

Examining the Equal Pay Act of 1963

Overview

Topic: Equal Pay Act of 1963

Grade Level: 9-12

Subject Area: US History after World War II – History and Government

Time Required: One class period

Goals/Rationale: Gender pay equity is still a major issue in the workplace. In this lesson plan, students will discuss the issue and examine the Equal Pay Act of 1963 for its strengths and weaknesses.

Essential Question: How can the US create gender pay equity for its citizens?

Objectives

Students will be able to:

- discuss the issue of gender pay equity in the past and today.
- evaluate the Equal Pay Act of 1963 for its strengths and weaknesses.
- analyze the significance of the signatures, stamps, and markings on an official document.

Curriculum Standards

National History Standards

US History, Era 9: Postwar United States (1945 to early 1970s); Standard 3: Domestic policies after World War II

Common Core Standards

RH.9-10.1: Cite specific textual evidence to support analysis of primary and secondary sources, attending to such features as the date and origin of the information.

RH.9-10.2: Determine the central ideas or information of a primary or secondary source; provide an accurate summary of how key events or ideas develop over the course of the text.

RH.9-10.4: Determine the meaning of words and phrases as they are used in a text, including vocabulary describing political, social, or economic aspects of history/social science.

RH.9-10.8: Assess the extent to which the reasoning and evidence in a text support the author's claims.

W.11-12.1: Write arguments to support claims in an analysis of substantive topics or texts, using valid reasoning and relevant and sufficient evidence.

W.9-10.2: Write informative/explanatory texts to examine and convey complex ideas, concepts, and information clearly and accurately through the effective selection, organization, and analysis of content.

SL.9-12.1: Initiate and participate effectively in a range of collaborative discussions (one-on-one, in groups, and teacher-led) with diverse partners on grades 9–12 topics, texts, and issues, building on others' ideas and expressing their own clearly and persuasively.

SL.9-10.4: Present information, findings, and supporting evidence clearly, concisely, and logically such that listeners can follow the line of reasoning and the organization, development, substance, and style are appropriate to purpose, audience, and task.

MA State Frameworks

USII.T4: How did the U.S. government respond to challenges to freedom at home during the Cold War?

GOV.T1: How has the nation acted to narrow discrepancies between the founding ideals and reality?

Preparation

Students should have general background knowledge how a bill becomes a law and some understanding of women's struggle for equal rights.

Historical Background and Context

Although women represent nearly half of the labor force, according to 2018 data reported by the National Women's Law Center, they were paid 82% of the income for men.

For more than a century, various organizations have attempted to achieve pay equity for women and men. In 1870, Congress passed an amendment to an appropriations bill that would give equal pay to female clerks hired by the federal government. In order to pass the bill, however, the original language was weakened, limiting the law's effectiveness. In 1945, a comprehensive Women's Equal Pay Act, was introduced to Congress, but it failed to pass. For the next 17 years, many similar proposals were sent to Congress without success.

In the early 1960s, although women made up one third of the labor force, they were paid 60% as much as men. Women also tended to be employed in low wage jobs that were considered appropriate for their sex.

At the urging of Esther Peterson, Director of the US Women's Bureau, President Kennedy created the President's Commission on the Status of Women in 1961 to evaluate and make recommendations to improve the legal, social, civic, and economic status of American women. The panel, chaired by Eleanor Roosevelt until her death in 1962 and administered by Peterson, provided greater visibility of the difficult issues facing women. President Kennedy hoped that the Commission would "indicate what remains to be done to demolish prejudices and outmoded customs which act as barriers to the full partnership of women in our democracy." (His full statement on the on the establishment of the Commission can be found [here](#).)

On July 24, 1962, [President Kennedy ordered the Heads of Executive Departments and Agencies not to discriminate by sex in appointing or promoting employees of the federal government](#), a power that Attorney General Kennedy advised the president he could exercise under existing law.

In addition, through the efforts of Peterson, who had been appointed Assistant Secretary of Labor, the Equal Pay Act of 1963 was passed by Congress and President Kennedy signed it into law on June 10, 1963. On signing the law, the president said, "It is a first step. It affirms our determination that when women enter the labor force they will find equality in their pay envelopes." (His full remarks are accessible [here](#).)

Historians consider these three initiatives on behalf of women's rights of significant importance.

