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Access to Equal Pay

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Abstract

This essay examines the gender pay gap among faculty in American higher education. After reviewing her experience with the Colorado Equal Pay for Equal Work Act, the author offers some reasons, having to do with academic culture, for the persistence of the pay gap.

The familiar tagline of the “gender pay gap”—that American women earn 82 cents for every dollar men earn—points out the simple fact of pay disparity (Kochhar 2023; American Association of University Professors 2023). Pay disparities are not, however, simple, especially in higher education, where merit—that nebulous “excellence”—plays such a large role in determining salaries. A pay disparity between a woman faculty member and her male colleagues could be caused by any number of factors not directly related to gender. Indeed, it is very easy for a department chair or dean to point to one of these factors, such as a retention offer, as the reason that a woman earns less than a man in what looks like the same position. Perhaps more dismayingly for those attempting to prove that the disparity is, in fact, a gendered one, the factors are themselves a moving target, often hard to pin down.

The vagueness or shifting-ness of factors used to determine salaries is easily illustrated with a discussion that occurred around my promotion to full professor. This discussion was not, of course, directly about my salary but is nevertheless related. When the personnel committee of the College of Arts and Sciences at the University of Colorado Boulder (hereafter CU) initially recommended against promoting me to full professor, they noted that I did not meet the standard for an “overall record of excellence” in part because I did not have “a national and international profile” (A&S Personnel Committee, Memorandum, March 13, 2015, 3). This observation about profile was repeated, at the end of the memo, in a place of emphasis: “Dr. Little has not yet developed that profile” (3). When I showed this letter to my father (an attorney), he singled out that factor as entirely meaningless; what kind of national profile would a medievalist be expected to have in comparison to, say, a visual artist or a biologist? He had a point: I had and have never been a part of a personnel discussion that involved profile or reputation as part of research excellence, as distinct from standing in one’s field or record of publication. Nor, I suspect, was this factor used for all faculty, since someone shared with me the memo they received, written by the same committee, and it does not mention profile at all, or even anything synonymous with profile; it remains focused, as one might expect, on the research publications themselves. For these reasons, I think that “profile” is code for something else—fitting in or being liked or being a man—but my hunch is impossible to prove. Given the many factors, like profile, that can be used to explain disparate treatment, pay discrimination is “particularly pernicious” in higher education (Collison 2024).

What can be done—or maybe whether something can be done—about this perniciousness is the subject of this essay. In starting a conversation about pay discrimination, my main goal is to underline the need for solidarity: to help others feel less alone, to shed light on the dark corners (along the lines of Justice Brandeis’s “sunlight is the best disinfectant”), and to make some changes to academic culture. I will begin with a brief overview of my experience at CU, and then I will discuss some of the possible reforms that might be made to address pay discrimination. My case has ramifications for all kinds of discrimination, and I hope it is helpful to those facing structural inequities. Complicating my goal is, of course, the fact that the American context has changed dramatically as I’ve worked on this essay, from late 2024 into early 2025. It is difficult to assess the status of our rights and the enforceability (or future) of the federal laws under which equal wages are guaranteed.

A Case Study: The Colorado Equal Pay for Equal Work Act

In 2019, the state of Colorado (U. S.) passed the Equal Pay for Equal Work Act (CEPEWA), which was to go into effect January 1, 2021 (CO General Assembly 2019). Colorado’s statute seems to be part of a trend: state governments have realized that “the federal Equal Pay Act, which was passed in 1963, wasn’t doing enough to ensure pay equity” (Zahneis 2023).¹ I didn’t even notice this momentous legislation, likely because of the COVID-19 pandemic. It was, however, drawn to my attention in a mass e-mail from the leadership at CU that I received January 19, 2022: this e-mail stated that an analysis of salaries had been done to “identify protected-class gender and race and ethnicity salary inequities under the law’s provisions” and that “those employees whose salaries were identified as inequitable will receive salary increases beginning in their January 2022 paychecks” (Russ Moore and Patrick O’Rourke, e-mail to author; see also Human Resources n.d.). On January 26, 2022, I received an automated e-mail, which stated my new salary, one that was \$16,472 higher than the one I had been receiving. In other words, I had been massively underpaid. Probably for years. There was no “sorry for the oversight” or any acknowledgement that mistakes were made, or any mention of back-pay, despite the fact that “the CEPEWA and other State and Federal laws provide for such relief” (Class Action Complaint filed November 14, 2024). There was just “your appointment was identified for a CEPEWA adjustment” (Russ Moore and Patrick O’Rourke, e-mail to author, January 26, 2022).

