



**Implementing Compensation  
Systems that Are Focused, Equitable,  
Flexible, and Legally Compliant**

**WHEN YOU START  
INTRODUCING YOURSELF**



**THEN EVERYONE IS  
LEAVING**

# The Quandary:

Districts are facing external and internal pressures that are causing them to waste time and money due to increased turnover and unfilled positions.

## External:

1. The Great Resignation and the Great Reshuffle
2. Dearth of Applicants
3. Budgetary Constraints
4. Legal Compliance

## Internal:

1. Accountability
2. Quiet Quitting
3. Failing to Meet Attraction and Retention Goals
4. Meeting Employees' Needs
5. Lack of Trust

# Complications:

- ➔ Candidates and employees have found their voices and are seeking to **make a connection** with their employers and to **make a difference**.
- ➔ Communities and boards desire **accountability**.

# Question:

How do districts attract candidates who fit them and retain great people, all while focusing on the external and internal factors that are affecting them?



# The Solution:

**Create compensation systems that:**

- 1. Attract candidates who fit.**
- 2. Retain great people.**
- 3. Encourage and reward satisfactory AND exemplary performance.**
- 4. GUARANTEE Equity.**

# Pay Differential Variables (PDVs)

**PDVs are the skills, attributes, certifications, microcredentials, etc., that are aligned with your organization's VALUES and you know make ideal employees.**



**District's  
Values  
and  
Goals**



**Employees'  
Values**



**DinamiComp<sup>®</sup>  
Compensation  
System**

**Success!**

- **Improved Employee Satisfaction and Culture**
- **Higher Employee Retention Rates**
- **Increased Student Achievement**

**How do innovative  
compensation systems  
address the internal  
and external factors?**

# External Issue #1:

## The Great Resignation and Great Reshuffle

Keep good  
employees!

## External Issue #2:

# Dearth of Applicants

- Advertise what you value and ATTRACT candidates who FIT!
- Including compensation range and compensation philosophy in job postings increases the number of applicants.

# External Issue #3:

## Budgetary Constraints

- Decision Makers are in complete control of costs.
- Pay employees who are making a difference.

# External Issue #4:

## Legal Compliance

- Objective
- Guarantee Compensation Equity at Hire
- Guarantee Compensation Equity in Perpetuity

# Internal Issue #1: Accountability

- Stakeholder Input
- Develop systems based on what matters to the school community

# Internal Issue #2: Quiet Quitting

- Encourage and Reward Satisfactory Performance
- Encourage and Reward Exemplary Performance



# Internal Issue #3:

## Failing to Meet Attraction and Retention Goals

- Employees want to make a difference and want a connection with their employers
- Innovative compensation systems accomplish both

# Internal Issue #4:

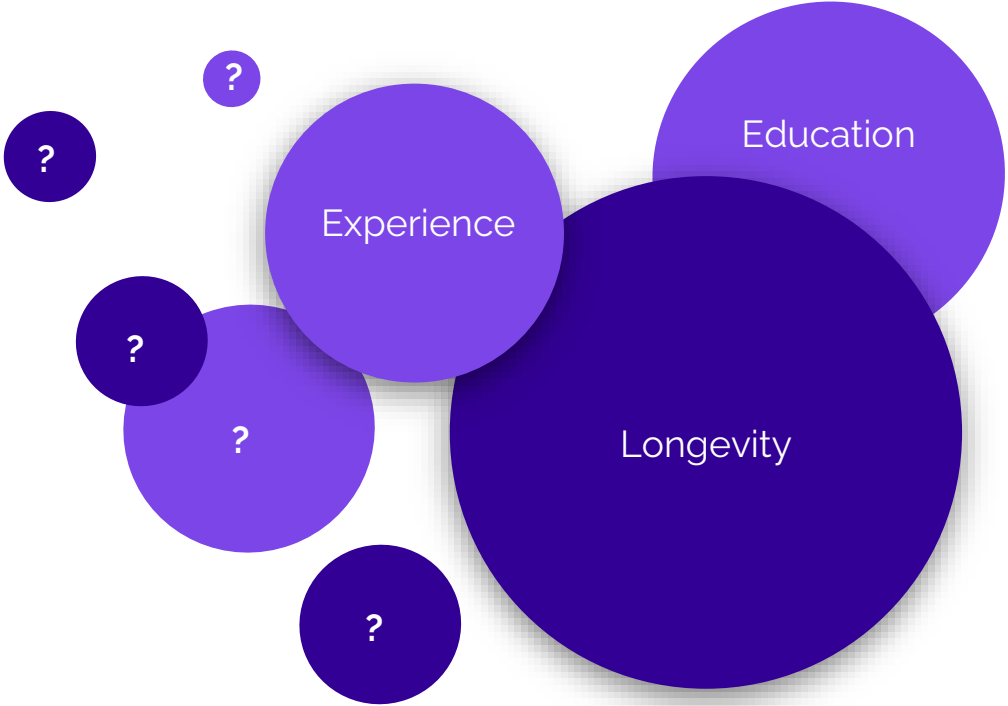
## Meeting Employees' Needs

- Paid Well
- Challenged
- Valued
- Involved
- Appreciated
- Trusted
- Empowered
- Promoted

