney for the purpose of assessing legal risk. Remediation plans should include the following information:

- I. Total all-up budget to remediate. Minimum budgets to remediate require that after the budget is applied (monies distributed), that no group still shows a PC coefficient p-value of less than .05. This must be the case for at least PCs C(3)(I) through C(3)(III) noted above.
- II. The agreed-upon timeline for the planned disbursement of funds and specific dates when the certifying agent will check in to ensure ongoing compliance.
- III. Data refresh requirements with specific dates listed.
- IV. Note that employers are required to include in a remediation plan pay adjustments in which statistical evidence suggests that the traditionally disadvantaged group is the group to whom compensation is being disproportionately provided. For instance, if the statistical analysis described above suggests that men are the underpaid group, men would be eligible to receive additional compensation to correct potential imbalances.

Rule 4:

Frequency of Review

In general, the frequency of review is a function of three things:

- average rate of change of employee headcount per month,
- frequency of updating of compensation, and
- frequency of promotions or other organizational structural changes.

These factors are reviewed by the certifying agent at the time of review. The default length of certification is annual; however it is within the discretion of the certifying agent to shorten that time or grant provisional certification status that may be revoked if an organization fails to conform with provisional conditions.

Rule 4:

Frequency of Review (cont.)

The following events automatically trigger the need for the certifying agent to conduct a new pay equity review (data refresh with current data) to ensure the continuation of certification if these events occur during the certification time period. The organization seeking certification shall designate an appropriate representative who shall be responsible for timely notifications to the FPW of the following events within a reasonable period of time:

- A. WARN Act triggering event or similar RIF or major headcount changing event greater than 20% as a function of total headcount of the reviewed employee population. For instance, if the original headcount reviewed is 1000, and 300 of those 1000 are let go, this would trigger a data refresh;
- B. Acquisition and merger of another business;
- C. Change in more than 20% of the groupings (e.g. more than 20% of the groups are substantially changed or deleted, or 20% of new groups are added);
- D. Other major structural change in the business;
- E. Material breach of conditional certification provision as judged in the discretion of the certifying agent and reviewed by the Fair Pay Workplace Alliance if necessary.

Rule 5:

Calculation of Unadjusted Median Pay Gap

Employers are required to calculate the median of total annualized discretionary compensation (including or excluding equity grants as determined by [Rule 3\(D\)](#)) for each gender and race that has been analyzed as part of the pay equity review.

Unadjusted median pay gap must also be calculated.

Rule 6:

Communication About Review

Companies have an obligation to share a link on the company's website to an externally facing statement regarding their compliance with Fair Pay Workplace Rules and Standards, and provide written documentation that demonstrates alignment with the Rules and Standards. This statement must also include the unadjusted median pay information as described below.

- A. Companies have an obligation to share a topline summary of pay equity results internally with employees. What is included in the topline summary is at the discretion of the certifying agent following discussions with the organization. This would include a description of the scope of the review (e.g. which employees in the organization were included); the protected categories reviewed; the forms of compensation evaluated; and any other summary information or statistics deemed relevant.
- B. Companies have an obligation to share the "unadjusted median pay gap" of full time employees as part of its communication about certification. The disclosure should include information about the scope of the employees covered (e.g. geographies or other relevant defining factors). It is at the organization's sole and unilateral discretion as to whether to include or exclude additional information and details about the unadjusted median compensation comparison reported. This includes any written qualitative or quantitative explanation and or mathematical evaluation of the disclosed median compensation values.
- C. While not required as a condition of certification, employers are encouraged to set forth a process by which employees may discuss their compensation with the appropriate designated company representative(s).

Rule 7:

Starting Pay

Employers agree not to ask applicants about their previous compensation or about their compensation expectations. Employers will ensure that starting compensation for new hires into groups with a PC coefficient less than .10, is checked to ensure that no newly hired employee is hired at a rate that exacerbates the gender or racial gap in that group. Employers also agree to commit to stating or posting the salary range for the position for which an offer is being made.

Exceptions to this rule are only allowed if approved by the certifying agent.

Rule 8:

Corrections

Employer agrees to commit to identifying and correcting underlying policies, practices and behaviors that need to be changed to ensure ongoing pay equity.

- A. Identify the underlying policies, practices, and behaviors that have contributed to any existing pay gap.
- B. Develop a coherent strategy with quantifiable benchmarks and key performance indicators (KPIs) that states how these processes will be optimized and tracked to assess progress. (As an example, if an organization discovers that major gaps in sponsorship are an underlying cause of their pay gap, they commit in their strategy to structuring mentorship/sponsorship matching and comparing seniority of mentorship within mentee populations as a KPI).
- C. Communicate this strategy to employees to foster accountability.

Rule 9:

Cohort Review (for small groups)

A cohort review, or “cohort analysis” picks up where the limits of statistical analysis leave off. It is a form of comparing individuals or small groups of individuals by ruling out factors that are equivalent, and then assigning weights to the remaining factors that differentiate the people being compared. This may be accomplished by qualitatively reviewing “like for like” individuals. To improve the precision of these qualitative comparisons, it is often useful to derive information from the appropriate quantitative analysis conducted on larger available data sets. For instance, it is often practical to identify the degree to which individuals’ compensation varies in small groups based on an overall fixed effect model to identify individuals compensated less consistently than expected, and to help prioritize any appropriate remediation contemplated within a small group.

Rule 10:

Dispute Resolution

In the event that a representative of the employer seeking certification does not agree with a decision made by the assigned certifying agent, that representative may request that it be reviewed by the current Chairperson of the Fair Pay Workplace Alliance within 20 business days of the employer's notification of the decision. The Alliance Chairperson may elect to resolve the dispute unilaterally or at their discretion, elect to bring the matter before the Alliance for a full review and determination.

Rule 11:

Updates to these Rules and Standards

Changes to the Rules and Standards may be proposed by any regular member of the Alliance of Experts at any time. These proposed changes need to be submitted in writing to the Chairperson of the FPW Alliance. The Chairperson has authority to approve or reject minor or typographical amendments at any time. However, for substantive proposed amendments, (deemed substantive by the Chairperson), the Chairperson shall submit for discussion among the members of the FPW Alliance no more than one time per year. Following these discussions, the Chairperson shall submit for ratification by vote among members of the Alliance of Experts any substantive proposed amendment.

- A. If there are changes to laws or other exigent circumstances (as determined by the Chairperson) that necessitate substantive amendments to be discussed and implemented more than one time per year, the Chairperson may initiate the above described process for review.
- B. Certified organizations are not subject to substantive amendments to the Rules and Standards not in place at the time of their initial certification until they are up for renewal of their certifications, and shall be provided with reasonable notice of substantive changes before expiration of their current certification period.



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Certified Fair Pay Workplaces can be trusted.

It's good for business, for people, and the world.

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