

"Show Me the Money!" **Pay Equity & Negotiation for Womxn, Historically Underrepresented & Allies**



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Agenda



- Brief Legal Update
- Strategies for Negotiations
- Scenarios and Interactive Discussion
- COVID Considerations



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Pay Equity Law Updates



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Pay Transparency Laws

- Disclosure of pay range upon request (California, Maryland, Ohio)
- Proactive disclosure (Connecticut, Nevada, Rhode Island, Colorado, New York City, Washington)
- Rewards
 - Negotiation “toolbox” for applicants
 - Weeding out uninterested candidates
- Risks
 - Reveals potential pay disparities



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Salary History & Pay Reporting



- Federal Government
 - Federal Employees
 - Proposed reg on the use of salary history in hiring and pay-setting
 - Federal Contractors
 - Directed FAR Council to consider limiting federal contractors' use of salary history
 - OFCCP Directive clarifying obligation to analyze pay and share pay audits
- States, e.g. California and Illinois require yearly reporting of pay by sex, race, and ethnicity



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Other Emerging Issues



- Salary negotiation as an affirmative defense
 - Ensure equitable application of negotiation policies and practices
 - Ensure wage differentials supported by legitimate business reasons
 - Document negotiation process
- Uptick in pay discrimination lawsuits and settlements
- Increased scrutiny
 - EEOC Strategic Enforcement Plan
 - OFCCP
- Considerations for salary reviews



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Who's in the Room?



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Who's in the room?

- How many have been practicing less than 5 years?
- How many have been practicing between 0-15 years?
- How many have been practicing for over 15 years?



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Who's in the room?



- How many have negotiated their salary at some point in their career?
- How many have negotiated only when they start a new job?
- How many have renegotiated salaries in their current jobs?



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Strategies for Negotiations



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Strategies for Negotiations



- When do you negotiate your salary
 - Upon hire
 - Several years into a position
- Offers
 - Determine if the salary is negotiable
 - Timing to a negotiate a counter-offer
 - Evaluate the offer
 - Consider the benefits offered
 - Which employee perks are open to negotiation
- Making the ask



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Strategies for Negotiations



- Being likable matters
- Explain the justification for the request
- Make sure the potential employer understands that you are willing to accept the offer if they are willing to expend any financial, social or political capital to provide or come close to your ask



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Strategies for Negotiations



- Understand the perspective of the person with whom you are negotiating
- Be prepared to respond to questions about your requests
- Consider the complete offer they are making and the value of the offer



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Strategies for Negotiations



- Negotiate multiple issues simultaneously, not serially
- Think through the timing and importance of the offer and the issue you are negotiating
- Avoid engaging in ultimatums
- Ensure that your negotiation requests and communication styles keep you at the bargaining table



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Scenarios



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Scenario 1



Jackie is in the third-round interview for an assistant GC role at a university she has aspired to work at since she was in law school. She is 2 years out of law school and has been working as a per diem contract attorney since graduating. In the middle of the interview, the search committee chair cuts to the chase and says: “As you know, we’re considering many candidates. We like you, and we hope the feeling is mutual. If we make you a competitive offer, will you accept it?”



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Scenario 1: Discussion



Please turn to the next person next to you and discuss the following questions:

- What should Jackie do?
- Are there strategies Jackie can employ here?



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Scenario 2



Kye is non-binary and uses pronouns they/them/their. Kye is the founder of an organization called "Safe At Home" which has provided care to non-binary and transgender youth in need, in Euphoria county, for the past 15 years. Kye recruits volunteers and donations for Safe At Home's food and clothing drives from Euphoria University, as they are the Deputy General Counsel, and have been for the past six years. Recently, Kye was asked to join the search committee for an Associate General Counsel. While on the committee, they were informed that the University was willing to offer the final candidate (a cisgender white man) \$XXX,XXX, only \$1,000 less than Kye's annual salary.



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Scenario 2



Kye joined Euphoria University immediately after passing the Euphoria Bar. Before accepting their original offer, Kye did not negotiate or conduct any salary research because, as a first-year attorney, they were shocked to get a general counsel position and satisfied with their starting salary. Now, Kye is frustrated, but does not know what to do or if their frustrations are worth acting on.



