

South Carolina Human Affairs Commission

Technical Services and Training Division



Prevention Corner



An ounce of Prevention is Worth a Pound of Cure.

~Benjamin Franklin

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South Carolina
Human Affairs Commission
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The South Carolina Human Affairs Commission strives to alleviate problems of discrimination through the enforcement of the SC Human Affairs Law (including the SC Pregnancy Accommodations Act), the SC Fair Housing Law, the SC Equal Enjoyment and Privileges to Public Accommodations Law and the SC Lactation Support Act.

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Equal Pay/Compensation Discrimination

According to the U.S. Equal Employment Opportunity Commission (EEOC), the right of employees to be free from discrimination in their compensation is protected under several federal laws, including the following enforced by the EEOC:

- Equal Pay Act of 1963
- Title VII of the Civil Rights Act of 1964
- The Age Discrimination in Employment Act of 1967
- Title I of the Americans with Disabilities Act of 1990

The law against discrimination includes all payments made to or on behalf of employees as remuneration of employment. All forms of compensation are covered, including salary, overtime pay, bonuses, life insurance, vacation and holiday pay, gasoline allowances, hotel accommodations, reimbursement for travel expenses, and benefits.

Pay and Benefits

It is illegal for an employer to discriminate against an employee in the payment of wages or employee benefits on the bases of race, color, religion, sex (including pregnancy, childbirth, lactation, or related medical condition), national origin, age (40 or older), or disability.

Employee benefits include sick and vacation leave, insurance, access to overtime as well as overtime pay, and retirement programs.

For example, an employer may not pay Hispanic workers less than African American workers because of their national origin, and men and women in the same workplace must be given equal pay for equal work.

In some situations, an employer may be allowed to reduce some employee benefits for older workers, but only if the cost of providing the reduced benefits is the same as the cost of providing benefits to younger workers.

Source: <https://www.eeoc.gov/equal-paycompensation-discrimination>. S.C. Human Affairs Commission; <https://schac.sc.gov/employment-discrimination/prohibited-practices-discrimination-types>; U.S. Department of Labor

**How can I schedule training?
Contact us at:**

(803) 737-7800 or (800) 521-0725, Relay 711
email: training@schac.sc.gov



Equitable

1. Having or exhibiting equity: dealing fairly and equally with all concerned
2. Existing or valid in equity as distinguished from law

Treatment

1. The act or manner or an instance of treating someone or something: *such as*
 - a:** conduct or behavior towards another
 - b:** the action or manner of dealing with something (such as a topic) often in a specified way
 - c:** the action or way of treating a patient or a condition medically or surgically: management and care to prevent, cure, ameliorate, or slow progression of a medical condition
2. A therapeutic agent, therapy, or procedure used to treat a medical condition

Source: merriam-webster.com/dictionary

How to Treat Employees Fairly in the Workplace

Consistency of fair treatment and a **Commitment** to fair treatment in the workplace enhances the reputation of the company and helps with recruitment of talented workers. Fair treatment of employees in the workplace, such as a commitment of equitable practices and unbiased, consistent enforcement of rules /policies, builds morale and trust as well as increases productivity.

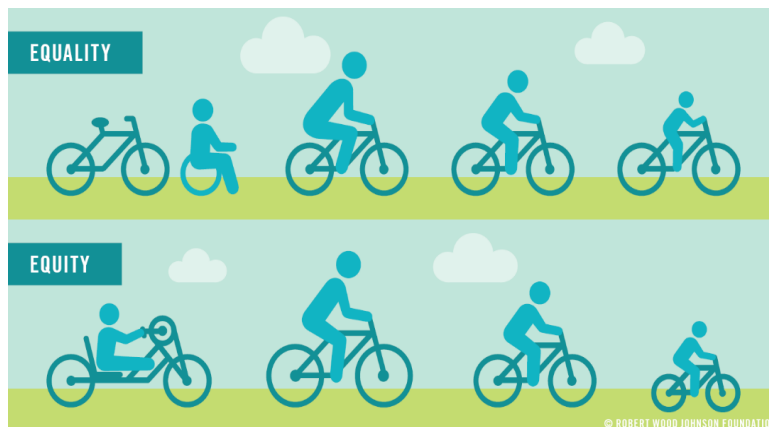
Equitable vs. Equal

Equitable means
Fair or impartial.



