

**YCHRA**  
YAMHILL COUNTY  
HUMAN RESOURCE ASSOCIATION

**YAMHILL COUNTY HUMAN RESOURCE ASSOCIATION**  
CERTIFICATE OF COMPLETION AND ATTENDANCE

“Making Sense of Oregon’s Equal Pay Act”

PRESENTED BY

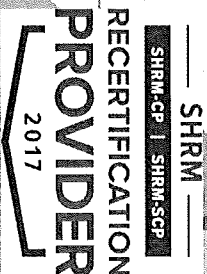
Jennifer Bouman-Steagall, Red Kite Employment Law

September 7, 2018  
Linfield College

Attendee

YCHRA Representative

YCHRA is recognized by SHRM to offer Professional Development Credits (PDCs) for the SHRM-CP<sup>SM</sup> or SHRM-SCP<sup>SM</sup>  
Activity ID: 18-KKVND PDCs: 1.5



**Yamhill County Human Resource Association  
September Meeting Announcement**

**Date & Time:** September 13, 2018, 7:45am – 9:30am  
7:45 am – 8:00 am Registration & Networking  
8:00 am – 9:30 Program

**Location:** Linfield College, Riley Campus Center, Room 201 (see attached map)

**Price:** FREE

**RSVP:** [rebecca@westhillshhealthcare.com](mailto:rebecca@westhillshhealthcare.com)  
Please RSVP (if possible) by September 7<sup>th</sup>, 2018

**Program Description: "Making Sense of Oregon's Equal Pay Act"**

**Speaker: Jennifer Bouman-Stegall, Dynamic Storyteller & Pacific Northwest  
Defense Attorney**

Oregon's new Equal Pay Act attempts to level the uncertain compensation playing field in a number of key respects by (1) expanding the protections against disparate pay on the basis of more protected classes than just gender, (2) implementing new restrictions regarding salary history inquires, and (3) expanding the remedies available to employees. In an attempt to provide some balance, the new Act also expressly acknowledges that there may be legitimate, non-discriminatory factors to justify a difference in pay when, on its face, the wage disparity appears unequal or unfair. What does this all mean to employers and when do you need to take action? Join us for this informative program and find out about the new salary history inquiry restrictions, applicable deadlines, and strategies for implementing and complying with the new provisions.

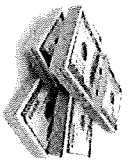
**About the Speaker: Jennifer Bouman-Stegall**

Red Kite Employment Law founder Jennifer Bouman-Stegall is a dynamic Storyteller, trusted HR Business Partner and experienced Employer Defender with over 18 years' experience representing and working closely with Pacific Northwest employers. Through her informative and memorable programs, Jennifer engages, motivates and empowers organizations to improve their team communication, leadership skill development and employee engagement levels as a means to creating great places to work. By sharing her passion and experience with audiences, Jennifer inspires them to learn, reflect and laugh as they look forward to the future.

# MAKING SENSE OF OREGON'S EQUAL PAY ACT

## SECTION 2 (1/1/19) (Equality or Else)

- You still cannot actively **SEEK** salary history information; **AND**
- Regardless of how you find out...* You may not use salary history to:



- DISCRIMINATE** in terms of wages and compensation on the basis of **protected class for work of comparable character**;
  - SCREEN** applicants based on current or past compensation; or
  - DETERMINE** compensation
- Section 2 Exception: May consider comp during a internal transfer, move or hire into new position. \*

*\*Rizo v. Yovino (9th Cir. 2018) – Salary history is NOT “job related.” May invalidate Section 2 & 4 Exceptions.*

## KEY DEFINITIONS (EFF. 1/1/19)

- Compensation** = “wages, salary; bonuses, benefits, fringe benefits and equity based compensation.
- Work of Comparable Character** = “work that requires substantially similar knowledge, skill, effort, responsibility and working conditions in the performance of work, *regardless of job description or job title.*”
- Working Conditions** = “includes work environment, hours, time of day, physical surroundings and potential hazards encountered by an employee.”

## SECTION 4 (10/6/17)

### SALARY HISTORY INQUIRY PROHIBITED:

- You may not **SEEK** salary history info about candidates, applicants or current employees.
  - ✓ *Presumably you may still be able to use it in some situations.*
- Section 4 Exception:** Employer may ask applicant for permission to confirm prior compensation **AFTER** employer extends offer of employment outlining proposed comp.
- ✓ Exception for internal moves and transfers (Section 2), is not applicable until 1/1/19!

### WASHINGTON GENDER PAY EQUITY

- **HB 1506-S2** (gender equity for comparable work; job factors; pay secrecy)
- **SB-2 5140** (pay secrecy; job factors for pay diff.; no retaliation)
- **SB 5555** (salary inquiry limitations; ER must provide salary range info)



*Managers?*  
*top of mid point range*

**PROTECTED CLASSES  
 EXPANDED (EFF. 1/1/19)**

- Sex
- Religion
- Sexual Orientation
- Marital Status
- Race
- Veteran Status
- Color
- Disability
- National Origin
- Age

*\$ Billing*

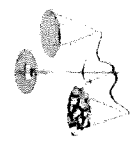
**OTHER KEY SECTION 2 AND 3 PROVISIONS:**

- More \$\$, not Less* – Employer may not reduce an employee's salary to comply with Section 2;
- Amounts owed due to violation = unpaid wages. *Final pay check implications?*
- Post notices in all employee locations.
- Statute of limitations tolled each pay day.
- Reinstatement, back pay (up to 2 years), "liquidated damages", attorneys fees, and jury trial available 1/1/19 for all listed protected classes.
- Compensatory and punitive damages for violating Section 2 (i.e., discriminate, screen, determine) available 1/1/19.

- Compensatory and punitive damages for "seeking" salary history available 1/1/24.

*conditional information letters*

**DOES EVERYONE GET THE SAME RATE OF PAY?**



*(1/1/19) Disparities in pay are permitted IF based on:*

- Seniority
- Merit system
- Quality of work
- Quantity of work
- Work location
- Travel, if necessary
- Education
- Training
- Experience
- Any combo of these factors

*used during lawsuit should have diff. judicial range DOE*

*NOTE: Federal EPA uses the same "job-related" factors. Salary history is NOT "job-related". Rizo v. Yovino (9th Cir. 2018)*

**SAFE HARBOR (EFF. 1/1/19 - SEC. 2 ONLY, NOT SEC. 4)**

**Avoid compensatory and punitive damages IF:**

- Employer completed, within 3 years BEFORE employee filed the action, a good faith equal pay analysis of its pay practices that was:
  - ❖ Reasonable in detail and scope; and
  - ❖ Related to plaintiff's protected class.
- Employer eliminated the wage differential for the employee and made substantial progress for others BEFORE seeking the safe harbor.



(503) 704-4991 | jennifer@redkiterising.com | www.redkiterising.com

*initial terms of my employment*