Materials

- Brief Reading: "The Historical Context of the Equal Pay Act of 1963"
- [Signed Equal Pay Act of 1963](#)
- Handout: "An Examination of the Equal Pay Act of 1963"

Procedure

1. For homework, ask students to read "The Historical Context of the Equal Pay Act of 1963" and visit the National Women's Law Center website to find [their most currently available data on the pay gap between men and women](#). Ask them to compare the current information with the pay gap in the early 1960s.
2. In class the next day, as an icebreaker, ask the class if they have heard about the issue of equal pay for women and advocacy for equal job opportunities.

Students may want to discuss the 2019 US women's soccer team demanding pay equity with male players or even whether or not a woman could be elected president.

3. Provide students with a signed copy of the Equal Pay Act of 1963.
4. Organize students into small groups and provide them with the handout "An Examination of the Equal Pay Act" that asks the following questions:

1. What is the law meant to do?

"To prohibit discrimination on account of sex in the payment of wages by employers engaged in commerce or in the production of goods for commerce."

2. Why was it necessary? (Provide at least 3 reasons)

The existence of wage differentials based on sex in industries engaged in commerce: "depresses wages and living standards for employees necessary for their health and efficiency; prevents the maximum utilization of the available labor resources; tends to cause labor disputes, thereby burdening, affecting, and obstructing commerce; burdens commerce and the free flow of goods in commerce; and constitutes an unfair method of competition."

3. What are the provisions noted in #1? What were the exceptions made?

The law says employees, regardless of sex, must be paid equal pay "for equal work on jobs the performances of which requires equal skill, effort, and responsibility and which are performed under similar working conditions."

Exceptions: when unequal payment is made because of "(i) a seniority system; (ii) a merit system; (iii) a system which measures earnings by quantity or quality of production; or (iv) a differential based on any other factor other than sex."

4. Based on these provisions and exceptions, do you see any “loopholes” that might affect its impact?

Answers might include:

- a. *How do you define “equal”? Jobs that may be comparable, but not exactly the same, are not covered by this law. What if an employer merely changes a job title to make one job look superior to another? (Esther Peterson, who was the driving force behind the law, wanted the word “comparable” in the law, not “equal.”)*
- b. *Exception for seniority: Women may have to take time off for childbearing and child care which might impact their seniority.*
- c. *Exception for a merit system: Women may not be included in professional development opportunities that provides more “merit” for jobs of equal pay with men.*
- d. *Number (iv) is so vague that it may include reasons such as personality. This provision could provide a large loophole for paying women less.*

5. Which elected officials signed the document? Why were all signatures needed?

Signers: Speaker of the House, John McCormack and president of the Senate, Vice President Lyndon Johnson; President John F. Kennedy. For a bill to become a law, it must be passed by both Houses of Congress and signed by the president.

6. When was the document received by the White House? When was it signed by the president? Where did the document go after it was signed? Why?

Received by the White House on May 29, 1963, signed June 10, 1963 at noon (President Kennedy wrote: “Approved June 10th 1963, The White House, Washington District of Columbia, United States of America, John Fitzgerald Kennedy, 12:00 P.M., U.S.A., J.F.K.” The last word on the page is illegible.) It was transmitted to and received by the General Services Administration--NARS office of the Federal Register--on June 10, 1963 at 3:30 pm where it would be given a public law number and prepared for publication. The document was made official by the signatures and by receiving a number from the National Archives and Records Service (which became a separate entity in 1985 known as the National Archives and Records Administration)--Public Law 88-38--noted at the top of the page.

Assessment

Have students write a 1- to 2-page essay answering the following prompts:

- What were some of the barriers facing women workers in the early 1960s?
- How did the Equal Pay Act of 1963 address these issues?
- What were some strengths and weaknesses of the law?

Extension

Have students research the laws that were passed after 1963 until today to minimize the gender wage gap. Have them consider why a gender pay gap still exists.

Additional Resources

[Video: What Did the Equal Pay Act Do?](#)

From the *History Channel*, this brief video discusses the history of the Equal Pay Act and subsequent laws that have helped narrow the gender pay gap.

[Esther Peterson Oral History #2 from the Kennedy Library](#)

This oral history, taken January 20, 1970, includes Peterson's discussion of the Equal Pay Act of 1963 (p. 45-54).

[The Narrowing, But Persistent, Gender Gap in Pay](#)

This Pew Research Center report from March 2019 analyzes 2018 data that illustrate the gender pay gap.