I was furious. About the missing money, the lack of apology, the automated e-mail, but most of all because I had brought up pay discrimination before. In 2015 I filed an Equal Employment Opportunity Commission (EEOC) complaint because of irregularities in my promotion case, and I included pay discrimination among the charges (EEOC Charge No. 541-2015-0132, Second Amendment). Some aspects of my EEOC complaint led to investigations by the Office of Institutional Equity and Compliance (OIEC) at CU. My concerns about pay discrimination were, however, forcefully dismissed by CU Counsel in their response to the EEOC complaint. It was as if I were being told: how dare you suggest that you are as valuable as the men in your department? I did not bring up my concerns again.

Until I did.

When I received the CEPEWA raise in 2022, I felt vindicated, to a certain degree, and fueled by that sense of “I guess I was right all along.” I contacted my chair for some information, which, in short, I didn’t really get. First, I asked my chair if I could have a list of the salaries of all full professors in the English Department so that I could compare myself to them (e-mail from author, March 11, 2022). While it is true that salaries at CU are public, in that they can be found on a public website, the website isn’t all that helpful, since the salaries appear as a very long list without names, and so it is impossible to tell who earns what and, therefore, to formulate comparisons (University of Colorado System 2023). In order to make those comparisons, I needed, and asked for, a list of salaries with names. My chair ignored my request and sent me a link to the public website (the list of salaries without identifying information) (Bud Coleman, e-mail to author, March 17, 2022). Then, after he sent me

¹ President Trump’s executive orders regarding “even-handed civil rights enforcement” will affect the Equal Employment Opportunity Commission (EEOC), which is responsible for “prevent[ing] and remedy[ing] unlawful discrimination in the workplace” (EEOC n.d.). The nature of that impact is hard to predict at this point (Hsu 2025). It is likely that the EEOC will be weakened, and the state laws will become even more important (personal communication with Seth Benezra 2025).

another link, this time to information about the grievance procedure for salary equity, I discovered that CU has a Policy on Salary Equity, which requires departments to review salaries, describe “in writing the factors used in determining career merit,” and have a “salary equity appeal process” (Academic Affairs 2015, 1). I had never heard of this policy or any of its provisions. So, I noted in another email to him that “I had no idea that there was a policy on salary equity” (e-mail from author, April 4, 2022). To which he replied, “Indeed, I think many departments do not know about this requirement” (Bud Coleman, e-mail to author, April 4, 2022).

I did not find his response to be, let’s say, one that was receptive to my concerns, and so I consulted the same lawyer that I had turned to during my promotion. Thus began a long process of filing a complaint. Because CEPEWA was far more clear-cut than the federal laws, the idea was that we had a greater chance of success under that statute (Collison 2024; see also Zahneis 2023). The key to our success was finding other women who were willing to come forward. First, I joined a woman from another department, who had contacted the lawyers for some of the same reasons I did. Then, I joined a group of women, drawn almost entirely from the disciplines of Natural Sciences and Engineering (a point to which I shall return) who were motivated by the unfairness of it all, the absence of back-pay and, like me, a history of being ignored when it came to salaries. Not only had these women come together around this cause, they continued to reach out to other affected faculty, encouraging them to join the suit until we were ready to file. The final complaint brought a “class action on behalf of a class defined as all female faculty ... employed by the University of Colorado Boulder ... who received salary increases but who did not receive back pay” (Class Action Complaint filed November 14, 2024). After many delays and two mediations, CU finally agreed to a settlement: “UCB will pay the class 4.5 million dollars in back pay, will agree to conduct follow up equity analyses every three years, and will make available information regarding wages paid to UCB faculty, to current faculty, and applicants to guarantee equitable treatment of female identifying faculty with respect to wages going forward” (Benezra & Culver PC, Press Release e-mailed to Olivia Doak, November 15, 2024).

While not all of our concerns were met or addressed, we thought that this settlement was an important first step in fixing the culture at CU. That said, CU “denies each allegation of wrongdoing, liability and damages and consented to the settlement ‘solely to avoid the expense, inconvenience, and inherent risk of litigation as well as continued disruption of its business operations’” (Brundin 2024). As of this writing, nobody in a leadership position (chair, dean, provost) has made any kind of statement.

Takeaways and Obstacles

What enabled and will enable these hard-won changes—the regular reviews of salaries, the wage transparency—was, of course, CEPEWA itself. Only in pursuing and settling a suit under the provisions of this statute were we able to get the non-monetary relief that we wanted, especially the regular reviews of salaries, which will, we hope, prevent these disparities from happening again.