What's the Difference?

Equal means
The same or balanced.



Is it Equal or Equitable?

Equality is giving everyone the same bike.

Equity is giving everyone a bike that meets their needs so they can ride the bike. (Well-Ahead Louisiana)

Source: Miriam-Webster.com; <https://wellaheadla.com/prevention/tobacco/louisiana-legislation/>

Social History

Charleston Hospital Workers' Strike, 1969

In recent issues of "Prevention Corner" we spotlighted two incidents of racial unrest, that led to the creation of the SC Human Affairs Commission.

A third event credited towards formulating a state agency to prevent and eliminate unlawful discrimination was the Charleston Hospital Workers Strike of 1969.



According to the SC Encyclopedia (digital encyclopedia), in March of 1969, African American hospital workers at the South Carolina Medical College Hospital (MCH) in Charleston (now MUSC) went on strike when twelve of their co-workers were fired after protesting their treatment and working conditions.

Employees from the Charleston County Hospital (CCH) joined the protests shortly after the strike began.

The strike of more than 400 African American hospital workers, mostly female, against the all-white administrations of the Medical College Hospital (MCH) and Charleston County Hospital (CCH), was a major event for the Civil Rights movement in South Carolina, and Coretta Scott King and members of the Southern Christian Leadership Conference, including President Ralph Abernathy and Andrew Young, came to Charleston to aid the cause.

The strike against MCH lasted 100 days during spring and summer. The strike at Charleston County Hospital went on for an additional three weeks.

The Issues:

The Medical College Hospital's black nurses held their ground. In all, 12 were fired for speaking up for patient safety, fair wages, and equitable treatment. At issue was:

- Black nurses' aides being paid less for the same work.
- Being paid *(along with licensed practical nurses, orderlies, kitchen and laundry staff, and other "nonprofessional" workers)* \$1.30 an hour, 30¢ below the minimum wage.
- Charge nurses ordered the black staff to take care of patients without receiving a report, or they could go home. *(This report is a transfer and acceptance of care and critical information from one nurse to another to ensure continuity and the safety of the patient)*

According to MUSC, at the time, neither of the two hospitals employed black doctors or nurses. Black nurses could only work as aides, which included a Licensed Practical Nurse (LPN) with seven years of experience. MCH would not recognize her LPN credentials.

Negotiations:

- ✚ The twelve fired workers would be rehired
- ✚ Pay would be raised to the federal level (*a 30¢ increase in MCH's minimum hourly wage to the federal standard of \$1.60*)
- ✚ A formal grievance procedure would be created
- ✚ A credit union would be established

Source: History: Charleston hospital workers' strike – Statehouse Report; Charleston Hospital Workers Strike for Fair Wages (discoversouthcarolina.com); <https://www.scencyclopedia.org/sce/entries/charleston-hospital-workers-strike/>; <https://web.musc.edu/about/news-center/2019/05/23/1969-taking-a-stand-for-human-dignity-fair-wages-patient-safety>



Answers to your questions about Pregnancy Discrimination and Lactation Support Laws.

Is it legal to fire a pregnant employee?



Yes, you can fire an employee that is pregnant, but you cannot fire an employee because they are pregnant.

As an employer, you must be able to show the employee was terminated for a reason that is not related to her pregnancy or because the employee is unable to perform her job with or without a reasonable accommodation (including leave).

Employees who are pregnant in South Carolina are entitled to protections on the job under the S.C. Pregnancy Accommodations Act that was signed into law by the Governor in 2018, but does that mean that a pregnant employee cannot be fired while pregnant? Not exactly. Pregnant employees can be fired for other reasons unrelated to pregnancy.

For example, if a pregnant employee violated a code of conduct at work, then this could be a valid reason to terminate the employment.

This also means you need to look very carefully at your department and make sure that no one else is committing the same infractions that she committed. If they are, they should receive the same treatment as the pregnant employee.

The S.C. Pregnancy Accommodations Act requires employers (this applies to employers with 15 or more employees) to provide reasonable accommodations to women affected by pregnancy, childbirth, and related medical conditions.