The Historical Context of the Equal Pay Act of 1963

For more than a century, various organizations have attempted to achieve pay equity for women and men. In 1870, Congress passed an amendment to an appropriations bill that would give equal pay to female clerks hired by the federal government. In order to pass the bill, however, the original language was weakened, limiting the law's effectiveness. In 1945, a comprehensive Women's Equal Pay Act, was introduced to Congress, but it failed to pass. For the next 17 years, many similar proposals were sent to Congress without success.

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Go to the National Women's Law Center website and find their most currently available data on the pay gap between men and women:

<https://nwlc.org/issue/measuring-the-wage-gap/>

How does it compare with the pay gap in the early 1960s?

Eighty-eighth Congress of the United States of America

AT THE FIRST SESSION

*Began and held at the City of Washington on Wednesday, the ninth day of January,
one thousand nine hundred and sixty-three*

An Act

To prohibit discrimination on account of sex in the payment of wages by employers engaged in commerce or in the production of goods for commerce.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Equal Pay Act of 1963."

DECLARATION OF PURPOSE

SEC. 2. (a) The Congress hereby finds that the existence in industries engaged in commerce or in the production of goods for commerce of wage differentials based on sex—

- (1) depresses wages and living standards for employees necessary for their health and efficiency;
- (2) prevents the maximum utilization of the available labor resources;
- (3) tends to cause labor disputes, thereby burdening, affecting, and obstructing commerce;
- (4) burdens commerce and the free flow of goods in commerce; and
- (5) constitutes an unfair method of competition.

(b) It is hereby declared to be the policy of this Act, through exercise by Congress of its power to regulate commerce among the several States and with foreign nations, to correct the conditions above referred to in such industries.

SEC. 3. Section 6 of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. et seq.), is amended by adding thereto a new subsection (d) as follows:

"(d) (1) No employer having employees subject to any provisions of this section shall discriminate, within any establishment in which such employees are employed, between employees on the basis of sex by paying wages to employees in such establishment at a rate less than the rate at which he pays wages to employees of the opposite sex in such establishment for equal work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions, except where such payment is made pursuant to (i) a seniority system; (ii) a merit system; (iii) a system which measures earnings by quantity or quality of production; or (iv) a differential based on any other factor other than sex: *Provided*, That an employer who is paying a wage rate differential in violation of this subsection shall not, in order to comply with the provisions of this subsection, reduce the wage rate of any employee.

"(2) No labor organization, or its agents, representing employees of an employer having employees subject to any provisions of this section shall cause or attempt to cause such an employer to discriminate against an employee in violation of paragraph (1) of this subsection.

"(3) For purposes of administration and enforcement, any amounts owing to any employee which have been withheld in violation of this subsection shall be deemed to be unpaid minimum wages or unpaid overtime compensation under this Act.

"(4) As used in this subsection, the term 'labor organization' means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work."



SEC. 4. The amendments made by this Act shall take effect upon the expiration of one year from the date of its enactment: *Provided*, That in the case of employees covered by a bona fide collective bargaining agreement in effect at least thirty days prior to the date of enactment of this Act, entered into by a labor organization (as defined in section 6(d) (4) of the Fair Labor Standards Act of 1938, as amended), the amendments made by this Act shall take effect upon the termination of such collective bargaining agreement or upon the expiration of two years from the date of enactment of this Act, whichever shall first occur.

Charles W. McNamara
Speaker of the House of Representatives.
Lyndon B. Johnson
Vice President of the United States and
President of the Senate.

Approved
June 10th 1963
The White House
Washington, District of Columbia.
United States of America.
John Fitzgerald Kennedy
12:00 P.M.
W. A. Rorer
J. F. R. Rorer

An Examination of the Equal Pay Act of 1963

- 1. What is the law meant to do?**
- 2. Why was it necessary? (Provide at least 3 reasons)**
- 3. What are the provisions noted in #1? What were the exceptions made?**
- 4. Based on these provisions and exceptions, do you see any “loopholes” that might affect its impact?**
- 5. Which elected officials signed the document? Why were all signatures needed?**
- 6. When was the document received by the White House? When was it signed by the president? Where did the document go after it was signed? Why?**

An Examination of the Equal Pay Act of 1963 (Teacher Answer Key)

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