

Executive View of Colorado's Pay Equity Law

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State of the Law Snapshot

Seventeen states have recent Pay Equity laws

- Colorado's has numerous requirements

Federal Law in place since 1963

- Updated by Lilly Ledbetter Act in 2009
- Federal Laws haven't elicited many lawsuits

Attempt to change behavior:

- No excuses for lower pay
- No system for lower pay
- Easier to gather information

New requirements:

- Limits decision making for raises
- Does not allow external pay history to inform internal pay
- Creates transparency for promotions

Pay Equity Legislation

Effective 1/2021

Strong Remedies

- Employee may go straight to court and jury
- Employees who win get attorney's fees
- 2 year Statute of Limitations starts with each violation – each pay period starts S/L over again
- Go back 3 years for back pay:
Liquidated Damages = back pay for opportunity cost

**Employees can get help from CCRD
or from TV lawyers**

Strict Construction Language

- Job Title irrelevant – “substantially similar work”
- Work = skill, effort, and responsibility (shift work a consideration)
- Pay differential ENTIRELY explained by legislative yard stick
- Stiff penalties for requesting historical pay
- Market factors do not apply

Managers’ merit increase philosophy no defense

Compression May Create Causes of Action

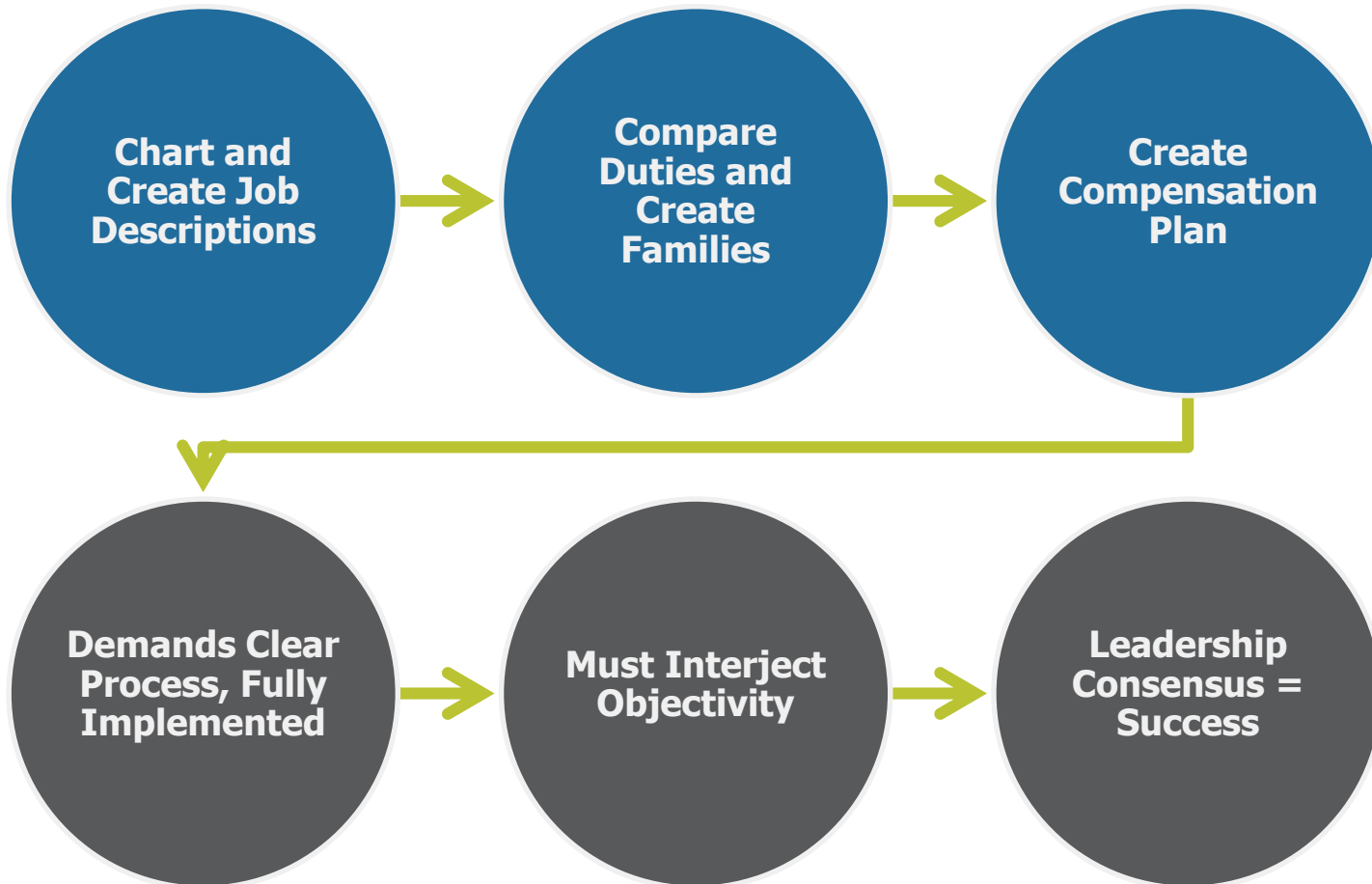
Limited List for Increases

- Seniority
- Merit
- Quantity or Quality of Production
- Geographic Location
- Education, Training or Experience related to the work
- Regular Travel Necessary for Work

