

January...

The Honorable Lawrence Hogan
Governor
State House
100 State Circle
Annapolis, Maryland 21401

The Honorable Boyd K. Rutherford
Lieutenant Governor
State House
100 State Circle
Annapolis, Maryland 21401

The Honorable William Ferguson
President
Senate of Maryland
State House, H-107
Annapolis, Maryland 21401

The Honorable Adrienne Jones
Speaker
Maryland House of Delegates
State House, H-107
Annapolis, Maryland 21401

Re: MSAR # 10878 - 2021 Equal Pay Commission Report

Dear Governor Hogan, Lieutenant Governor Rutherford, President Ferguson, and Speaker Jones:

Maryland Annotated Code, Labor & Employment Article § 3-309, et seq., requires the Equal Pay Commission, in the Division of Labor and Industry, to annually submit a report on or before December 15.

The Commission is composed of members from Maryland's public and private sector. In 2021, members of the commission had a virtual meeting in October. The impact of the COVID-19 pandemic on equal pay issues was discussed, including patterns that are evident in unemployment data.

For additional information regarding the report, please contact Matt Helminiak, Commissioner of Labor and Industry, at matt.helminiak@maryland.gov or (410) 767-2961.

Sincerely,

A handwritten signature in black ink that reads "Tiffany P. Robinson". The signature is fluid and cursive, with a long horizontal flourish at the end.

Tiffany P. Robinson,
Secretary

2021 Equal Pay Commission Report

**Department of Labor
Division of Labor and Industry**

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I. Introduction

Maryland Annotated Code, Labor & Employment Article § 3-309, et seq., establishes the Equal Pay Commission (Commission), and requires the Commission, in the Maryland Division of Labor and Industry, to evaluate pay disparities in Maryland's public and private sectors.¹ Maryland law requires the Commission to:

1. Continually evaluate the extent of wage disparities in the public and private sectors in the State between individuals of one race, sex, or gender identity and individuals of another race, sex, or gender identity based on all available data;
2. Establish a mechanism for the Commission to collect data from employers in the State to assist the Commission in its effort to evaluate the disparities listed in Item (1);
3. Develop a comprehensive strategy to determine and recommend best practices regarding equal pay for equal work to individuals, employers, and policymakers;
4. Study and make recommendations regarding whether and to what extent administrative and legal processes and remedies can be streamlined and harmonized across this subtitle and other employment anti-discrimination laws;
5. Develop partnerships with private sector entities and other public sector entities to identify:
 - A. Methods of developing a data collection mechanism;
 - B. Effective methods of outreach through which the Commission may raise the awareness of employers about the provisions of this subtitle;
 - C. Potential funding sources to help the Division of Labor and Industry absorb costs associated with staffing the Commission and implementing the Commission's charge; and
 - D. Share data and findings with the Commissioner to assist in enforcement actions under this subtitle.
6. On or before December 15, 2017, and on or before December 15 of each year thereafter, the Commission shall submit a report to the Governor, and in accordance with § 2-1246 of the State Government Article, the Senate Finance Committee and the House Economic Matters Committee regarding any findings and recommendations, including any recommended legislation.

Established in 2016, the Commission currently consists of eight (8) members from diverse industries in the public and private sectors. The Commission's staff includes employees from the Division of Labor and Industry, the Governor's Workforce Development Board and the Office of the Attorney General. One Commission meeting took place during 2021.

¹ Md. Code Ann., Lab & Empl. § 3-309 (2016).

This report is a joint effort between the members of the Commission and Commission staff. The report provides a summary of the Commission’s work in 2021 and the Commission’s goals moving forward.

