

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON CIVIL AND HUMAN RIGHTS

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April 5, 2022
Start: 10:37 a.m.
Recess: 1:42 p.m.

HELD AT: REMOTE HEARING - VIRTUAL ROOM 2

B E F O R E: Nantasha M. Williams, Chairperson

COUNCIL MEMBERS:

Rita C. Joseph
Christopher Marte
Rafael Salamanca, Jr
Inna Vernikov
Adrienne Adams, Speaker
Gale A. Brewer
Amanda Farias
Shekar Krishnan
Farah Louis
Althea Stevens

A P P E A R A N C E S (CONTINUED)

JoAnn Kamuf Ward, Deputy Commissioner of Policy
and External Affairs at the New York City
Commission on Human Rights

Sapna Raj, Deputy Commissioner of the Law
Enforcement Bureau at the New York City
Commission on Human Rights

Katherine Greenberg, Special Counsel at the New
York City Commission on Human Rights

Senator Jessica Ramos

Winston Tokuhisa

Charisma White

Kecia Kemp

Kathryn Wylde

Margaret Price

Andrea Johnson

Merble Reagon

Julia Elmaleh-Sachs

Amelia Adams

Barbara Kushner

Tim Johnson

Jessica Walker

Gloria Middleton

Beverly Neufeld

Debipriya Chatterjee

Seher Khawaja

Elizabeth Stone

John T. O'Malley

Mary Luke

Linda Hartley

Solange Charas

Nicholas Natoli

Miriam Clark

2 SERGEANT LUGO: PC recording started.

3 SERGEANT HOPE: Cloud recording rolling.

4 SERGEANT LUGO: Good morning, everyone.

5 Welcome to today's remote New York City Council
6 hearing of the Committee on Civil and Human Rights.

7 At this time, would all panelists please
8 turn on your videos for verification purposes?

9 To minimize disruption, please place
10 electronic devices to vibrate or silent.

11 If you wish to submit testimony, you may
12 send it to testimony@council.nyc.gov. Again, that's
13 testimony@council.nyc.gov.

14 Thank you for your cooperation. Chair
15 Williams, we are ready to begin.

16 CHAIRPERSON WILLIAMS: Good morning. My
17 name is Nantasha Williams, and I am the Chair of the
18 Civil and Human Rights Committee. Thank you for
19 joining our virtual hearing today on the New York
20 City Commission on Human Rights Complaint Process
21 Times and Resolutions.

22 Before we begin, I would like to
23 acknowledge my Colleagues who have joined us today,
24 Council Members Marte, Stevens, and Farias.

2 Although this hearing has been
3 overshadowed by Intro 134, today's oversight topic is
4 a very important one as it examines a process that is
5 integral to the work of the New York City Commission
6 on Human Rights. The Commission is dedicated not only
7 educating New Yorkers on their rights and obligations
8 under the City's Human Rights Law but also protecting
9 them from discrimination and hate. Receiving and
10 processing complaints is crucial to ensuring that New
11 Yorkers have recourse in the face of discrimination
12 while serving in its role to protect the rights of
13 New Yorkers. CCHR has seen major growth in inquiries
14 alleging discrimination, especially in recent years.
15 The Commission has seen the number of inquiries
16 received double over the course of 5 years with 5,296
17 inquiries in 2015 compared to 10,015 in 2020. As of
18 fiscal year 2021, the Commission has reported a total
19 of 9,983 inquiries.

20 During this hearing, the Committee seeks
21 to learn more about how the Commission processes such
22 a large volume of inquiries as well as how and why
23 different types of inquiries receive certain outcomes
24 and resolutions. The Committee is also interested in
25 hearing whether CCHR's processing time can be

2 improved and how. Additionally, the Committee will
3 also hear Intro 134 in relation to employers required
4 to post minimum and maximum salary information.

5 I'd like to thank Speaker Adams in her
6 leadership for allowing for ample time to have true
7 deliberation on this important legislative matter. On
8 December 2, 2021, the Committee heard a bill now
9 known as Local Law 32 in relation to prohibiting
10 employers from posting job listings without minimum
11 and maximum salary information.

