

## Equal Employment Opportunity Comm.

## § 1620.30

would raise questions of discrimination based on sex. Also, failure to pay the higher rate to a reassigned employee after it becomes known that the reassignment will not be of a temporary nature would raise a question whether sex rather than the temporary nature of the assignment is the real basis for the wage differential. Generally, failure to pay the higher rate to an employee reassigned for a period longer than one month will raise questions as to whether the reassignment was in fact intended to be temporary.

### § 1620.27 Relationship to the Equal Pay Act of title VII of the Civil Rights Act.

(a) In situations where the jurisdictional prerequisites of both the EPA and title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 200e *et seq.*, are satisfied, any violation of the Equal Pay Act is also a violation of title VII. However, title VII covers types of wage discrimination not actionable under the EPA. Therefore, an act or practice of an employer or labor organization that is not a violation of the EPA may nevertheless be a violation of title VII.

(b) Recovery for the same period of time may be had under both the EPA and title VII so long as the same individual does not receive duplicative relief for the same wrong. Relief is computed to give each individual the highest benefit which entitlement under either statute would provide. (e.g., liquidated damages may be available under the EPA but not under title VII.) Relief for the same individual may be computed under one statute for one or more periods of the violation and under the other statute for other periods of the violation.

(c) The right to equal pay under the Equal Pay Act has no relationship to whether the employee is in the lower paying job as a result of discrimination in violation of title VII. Under the EPA a prima facie violation is established upon a showing that an employer pays different wages to employees of opposite sexes for equal work on jobs requiring equal skill, effort and responsibility, and which are performed under similar working conditions. Thus, the availability of a remedy under title VII

which would entitle the lower paid employee to be hired into, or to transfer to, the higher paid job does not defeat the right of each person employed on the lower paid job to the same wages as are paid to a member of the opposite sex who receives higher pay for equal work.

### § 1620.28 Relationship to other equal pay laws.

The provisions of various State or local laws may differ from the equal pay provisions set forth in the FLSA. No provisions of the EPA will excuse noncompliance with any State or other law establishing fewer defenses or more liberal work criteria than those of the EPA. On the other hand, compliance with other applicable legislation will not excuse violations of the EPA.

### § 1620.29 Relationship to other labor laws.

If a higher minimum wage than that required under the FLSA is applicable to a particular sex pursuant to State law, and the employer pays the higher State minimum wage to male or female employees, it must also pay the higher rate to employees of the opposite sex for equal work in order to comply with the EPA. Similarly, if overtime premiums are paid to members of one sex because of a legal requirement, such premiums must also be paid to employees of the other sex.

### § 1620.30 Investigations and compliance assistance.

(a) As provided in sections 9, 11, 16, and 17 of the FLSA, the Commission and its authorized representatives under the Act may (1) investigate and gather data; (2) enter and inspect establishments and records, and make transcriptions thereof, and interview individuals; (3) advise employers regarding any changes necessary or desirable to comply with the Act; (4) subpoena witnesses and order production of documents and other evidence; (5) supervise the payment of amounts owing pursuant to section 16(c) of the FLSA; (6) initiate and conduct litigation.

(b) The General Counsel, District Directors, Washington Field Office Director, and the Program Director, Office