Not everyone will live in a state or location that has such a helpful law. Not everyone will be able to file a suit. Not everyone will be able to get a group together, and that is unfortunate, since individual discrimination cases tend not to be successful (Collison 2024). Even more chilling is the growing sense, under the Trump administration, that Americans might end up with far fewer rights

than they once had, with fewer lawyers willing to defend those rights, and with fewer judges willing to uphold existing laws. There are nevertheless important measures that every faculty member can take. The first is transparency in salaries. Most faculty don't know exactly what others are earning, and they don't think they need to know. They trust that they are being paid fairly, as our lead plaintiff, Shelly Miller (2024), pointed out. If and when they begin to suspect that they aren't being paid fairly, they may find it difficult to get the information they need, especially if there is no Open Records Act or if they work at a private institution, which may purposefully make salary data "opaque," as alleged in a recent lawsuit against Vassar College (Zahneis 2023). Making transparency the norm is one way to keep employers paying attention to equity; the CEPEWA, for example, "requires transparency in pay and job opportunities" (CO Department of Labor and Employment 2024).

Not only should salaries be transparent, so should the criteria used for merit reviews, such as number of publications, prestige of venue, and awards, as well as the factors that determine salaries, such as retention offers, seniority, and "career merit." All of these should be clearly defined and circulated to all faculty. In other words, everyone should know what exactly is considered meritorious or "excellent" and to what degree. Although our complaint did not explicitly mention the role of these criteria and factors, they came up frequently in discussions among the class representatives, that is, the women who brought the complaint. That clear criteria in merit reviews are fundamental to equity is underlined in a report written by a CU committee formed in the wake of the CEPEWA analysis (Faculty Procedures Working Group 2023, 8). Even CU's own feeble attempt to create equity, the Policy on Salary Equity, acknowledges the importance of transparency: "factors used in determining career merit" must be put into writing (Academic Affairs 2015, 1).

These two measures, transparency and clear criteria/factors are very obvious, common-sense measures. And I urge everyone reading this essay to put them into place. Indeed, I urge all chairs and deans to go one step further and be transparent about perks: publish lists every year of faculty who have received course reductions, funds for research, and other extras. Then, list the monetary value of those perks. It seems that such non-monetary benefits, such as lab space, are also inequitably distributed (Wadman 2023). But I am not hopeful that the changes will happen or that they will be enough to create equity. The culture of academics, or of English in particular, in my experience, has not been conducive to transparency or to applying criteria fairly or to following rules. If equity and transparency were important to people, we would have them. After all, there has been a policy on the books at CU since 2015, but seven years later, "many departments do not know about [it]" (Bud Coleman, e-mail to author, April 4, 2022).

Why are faculty so reluctant to be transparent and to set down criteria in writing? The answer seems to have to do with culture. A small, but revealing example: when I arrived at CU, the guidelines for determining merit reviews for the English Department explicitly encouraged faculty to be "subjective" in their evaluations: "Rankings are necessarily (and desirably) somewhat subjective" (Department of English, Salary Committee Procedures, April 26, 2004, 1, my emphasis). The subjective aspect of all personnel discussions has long troubled me: student complaints are entirely disregarded in discussions of one faculty member but play a large role in discussions of another; publications in mid-tier venues are, for one faculty member, groundbreaking, and for another, a subject of heated discussion about prestige.

Courtiership

Seeing subjective evaluations as “desirable” is, I’d like to suggest, a symptom of a problem with academic culture, one that enables discrimination to flourish. And also harassment and other forms of toxic relationships, if the Avital Ronell case is any indication (Gessen 2018, Goodrich 2022). That problem is what I’ll call courtiership: working in a competitive, hierarchical environment, in which personal connections are the path to success. Chaucer (1987) describes this courtiership succinctly and chillingly in his *Knight’s Tale*, when Arcite tells Palamon to shut up with his complaints, “And therefore, at the kynges court, my brother/ Ech man for hymself, ther is noon oother” (1.1181–82).

Courtiership means first that people don’t often see or, to put it more cynically, don’t have a problem with discrimination and, second, that people don’t report when they are discriminated against, because they’ve been trained to see individuals (including themselves) as the problem. Courtiership also helps explain why faculty do not have a collective sense of their profession as worth protecting, why they have turned a blind eye to adjunctification, but that is the subject of another essay!

Some insight into how courtiership emerges in an educational setting is provided by Roger Ascham, humanist tutor to Queen Elizabeth I, and a man who was very familiar with the royal court. In his influential treatise on education, *The Scholemaster* (1570), Ascham (1967) describes the factors that make a good student, that help identify “a good wit in a child for learning” (27). The seventh and last of these is *φιλέπαινος* [loving praise]: “He that loveth to be praised for well-doing at his father’s or master’s hand. A child of this nature will earnestly love learning, gladly labor for learning, willingly learn of other, boldly ask any doubt” (31). Everyone who is a professor now was, at one time, a good student, who thrived on the praise from their teachers, who was made to feel talented, maybe even superior to others, who grew to expect special treatment in the classroom setting and often outside it.