12 Testimony and feedback received during
13 and after the hearing has informed the amendments
14 that Intro 134 seeks to make to the original law. I
15 also want to assure everyone that I am interested in
16 hearing all sides and am amenable to changes pending
17 the testimonies of today's hearing.

18 I'd also like to note that while Local
19 Law 32 is one step in the right direction towards pay
20 equity, we still need to do more, and it is not the
21 only provision that will resolve pay equity in its
22 entirety.

23 I'd like to thank Committee staff,
24 Jayasri, Senior Counsel to the Committee, Wiam Diouri
25 our Policy Analyst, Jack Kern, our Financial Analyst,

2 and, of course, my wonderful staff, Everton Smith and
3 Ashley Meza.

4 I will now turn it over to the Committee
5 Counsel.

6 JAYASRI GANAPATHY, MODERATOR: Thank you,
7 Chair Williams. I am Jayasri Ganapathy, and I'm
8 Counsel to the Committee on Civil and Human Rights,
9 and I will be moderating this hearing.

10 Before we begin, I would like to remind
11 everyone that you will be on mute until you are
12 called on to testify, at which point you will be
13 unmuted by the host.

14 During the hearing, I will be calling on
15 panelists to testify. Please listen for your name to
16 be called as I will periodically announcing who the
17 next panelists will be.

18 At this hearing, we will first be
19 inviting testimony from the Department of Civil and
20 Human Rights and then from members of the public.

21 During the hearing, if Council Members
22 would like to ask a question of the administration or
23 a specific panelist, please use the Zoom raise hand
24 function, and I will call on you in order.

2 For all panelists, when called to
3 testify, please state your name and the organization
4 you represent, if any.

5 We will now call on representatives of
6 the administration to testify. We will be hearing
7 testimony from JoAnn Kamuf Ward, Deputy Commissioner
8 of Policy and External Affairs at the New York City
9 Commission on Human Rights and Sapna Raj, Deputy
10 Commissioner of the Law Enforcement Bureau at the New
11 York City Commission on Human Rights. We will also be
12 joined for questions by Katherine Greenberg, Special
13 Counsel at the New York City Commission on Human
14 Rights.

15 At this time, I will administer the
16 affirmation. Panelists, please raise your right
17 hands. Do you affirm to tell the truth, the whole
18 truth, and nothing but the truth before this
19 Committee and to respond honestly to Council Member
20 questions? Deputy Commissioner Ward.

21 DEPUTY COMMISSIONER WARD: I do.

22 JAYASRI GANAPATHY, MODERATOR: Deputy
23 Commissioner Raj.

24 DEPUTY COMMISSIONER RAJ: I do.
25

2 JAYASRI GANAPATHY, MODERATOR: Special
3 Counsel Greenberg.

4 SPECIAL COUNSEL GREENBERG: I do.

5 JAYASRI GANAPATHY, MODERATOR: Thank you.

6 At this time, I'd like to invite Deputy Commissioner
7 Ward to present their testimony, and I would just
8 like to acknowledge that Speaker Adams has joined us.
9 Deputy Commissioner Ward.

10 DEPUTY COMMISSIONER WARD: Good morning,
11 Chair Williams and Members of the Committee on Civil
12 and Human Rights, Speaker, and other Council Members
13 that have joined as well.

14 I'm JoAnn Kamuf Ward, the Deputy
15 Commissioner of Policy and External Affairs at the
16 New York City Commission on Human Rights, and it's my
17 pleasure to join you today to testify regarding Intro
18 134, which would amend the city's administrative code
19 to require certain employers to post salary-related
20 information on job advertisements. As Jayasri noted,
21 I'm joined today by my Colleagues, Deputy
22 Commissioner of the Law Enforcement Bureau Sapna Raj
23 and Special Counsel Katherine Greenberg.

24 Last month at this Committee's
25 preliminary budget hearing on the Commission, we had

2 the opportunity to speak in depth about the breadth
3 of the Commission's work across New York City and
4 today I will give just a brief overview before we
5 turn to the substance.

6 The Commission is the local civil rights
7 enforcement agency that implements the New York City
8 Human Rights Law, which is one of the broadest and
9 most protective antidiscrimination laws in the
10 country with 27 protected categories which covers
11 housing, employment, and public accommodations.