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Scenario 2: Discussion



Please turn to the next person next to you and discuss the following questions:

- What, if anything, should Kye do?
- What unique values can Kye highlight and bring to the negotiation table?



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Scenario 3



Jasleen is a female identifying professor at Euphoria University in the Mathematics department. Jasleen has been a professor at Euphoria for five years and is invested in continuing her career at the University. Recently, Jasleen went out for happy hour with her colleague Tom, who is a male identifying professor, also in the Mathematics department. Tom has been working at Euphoria for four years. After a few drinks and many stories about how to improve their program, Tom informed Jasleen that because of his yearly raise, he now makes \$XXX,XXX. This was shocking to Jasleen because that is \$7,000 more than she makes. Jasleen asked Tom why he believes there is such a gap between their pay and Tom informed her that he always receives excellent student evaluations at the end of each semester. He also informed her that he is comfortable with the Dean of their department and has no problem voicing his concerns, especially when speaking about raises.



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Scenario 3



Unfortunately, Jasleen struggles with student evaluations and although she has made adjustments, her student evaluations have remained an issue. Often, her evaluations say that she is too harsh with her grading, and that she is “mean” or “angry.” After leaving the bar frustrated, Jasleen calls you for advice. Jasleen says she wants to set up a meeting with her Dean and the VP of Academic Affairs to discuss her concerns.



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Scenario 3: Discussion



Please turn to the next person next to you and discuss the following questions:

- What would you advise Jasleen to mention during this meeting?
- How can Tom serve as an ally?
- How can the DEI office be a resource?



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Scenario 4



Rebecca is the Vice President of Human Resources at Fair University where she has been for 20 years, which is most of her career. She was hired into a director role in Human Resources when she joined the University and then was promoted through the ranks to Vice President of the department 7 years ago. Having worked in HR at the University for so long, she is familiar with how undervalued the department is, but recently learned how far behind her pay is compared to other university vice presidents—even vice presidents that don't have as much experience as her. This knowledge is even more painful for Rebecca because at many meetings of senior leaders at the University she is often one of the few persons of color and almost always the only woman.



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Scenario 4



Furthermore, her department oversees compensation for the University and, at the direction of the President, has undertaken a huge compensation and classification review of employees in the past few years to create more consistency and equity in similar positions and salary ranges across the University.



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Scenario 4: Discussion



Please turn to the next person next to you and discuss the following questions:

- How would you raise these concerns if you were Rebecca? Or would you?
- Is Rebecca's unique position in this situation an obstacle to negotiation?



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COVID Scenarios and Considerations



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COVID Scenarios

HYPO 1: Your institution is located in an area with many other higher education institutions. Your institution has had some budget constraints following COVID but wishes to implement some non-monetary strategies to create a welcoming and competitive work environment. What types of options can you offer your team?

HYPO 2: After staff has returned to campus following COVID one of the attorneys has regularly complained about the terrible traffic and high cost of gas. What type of options could you offer when you check in with them?

HYPO 3: While most local K-12 schools are back in session, there have still been quite a few instances of schools requiring students to remain home and quarantine due to Covid exposures. One of your attorneys without children made comments that lead you to believe they feel the attorneys with children are getting more favorable treatment with workload and scheduling. How do you address feelings of inequitable treatment in your office?



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COVID Hypo 1: Discussion



Your institution is located in an area with many other higher education institutions. Your institution has had some budget constraints following COVID but wishes to implement some non-monetary strategies to create a welcoming and competitive work environment.

- What types of options can you offer your team?



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COVID Hypo 2: Discussion



After staff has returned to campus following COVID one of the attorneys has regularly complained about the terrible traffic and high cost of gas.

- What type of options could you offer when you check in with them?



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COVID Hypo 3: Discussion



While most local K-12 schools are back in session, there have still been quite a few instances of schools requiring students to remain home and quarantine due to Covid exposures. One of your attorneys without children made comments that lead you to believe they feel the attorneys with children are getting more favorable treatment with workload and scheduling.

- How do you address feelings of inequitable treatment in your office?



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COVID Considerations



- Flexible work options – e.g. telecommuting, alternate schedules, compressed work week, job sharing
- Show appreciation
- Explore career opportunities for advancement or new assignments
- Wellness options
- Opportunities to engage in meaningful community work
- Child Care/Elder Care support and benefits
- Provide social opportunities in the office



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Questions?



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