Once students become professors, they carry this *φιλέπαινος* -mindset with them. Not only does this mindset value hierarchies, the obedience to “masters” and “fathers,” it also conflates the personal and the professional. That is, the good student understands rewards as coming from particular individuals, as part of a relationship. Small wonder then that academics hire (or try to hire) their friends or their mentees, often without going through the normal procedures. Indeed, the star-system, which characterized our profession for much of the late twentieth century and into the twenty-first, encouraged courtiership, making some people very powerful and influential and many others acolytes to them (See Shumway 1997 and Shumway 2001). Although the star system may be dead or dying, the profession is still bound to a model in which rewards are distributed unevenly, to the stars and to some within orbits around them (Kadue 2023). Of course, even non-stars like to bend the rules: so that someone can attend a conference or publish an essay or get some funding that they are technically ineligible for.

Trained to see rewards (Ascham’s praise) in relation to their own excellence (Ascham’s “well-doing”), academics tend to see those who don’t receive the same rewards as not having worked hard enough or been excellent enough. And, this brings me to my second point, about not seeing oneself as discriminated against or not wanting to complain about mistreatment. While I cannot say for certain why no one (besides me) from the English Department joined the suit against CU, I can guess a few reasons. Some may have felt real fear for their livelihood, may have felt vulnerable, may have feared

retaliation (Collison 2024). Others may have felt fears more closely associated with courtiership, fear of not being a good student, of not being praised by those in power for their “well-doing.” There are real, material consequences to defying courtiership: those who speak against the powerful may not get ahead, may forfeit special treatment—those perks that others are getting. It is perhaps significant that almost all of my fellow class representatives in the complaint against CU belong to fields that are more collaborative than English, the Natural Sciences and Engineering. Maybe their fields are less “every man for himself.”

Belief in this logic of meritocracy (that those who are not successful deserve to be not successful) prevents one from speaking out about inequity. Those who complain about their salaries may be told, as I was, all of the reasons that they are not as good as their male peers. That is a very painful and humiliating experience, one that the good student will try to avoid. Indeed, after years (my entire life!) of trying hard to be good, of seeking the praise of my teachers and then colleagues for my “well-doing,” I find it difficult to admit here, publicly, that my employers (my colleagues?) don’t seem to think I’m very good, that they valued me less than my male colleagues. What I mean is that I discovered that my salary before the CEPEWA adjustment was less than every single male full professor regardless of scholarly output or other achievements. I know this fact because I requested my colleagues’ salaries through the Colorado Open Records Act (CORA) after I did not get them from my chair. Indeed, even with a CORA request, I still didn’t get complete salary data, perhaps another version of the “opaqueness” described in the Vassar College lawsuit. I am only willing to state this disparity publicly because I suspect that some of the reasons my salary is lower are not professional reasons; they may not even be legally permissible reasons. I can, in other words, preserve some of my sense of my own excellence, or “well-doing.”

The difficulty in speaking out should give some sense of the difficulty of fixing the problem. Doing so is going to require that academics spend more time looking in the mirror, talking openly about what we want academic culture to be and maybe less time accusing others, outside the academy, of failings. If that point sounds polemical, it is meant to be. I could offer my own Ginsbergian rant: Academic Excellence I’ve given you all and now I’m nothing. / Academic Excellence sixteen-thousand- four- hundred- seventy- two dollars January 26, 2022.

Instead, I’ll conclude (or begin?) with some hard questions: What are we valuing when we say we’re valuing “excellence?” Excellence may not, for some faculty and some departments, mean academic achievement objectively considered, in terms of quantity and quality of publications or awards or classes taught or committees served on, despite the official language about those things. It might mean getting retention offers or being liked (the subjective evaluation mentioned above) or an attribute that cannot be publicly stated, like being a man. Alternative and inequitable meanings of excellence should come as no surprise to those working in higher education. After all, data on elite colleges show that academic achievements (SAT scores, grades) are not as important as money when it comes to admissions (Bhatia, Miller, and Katz 2023). In addition, and apropos of money, we should be asking how courtiership aligns with and supports the corporate university with its limited faculty governance and high administrator salaries (Readings 1996). Is it possible for faculty to reclaim an idea of the common good in this neo-liberal time (Gessen 2025)? Until we think carefully about academic culture and discuss it openly and honestly, pay equity, and equal treatment more generally, will remain inaccessible for many.

I can be reached at: littleDOTkatherineATcomcastDOTnet.

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