II. Commission Membership

In accordance with Maryland law, members of the Commission represent Maryland’s public and private sectors. The Commission is comprised of the following individuals*:

Member	Position/Organization	Position name:
Tiffany Robinson	Secretary, Department of Labor	Secretary of Labor or Designee
Matthew Helminiak	Commissioner, Division of Labor and Industry	Commissioner of Labor or Designee
Glendora Hughes	General Counsel, Maryland Commission on Civil Rights	Executive Director of the Commission on Civil Rights or Designee
Raymond Butler	Owner, Armed Security Inc./Butler Security	Business
Jimmy V. Dulay	State Trooper, Maryland State Police	Labor Organization
Nune Hovhannisyan, Ph.D.	Assistant Professor, Loyola University Maryland	Labor Organization
Michelle Daugherty Siri, Esq.	Executive Director, The Women's Law Center of Maryland	Higher Education/Research
Melissa A. Osborne Groves, Ph.D.	Associate Professor of Economics, Towson University	Higher Education/Research
Ting Zhang, Ph.D.	Associate Professor, University of Baltimore	Higher Education/Research
Melissa R. Wells	Field Representative and Community Liaison, CHOICE Division North America Building Trade Unions	Labor Organization

*Interested parties from Maryland have consistently attended Commission meetings and provided valuable input.

III. Commission Goals

The Commission’s goals are to analyze wage disparities in the public and private sectors within Maryland, establish a mechanism for the Commission to gather data, develop a strategy to promote equal pay for equal work, address the potential to streamline legal processes and remedies, and develop fruitful private and public sector partnerships.

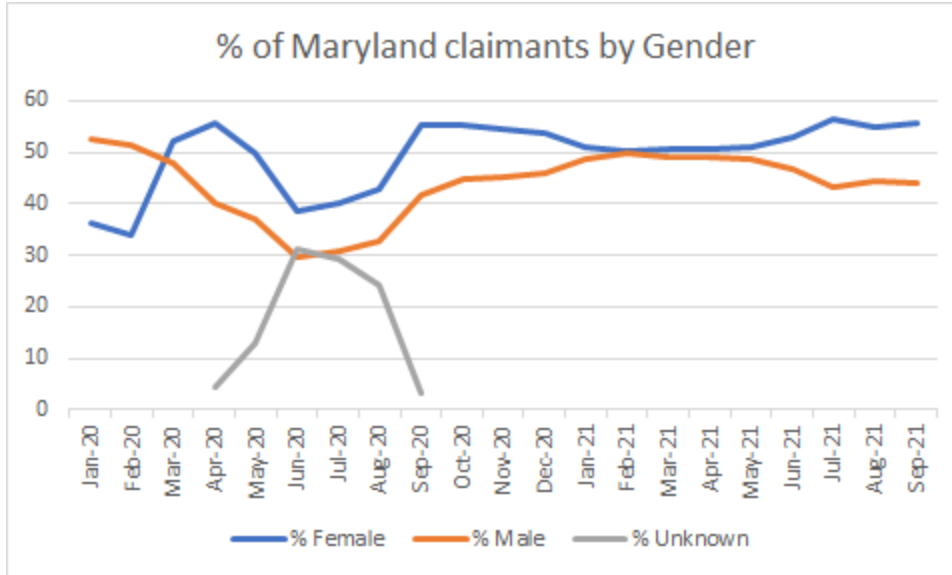
IV. Summary of the Commission's Work in 2021

The COVID-19 pandemic has had a negative impact on the progress towards equal pay in Maryland, as can be seen in an analysis of the unemployment data from the United States Department of Labor (USDOL). The COVID-19 pandemic raises several issues in the area of equal pay. In Maryland, men and women are almost equally represented in the workforce; women account for 49.8% of the workforce, while men account for 50.2%. When the COVID-19 state of emergency was declared and schools and many businesses were closed due to the stay-at-home orders, a large number of Maryland workers filed for unemployment.

According to data from the US Department of Labor (see <https://www.atlantafed.org/cweo/data-tools/unemployment-claims-monitor>), prior to the pandemic, the majority of unemployment claimants were male. Women went from approximately 35% of unemployment claimants in January and February of 2020 to almost 56% of claimants in April of 2020. In the first few months of the shutdown, the number of claims were very large and many claimants did not select a gender when filing their claim, so data from May through August of 2020 have “unknown” gender claimants as high as 31.4%. But the trend of female claimants exceeding male claimants continued throughout the pandemic and still to the latest data available for September of 2021, women account for 55.6% of claimants.

