



Re: New York Equal Pay Legislation

Dear Members of the New York State Legislature:

As the legislative session draws to a close, we urge you to pass several key pieces of legislation that would advance pay equity in our state. The wage gap in New York persists in 2019, particularly for women of color. In New York State, women working full-time still make only 89 cents for every dollar a man earns.¹ Mothers make just 75 cents to the dollar. The gap for women of color is even wider. Black women in New York earn just 66 cents for every dollar a white man earns, and Latina women, an astonishing 56 cents.² After many years of discussion, the legislature has a unique opportunity to take significant action to close the gap. As organizations dedicated to ensuring equality in the workplace, we write to urge you to co-sponsor and support the passage of these measures.

First, we urge you to support A.5308 (Crespo)/S.3692A (Carlucci) – a bill that would prohibit employers from relying on, or inquiring about, a job applicant’s salary history. Governor Cuomo has also prioritized the issue, introducing similar legislation in this year’s Executive budget with the same goal. This practice perpetuates discrimination against women who historically earn lower salaries than white, non-Hispanic men throughout their careers. One study found that even in their very first job after college, women typically earn 6.6 percent less than men.³ Therefore, when an employer asks about salary history, women are immediately at a disadvantage when it comes to negotiating and setting salary rates.

A.5308/S.3692A builds on New York’s equal pay policies and national trends. Nearly ten states have passed similar legislation⁴ and the bill will codify a practice many employers have already adopted.⁵ This proposed legislation would also build upon the Executive Order Governor Cuomo signed in January 2017 requiring all New York State entities to adopt salary history blind hiring practices. Moreover, this legislation will help provide clarity and consistency to those employers that must already adhere to similar laws in effect in New York City, Westchester

¹ National Partnership for Women and Families, *New York Women and the Wage Gap 1* (2017), <http://www.nationalpartnership.org/research-library/workplace-fairness/fair-pay/4-2017-ny-wage-gap.pdf>.

² *Id.*

³ American Association of University Women, *Graduating to a Pay Gap: The Earnings of Women and Men One Year After College Graduation* 36 (2012), <http://www.aauw.org/files/2013/02/graduating-to-a-pay-gap-the-earnings-of-women-and-men-one-year-after-college-graduation.pdf>.

⁴ American Association of University Women, *State and Local Salary History Bans*, <https://www.aauw.org/article/state-local-salary-history-bans/> (last visited May 31, 2019).

⁵ The Greater Boston Chamber of Commerce publicly supported similar legislation in Massachusetts that passed in August 2016. See Michael Alison Chandler, *More state, city lawmakers say salary history requirements should be banned*, *The Washington Post*, Nov. 14, 2016, https://www.washingtonpost.com/local/social-issues/more-state-city-lawmakers-say-salary-history-requirements-should-be-bannedadvocates-for-women-argue-that-the-practice-contributes-to-the-nations-pay-gap/2016/11/14/26cb4366-90be-11e69c520b10449e33c4_story.html?utm_term=.5f2fd84bb830; Jena McGregor, *Bank of America is the latest company to ban this dreaded job-interview question*, *The Washington Post* (Jan. 29, 2018), https://www.washingtonpost.com/news/on-leadership/wp/2018/01/29/bank-of-america-is-the-latest-company-to-ban-this-dreaded-job-interview-question/?utm_term=.dc43dba61a8c.



County, Albany County, and Suffolk County.⁶

Second, we urge you to support legislation which would prohibit employers from paying employees less based on a broad range of characteristics beyond sex if they perform “substantially similar work.” This legislation was first introduced by Governor Cuomo in this year’s Executive budget.

In an ever-changing workplace, the law needs to catch up to the shifting landscape. The current standard in New York of “equal pay for equal work” risks narrow interpretation wherein workers must hold the exact same, or nearly identical, jobs in order for them to receive equal pay. Moreover, all too often, New Yorkers face pay discrimination not simply based on sex but other forms of discrimination.

S.5248A (Biaggi)/A.8093 (McMahon) will update the law as applied to private sector employees to ban pay discrimination based on “protected class” status, which includes sex, race, religion, gender identity and expression, national origin, military status, and all other protected categories in New York’s Human Rights Law. While New York’s pay discrimination law currently states that employers cannot discriminate based on sex, this groundbreaking legislation would expand the law to other protected categories. The law will also prohibit employers from paying an employee less based on their protected class if they perform “substantially similar work” rather than “equal work.”

S.6436 (Montgomery)/A. 7748 (Rosenthal) tackles this same issue by expanding equal pay protections for civil service employees. The bill gives the civil service commissioner power to ensure that all employees with status within a protected class are paid equally for performing “substantially similar work” and charges the commissioner with ensuring this principle is adhered to.

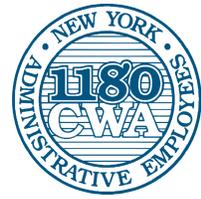
Finally, we ask you to support the following additional equal pay measures:

- **A.1047A(Simotas)/S.456A (Benjamin)** which would provide more enforcement remedies for civil service employees to vindicate their equal pay rights; and
- **A.7169 (Glick) /S.1482 (Hoylman)** which would require contractors to report on equal pay data.

New York has an opportunity to lead in the fight to close the persistent wage gap. We urge you to support these bills and welcome the opportunity to speak with you further or provide more detailed information about these crucial pieces of legislation. For more information or questions, please contact Sarah Brafman at A Better Balance (sbrafman@abetterbalance.org) or Beverly Neufeld at PowHer New York (bev@powherny.org).

A Better Balance: The Work & Family Legal Center
PowHer New York
CWA Local 1180

⁶ See, e.g., N.Y.C. Admin. Code § 8-107(25).



1199/UHWE/SEIU
1199SEIU United Healthcare Workers East
AAUW - Empire State NYC Branch
American Association of University Women - NYS, Inc.
Coalition for Economic Justice
CWA District 1
DRUM - Desis Rising Up & Moving
ECE PolicyWorks
Freedom to Thrive
Gender Equality Law Center
Girls for Gender Equity
Greater New York Labor Religion Coalition
Greater New York Chamber of Commerce
Haffner Consulting
Her Justice
Hollaback!, Inc.
HOPE'S DOOR
Ibero American Action League
Indivisible Nation BK
La Cumbre
League of Women Voters of NYS
League of Women Voters of St. Lawrence County
League of Women Voters of the Syracuse Metropolitan Area
League of Women Voters Rochester Metropolitan Area
Legal Momentum, The Women's Legal Defense and Education Fund
Move Forward Staten Island
National Association for Female Executives
National Council of Jewish Women New York
National Domestic Workers Alliance
National Federation of Business and Professional Women's Clubs-NYC (NFBPWC-NYC)
National Institute for Reproductive Health Action Fund
National Partnership for Women & Families
New York State Coalition Against Domestic Violence
New York State Coalition Against Sexual Assault
New York State Nurses Association
New York State Public Affairs Committee of the Junior Leagues
New York State Women Inc.
New York Zero-to-Three Network
Nurse Practitioners of New York
NYC Veterans Alliance
Pay Equity Coalition Rochester, NY
Planned Parenthood Empire State Acts
Rye YMCA
Schuyler Center for Analysis and Advocacy
The New York Women's Foundation
The YMCA of Greater Rochester
The Zonta Club of Greater Queens
Western New York Council on Occupational Safety & Health
Zonta Club of Brooklyn