Source: S.C. Human Affairs Commission; U.S Equal Opportunity Commission

EEOC News & Notes

Press Release 08-28-2019

A Plus Care Solutions to Pay \$200,000 to Settle EEOC Pregnancy Discrimination Lawsuit

*Company's Written Policy Terminated Women at the Fifth Month of Pregnancy
Regardless of Ability to Work, Federal Agency Charged*

JACKSON, Tenn. - A Plus Care Solutions, Inc., a supplier of direct professional caregivers to clients with disabilities, has agreed to pay \$200,000 and furnish injunctive relief to settle a pregnancy discrimination lawsuit by the U.S. Equal Employment Opportunity Commission (EEOC), the federal agency announced today.

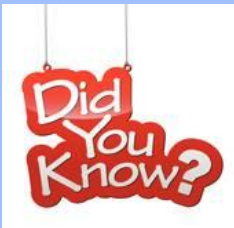
According to the EEOC's lawsuit, since at least 2010, A Plus had required its female employees to sign a pregnancy policy during orientation. The policy provided that their employment terminated at the fifth month of pregnancy.

The EEOC further alleged that A Plus enforced its policy against the charging party and several other women by terminating them due to their pregnancy, despite their ability to effectively perform their job duties.

Such alleged conduct violates Title VII of the Civil Rights Act of 1964, as amended by the Pregnancy Discrimination Act of 1978, which prohibits pregnancy discrimination.

The EEOC filed suit in U.S. District Court for the Western District of Tennessee, Eastern Division (EEOC et al. v. A+ Care Solutions, Inc., Civil Action No. 1:18-cv-01188), after first attempting to reach a pre-litigation settlement through its conciliation process.

Fair Employment Practices Agencies (FEPAs) and Dual Filing



SC Human Affairs Commission is a FEPA Agency (Fair Employment Practices Agency)

According to the U.S. Equal Employment Opportunity Commission, many states, counties, cities, and towns have their own laws prohibiting discrimination, as well as agencies responsible for enforcing those laws. These state and local agencies are called "Fair Employment Practices Agencies" (FEPAs).

The SC Human Affairs Commission (SCHAC) became a FEPA and established a working relationship with the U.S. EEOC. As a result, each year since 1975, the SC Human Affairs Commission has entered into a written contract with the U.S. EEOC to investigate employment discrimination complaints.

Source: A Plus Care Solutions to Pay \$200,000 to Settle EEOC Pregnancy Discrimination Lawsuit | U.S. Equal Employment Opportunity Commission; [https://www.schac.sc.gov/sites/default/files/Documents/HAC/About Us/Publications](https://www.schac.sc.gov/sites/default/files/Documents/HAC/About%20Us/Publications)

PREVENTION CORNER

Ways to Combat Pay Discrimination in the Workplace

1. Employers should have their pay practices audited. Conducting an audit is a proactive way to monitor pay issues and practices and provides an opportunity to correct any errors.
2. Employers should establish policies that prohibit wage discrimination.
3. Employers should train their managers and supervisors to ensure that compensation-related decisions are based on skills and performance.
4. Employers should have up-to-date job descriptions that accurately explain the duties of each job.

According to the EEOC, the Equal Pay Act (EPA) speaks in terms of equal work, but the word “*equal*” does not require that the job be identical, only that they are substantially equal.

In comparing two jobs for purposes of the EPA, consideration should be given to the actual job duties, not job titles or classifications.

Under the EPA a claimant “does not have to prove that two jobs are identical but rather must show that the *skill, effort, and responsibility* required in the performance of the jobs are substantially equal.”

Differences in pay are permitted when they are based on *seniority, merit, quantity, or quality of production*.

Source: U.S. Equal Employment Opportunity Commission; S.C. Human Affairs Commission

**If you feel like you have experienced discrimination,
contact us for help.**

South Carolina Human Affairs Commission
(800) 521-0725, Relay 711 or 803-737-7800
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**The mission of the South Carolina Human Affairs Commission is to
Prevent and Eliminate Unlawful Discrimination in Employment, Housing,
and Public Accommodations.**