There can be several reasons that explain why women make up the majority of unemployment claimants during the pandemic. Many traditionally male-dominated occupations were considered “emergency essential” and were not shut down during the pandemic. Construction work, for example, was not subject to the emergency shutdowns in Maryland. Another possible explanation could be that when schools were closed for in-person instruction and students had to learn from home, the burden of child care fell more on mothers than fathers.

The unemployment system was an important safety net during the COVID-19 pandemic. According to federal and Maryland law, unemployment insurance is available to employees of companies who lose their job. Workers who are independent contractors (often called “gig workers”) do not normally pay into the unemployment insurance system and are usually not eligible for unemployment benefits. The **Coronavirus Aid, Relief, and Economic Security** (CARES) Act (2020) and the Coronavirus Response and Consolidated Appropriations Act (2021) provided fast and direct economic assistance for American workers, families, small businesses, and industries. This included, for the first time, extending unemployment benefits to self-employed and independent contractors. It also added \$600 per week to the unemployment benefit amount in 2020, later reduced to \$300 per week until September of 2021.



Unemployment claimants in Maryland

Date	% Female	% Male	% Unknown
Jan-20	36.2	52.5	
Feb-20	34	51.5	
Mar-20	52.1	47.9	
4/1/2020	55.6	40	4.4
5/1/2020	49.9	37.2	12.9
6/1/2020	38.7	29.8	31.4
7/1/2020	40	30.9	29.2
8/1/2020	42.8	32.9	24.3
9/1/2020	55.2	41.7	3.2
10/1/2020	55.2	44.7	
11/1/2020	54.6	45.3	
12/1/2020	53.9	46	
1/1/2021	51.1	48.8	

2/1/2021	50.1	49.8	
3/1/2021	50.5	49.3	
4/1/2021	50.7	49.2	
5/1/2021	50.9	48.7	
6/1/2021	53	46.7	
7/1/2021	56.3	43.4	
8/1/2021	55.1	44.5	
9/1/2021	55.6	44.1	

V. Key Findings

Maryland Annotated Code, Labor & Employment Article § 3-309(h), et seq., tasks the Commission with finding and recommending best practices regarding equal pay for equal work. Because the full impact of COVID-19 on the landscape of equal pay is not yet known, the Commission felt it was hard to make recommendations for how to recover from the damage, however, commission members believe that finding ways to reduce further erosion in equal pay progress is a first step at recovery. For instance, because the responsibilities of child care and supervision traditionally fall more heavily on mothers than fathers, commission members felt it would be best to avoid any situations where schools are forced back into remote learning, thus removing the caregivers of young school-age children from the workplace. Equally important would be avoiding mandatory “stay at home” orders that remove people from their jobs.

VI. Future Goals

One of the goals of the Equal Pay Commission is to identify possible sources of data to analyze the status of pay equity in Maryland. Past reports have done data analysis on census data and State executive branch employee data. These data sources use wage or earnings data to show the difference in pay, but the COVID-19 shutdown will be difficult to measure the lasting impact on pay because employees who become unemployed no longer have wages to report - they disappear from the data.

Once the unemployed return to the workforce, there could be continued effects that will persist over time. Time away from the workforce negatively correlates with career wage progression; in other words, if an employee is not working, they lose out on pay increases that they may have had while working at a job. And some employees may have to take a lower pay rate when they reenter the workforce. The overall labor shortage and large number of unfilled positions,

however, has put upward pressure on wage rates. This increase in starting wages may counteract the effects of unemployment on career wage progressions, but it will take time for either to begin to show in the data. Future meetings will seek out ways to account for the lasting impact that COVID-19 has on the landscape of equal pay.

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