



October 2016

VOLUME 14 ISSUE 6

[NEWSLINK.THESURVEYGROUP.COM](http://NEWSLINK.THESURVEYGROUP.COM)**SURVEY UPDATE****In Process**

2017 Compensation  
Planning Survey

**Results Available Online**

Members log in to view  
results for those surveys in  
which your organization  
participated.

2016 Turnover Survey  
(Available Oct 6)

2016 - 2017 Holiday  
Survey

2016 Benchmark  
Compensation Survey

2016 Employee Programs &  
Practices Survey

2016 Compensation  
Planning Survey

2015 Board of Directors  
Survey

2015 Turnover Survey

2015 Employee Benefits  
Survey

**RAFFLE WINNERS!**

Congratulations to the  
winners of a \$100  
AMEX gift card for  
submitting their Survey  
input by the deadline:

**2016 Benchmark  
Compensation Survey**

## 2018 EQUAL PAY LAW

### Why you should be thinking about it now.

Bruce McLaughlin, Founder/CEO, The Survey Group

This new law in Massachusetts, effective July 1, 2018, amends the Commonwealth's equal pay law. The new law also prohibits employers from taking certain actions with respect to employee pay information. We are discussing this law well in advance of its effective date to give companies suggestions for steps they would be wise to implement with significant lead time.

Here is a summary of the various elements of the law:

#### 1. Equal Pay

Employers are generally prohibited from discriminating in any way on the basis of gender in the payment of wages, or from paying a person a salary or wage rate less than the rates paid to its employees of a different gender for comparable work.

However, variations in wages are generally not prohibited if based upon:

- A system that rewards seniority with the employer (provided that time spent on leave due to a pregnancy-related condition and protected parental, family, and medical leave does not reduce seniority);
- A merit system;
- A system which measures earnings by quantity or quality of production, sales, or revenue;
- The geographic location in which a job is performed;
- Education, training or experience to the extent such factors are reasonably related to the particular job in question; or
- Travel, if the travel is a regular and necessary condition of the particular job.

**Beth Coomber**, Atrius Health

**Kimberly Quinn**, Commonwealth Financial Network

**Tammy Quintal**, Gustavo Preston Company

**Debbie Palumbo**, Johnson & Wales University

**Judy Harding**, The Charles Stark Draper Laboratory, Inc.

#### 2016-2017 Holiday Survey

**Barbara Sweeney**, Phillips Academy

#### 2016 Turnover Survey

**Amanda Church**, Symbotic LLC

### [UPCOMING SEMINAR](#)

**Sales Compensation Design/Development**  
October 18, 9:00 - 12:00

### [SURVEY AND SEMINAR SCHEDULES](#)

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So to summarize: employers may provide differing pay rates to employees if those rates have bona fide reasons for the differences. Otherwise, pay rates must be gender neutral.

**Note:** An employer who is paying a wage differential in violation of this provision is prohibited from reducing the wages of any employee solely in order to comply with the law.

## 2. Discussion of Wages

This section of the law will impact how employers treat wage discussions among their employees as well as discussions employers may have with prospective candidates for hire.

It is an unlawful practice for an employer to (among other things):

- Require, as a condition of employment, that an employee refrain from inquiring about, discussing or disclosing information about either his or her own wages, or about any other employee's wages;
- Discharge or in any other manner retaliate against any employee for taking actions protected by the law.

This part of the law basically forbids an employer from telling employees that they may not discuss their own or others' salary levels with one another or to retaliate against an employee who chooses to discuss his/her compensation.

The law also says that employers may not:

Seek the wage or salary history of from a prospective employee (such as an interviewing candidate) or their current or former employer or to require that a prospective employee's prior wage or salary history meet certain criteria. However:

- If a prospective employee has voluntarily disclosed such information, a prospective employer may confirm prior wages or salary or permit a prospective employee to confirm prior wages or salary; and
- A prospective employer may seek or confirm a prospective employee's wage or salary history **after an offer of employment with compensation** has been negotiated and made to the prospective employee.

Employers are prohibited from contracting with an employee to avoid complying with the bullet points immediately above (or by any other means exempt itself from these provisions).

**Note:** An employer may prohibit a human resources employee, a supervisor, or any other employee whose job responsibilities require or allow access to other employees' compensation information, from disclosing such information without prior

written consent from the employee whose information is sought or requested, unless the compensation information is a matter of public record.

As we review these requirements of the second part of the law regarding “discussion of wages,” we understand that this lack of salary history information may create difficulty for a hiring employer. The employer may be at a loss to determine the appropriate compensation to offer a candidate. The reason for our discussion of this upcoming law this far in advance is to strongly recommend that companies have their jobs benchmarked against prevailing wages in their industries and locations to ensure that both their current employees as well as incoming staff are paid competitively to the marketplace.

If your organization is interested in determining whether its current compensation structure is prepared for the significant changes coming in the next 18 months, TSG’s compensation consultants are here to assist you. Please call 781-345-7500.

[PRINTER FRIENDLY VERSION]

## TSG CONSULTING UPDATE

We are currently developing two Affirmative Action Plans, one for a management consulting firm and another for a medical devices firm. We are also conducting an FLSA Audit at a healthcare consulting organization. A New Hampshire healthcare provider asked us to provide benchmarking data on several critical jobs.

Interested in more information regarding our consulting services? Contact Bruce McLaughlin at [brucem@thesurveygroup.com](mailto:brucem@thesurveygroup.com) or Terri Dignan at [terrid@thesurveygroup.com](mailto:terrid@thesurveygroup.com) to get started.

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The Survey Group provides the expertise and resources to resolve virtually all your human resources challenges. Learn about TSG membership, compensation and benefits surveys, consulting services, software, seminars and more at [www.thesurveygroup.com](http://www.thesurveygroup.com) or by calling 781-345-7500.

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