Apply each factor “reasonably” to account for entire differential

Lockstep Merit Increase Requirements

Steps to Compliance (Eat your Veggies)



Job Description Protocol

**Essential
Duties**

**Essential for
Merit**

**Unique
Duties**

Differentiate
Value

**KSA's
Required**

Allowable
Differential

**Accurate
Titles**

**Duties
measured,
not Titles**

Promotion Documentation Necessary

**Min. Qual-
ifications**

**Limit
Applicant Pool**

**Value of
Job**

Articulate Value
to Organization

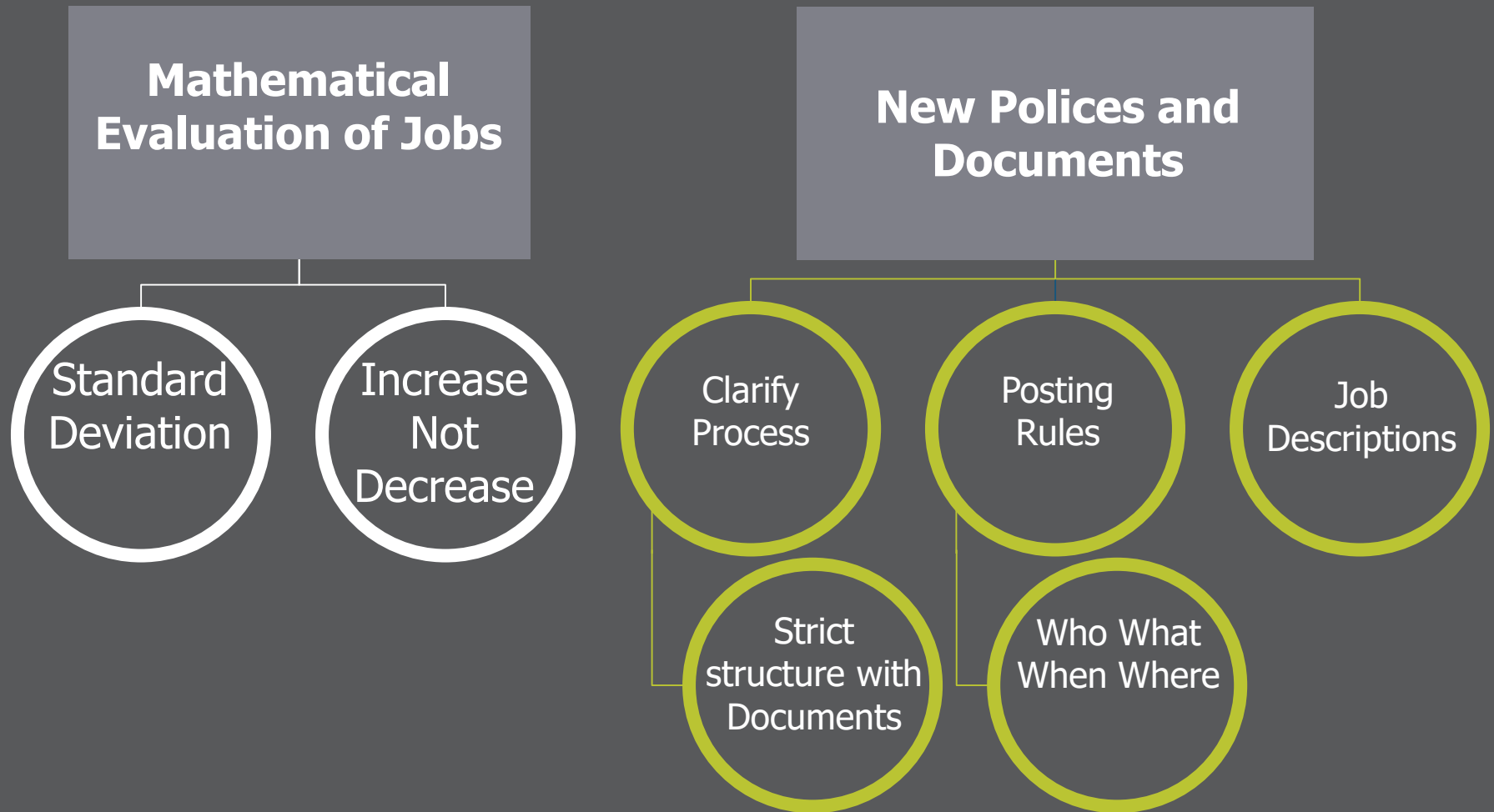
**Hiring
Range**

Range reflects
promotion only

**Clear
Description**

**Describe
Promotional
Opportunity**

Changes for Compliance



Legislates Company Policy

- Post ALL promotion opportunities – what if based on certification? Failure = 1 violation – violation = \$500 to \$10,000
- Posting Information = pay benefits, and bonuses
- Records must be retained – Job description and wage rate history = employment + 2 years

New Transparency = Cultural Shift (?)

Explain Compensation Practices

- Pay philosophy;
- Established pay ranges;
- Relationship between pay and benefits;
- Possible opportunities to increase base salary;
- If available, variable pay opportunities;
- The role of pay negotiation in the hiring process.

Conversations Right Now

- What is Your Compensation Philosophy that Meets the Law
- How to Inculcate Managers and Leaders
- Who is going to Guide the Conversations
- How Quickly can you Afford to Fix Errors
- What is your Process for Fixing Errors

Conversations are Difficult and Complex

Thank you!

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