§ 115. Policy of the state. 1. In order to attract unusual merit and ability to the service of the state of New York and all its political subdivisions, to stimulate higher efficiency among the personnel, to provide skilled leadership in administrative departments, to reward merit and to insure to the people and the taxpayers of the state of New York the highest return in services for the necessary costs of government, it is hereby declared to be the policy of the state and all its political subdivisions thereof, consistent with the federal Equal Pay Act of 1963 (29 U.S.C. § 206), the federal Civil Rights Act (42 U.S.C. § 2000e-2), article fifteen of the executive law, and section forty-c of the civil rights law, to ensure a fair, non-biased compensation structure for all employees in which status within one or more protected class or classes is not considered in determining the proper compensation for a title or in determining the pay for any individual or group of employees, to ensure that no employee with status within one or more protected class or classes shall be paid a wage at a rate less than the rate at which an employee without status within the same protected class or classes in the same establishment is paid for similar work or substantially similar work and to provide regular increases in pay in proper proportion to increase of ability, increase of output and increase of quality of work demonstrated in service.

2. For the purpose of this section:

(a) the term "protected class" includes age, race, creed, color, national origin, sexual orientation, gender identity or expression, military status, sex, disability, predisposing genetic characteristics, familial status, marital status, or domestic violence victim status, and any employee protected from discrimination pursuant to paragraphs a, b, and c of subdivision one of section two hundred ninety-six of the executive law, and any intern protected from discrimination pursuant to section two hundred ninety-six-c of the executive law.

(b) the term "compensation" shall include but not be limited to: all earnings of an employee for labor or services rendered, regardless of whether the amount of earnings is paid on an annual salary, hourly, biweekly or per diem basis; reimbursement for expenses; health, welfare and retirement benefits; and vacation pay, sick pay, separation or holiday pay, or any other form of remuneration.

(c) employees shall be deemed to work in the same establishment if the employees work for the same employer at workplaces located in the same geographical region, no larger than a county, taking into account population distribution, economic activity, and/or the presence of municipalities.

3. (a) It shall not be a violation of this section for an employer to pay different compensation to employees, where such payments are made pursuant to:

(1) a bona fide seniority or merit system;

(2) a bona fide system that measures earnings by quantity or quality of production;

(3) a bona fide system based on geographic differentials;

(4) any other bona fide factor other than status within one or more protected class or classes, such as education, training, or experience. Such factor: (A) shall not be based upon or derived from a differential in compensation based on status within one or more protected class or classes; and (B) shall be job-related with respect to the position in question and shall be consistent with business necessity. Such exception under this paragraph shall not apply when the employee demonstrates (i) that an employer uses a particular employment practice that causes a disparate impact on the basis of status within one or more protected class or classes, (ii) that an alternative employment practice exists that would serve the same purpose and not produce such differential, and (iii) that the employer has refused to adopt such alternative practice; or

(5) a collective bargaining agreement.

(b) For the purpose of paragraph (a) of this subdivision, "business necessity" shall be defined as a factor that bears a manifest relationship to the employment in question.

(c) Nothing set forth in this section shall be construed to impede, infringe or diminish the rights and benefits which accrue to employees through collective bargaining agreements, or otherwise diminish the integrity of the existing collective bargaining relationship.