# Internal Issue #5: Lack of Trust

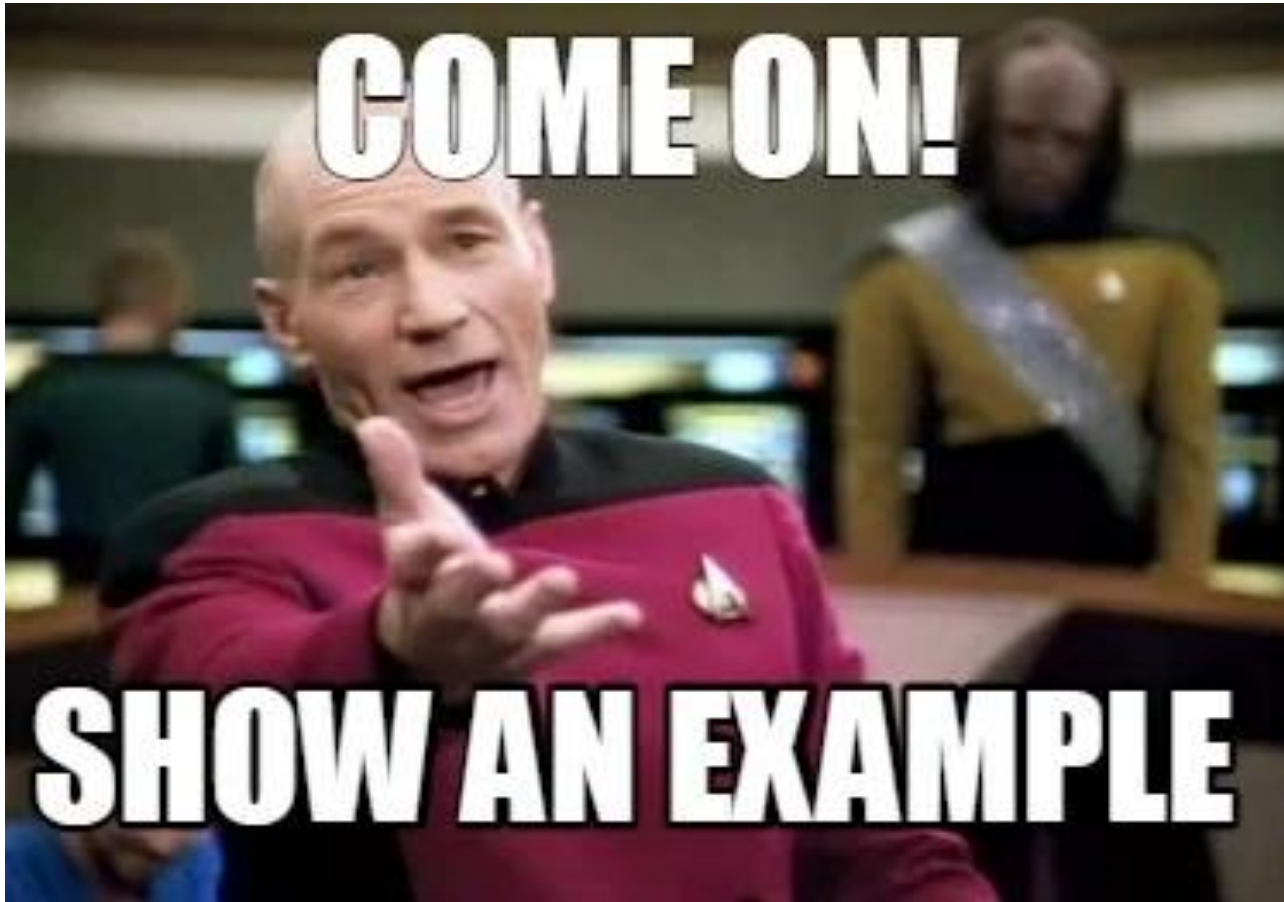
- Innovative compensation systems are **TRANSPARENT** (builds trust)
- Compensation is not **ARBITRARY**

# Imagine the Possibilities!



**What do you  
value in  
employees?**

**Examples?**





Examples from:  
DinamiComp<sup>®</sup>

# Importance of Legal Compliance

- **Equal Pay Act (EPA) – 29 U.S.C. § 206(d)**
  - **Requires payment of equal wages for equal work**
    - **Wages/salary**
    - **Benefits**
    - **Deferred compensation**
  - **Equal**
    - **Work performed under similar working conditions based on skill, effort, and responsibility.**
- **Title VII Discrimination**
  - **Requires discriminatory animus by employer**
- **Constitutional Claims**
  - **Equal Protection Clause of the Fourteenth Amendment**



# Equal Pay Act Claims

- *Prima Facie Case of an EPA Claim*
  - Different wages paid to employees of the opposite sex in same establishment;
  - Employees perform substantially equal work (based on skill, effort, and responsibility); and
  - Employees performed jobs under similar working conditions (physical environment).
- 2 Year Statute of Limitations/3 years if willful violation
- Damages
  - Salary differential
  - 100% liquidated damages
  - Attorney's fees and costs

# Equal Pay Act Claims

- Do not require intent to discriminate
- Analysis of “jobs” not “individuals”
  - Focus on job duties
- Need to analyze responsibilities, skill, and effort—not solely the job title
- In its most simplistic form, an EPA claim hinges upon members of one sex paid wages higher than members of the other sex.

# Equal Pay Act Defenses

- **Defensible Systems**
  - **Seniority System**
  - **Merit System**
  - **System measuring earnings on quantity or quality of production**
  - **Any factor other than sex**
- **WI allows for a “past salary” defense, whereby setting a new employee's salary based on prior salary is a valid defense**
- **Market forces defenses have generally been rejected by courts**
- **Burden of proof is on the employer**

# Discrimination Claims

- **Elements of a Disparate Treatment Discrimination Claim**
  - Member of protected class
  - Qualified for position
  - Despite qualifications, paid less
  - Paid less than similarly situated comparator outside their protected class
- Burden shifting to employer to articulate legitimate, nondiscriminatory reason for pay difference
- Burden shifting to employee to show pretext

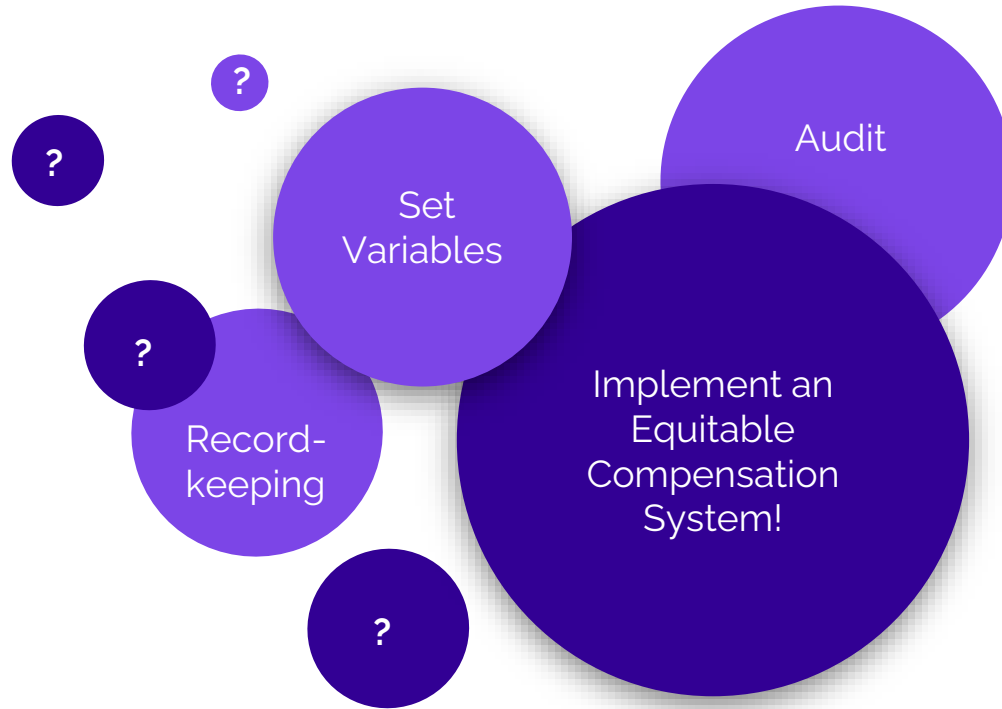
# Discrimination Claims

- **Elements of a Disparate Impact Discrimination Claim**
  - **Seemingly neutral policy**
  - **Disproportionately harmful effect on protected class**
- **Burden shifting to employer to show the policy is job related and consistent with business necessity and no alternative would suffice**
  
- **Note: Mere allegations are insufficient – an actual employment policy or practice must be identified**

# Constitutional Claims

- **Elements of an Equal Protection Claim**
  - **Employer treated persons differently that are similarly situated.**
  - **Employer was intentionally discriminatory.**
  - **Justification does not pass constitutional muster.**

# How to Protect Your District?



# Questions?

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