12 By statute, the Commission has 2 main
13 functions. First, the Commission's Law Enforcement
14 Bureau enforces the city's Human Rights Law by
15 investigating complaints, initiating its own
16 investigations and utilizing testing to help identify
17 violations of the law, all of which my Colleague,
18 Sapna Raj, will discuss in her testimony.

19 Second, through the Community Relations
20 Bureau, the Commission provides workshops and
21 trainings on New Yorkers' rights and the obligations
22 of businesses, employers, and housing providers under
23 the city Human Rights Law, and we work closely with
24 community partners and sibling agencies in these
25 efforts.

2 Seven years ago, the Commission
3 established the Office of the Chair which houses the
4 agency's policy, legislative, rulemaking, and
5 adjudicatory function, and this is the office in the
6 Commission where I sit.

7 This morning, I will start with the
8 discussion of the Human Rights Law's employment
9 protections as context for discussion of both Local
10 Law 32 and Intro 134, and then I will turn it over to
11 Sapna.

12 Since 2015, the New York City Human
13 Rights Law has been amended by the City Council 38
14 times. More than a dozen of these amendments are in
15 the area of employment, which is also the area where
16 we see some of the highest numbers of filed
17 complaints. I want to note some of the significant
18 amendments in the employment arena to contextualize
19 our conversation. A number of the Human Rights Law
20 expansions from the past 7 years relate to language
21 that appears in job advertisements and which require
22 employers to take specific steps in hiring to comply
23 with the Human Rights Law. Today, the city's Human
24 Rights Law prohibits discrimination on the basis of
25 criminal history, which means that employers can't

2 include language such as no felonies or criminal
3 background check required in job advertisements. The
4 Fair Chance protections in our law also limit when in
5 hiring employers can ask about criminal history, and,
6 where employers make a inquiry, they're required to
7 seek information from applicants themselves and to
8 conduct a balancing test that they then share with an
9 individual if they choose not to hire them after
10 conducting the criminal background check. The law
11 further prohibits discrimination on the basis of
12 credit score, which includes prohibiting employers
13 from using language such as credit check required in
14 job advertisements. Our Human Rights Law also
15 contains one of the nation's first bans on salary
16 history inquiries, which prevents employers from
17 asking any questions during interviews or in job
18 applications about prior earnings and benefits.
19 Lastly, the law ensures that the rights of pregnant
20 and nursing people in employment including requiring
21 employers to designated spaces for employees to
22 express milk and to create written policies regarding
23 lactation accommodations.

24 Each of these amendments that I've
25 mentioned apply to employers with 4 or more

2 employees. There are some provisions of the Human
3 Rights Law that apply more broadly to all employers,
4 even those with only 1 employee. That includes
5 prohibitions on sexual harassment as well as newly
6 instituted protections for domestic workers in
7 employment, but most protections apply to employers
8 with 4 or more employees.

9 Because the New York City Human Rights
10 Law's coverage is broader in many and most instances
11 than federal law, which generally covers only
12 employers with 15 or more or 20 or more employees,
13 our law provides vital protections for hundreds of
14 thousands of New York City workers who otherwise
15 would have little recourse against discrimination or
16 retaliation at work.

17 With that background, I'll turn to the
18 subject of today's hearing, Intro 134. In December,
19 as has already been mentioned, there was a hearing on
20 what was then Intro 1208 on Salary Transparency, and
21 I testified in front of City Council about pay
22 equity, speaking in support of the intent of what is
23 now Local Law 32, which requires covered employers to
24 include a salary range in job advertisements. Local
25 Law 32 is currently slated to go into effect on May

2 15, 2022. To assist employers in complying with this
3 new provision, the Commission has developed a fact
4 sheet on Local Law 32 and also begun outreach. Our
5 publicly available fact sheet which can be found on
6 our website explains that when employers advertise a
7 job that would be performed in New York City they
8 have to include a good faith wage range. Here, good
9 faith means the range that the employer honestly
10 believes they're willing to pay at the time that they
11 post the position. As our fact sheet indicates, the
12 term salary refers to the base rate of pay, be it
13 hourly, annually, or paid at any other frequency. The
14 fact sheet further clarifies that salary does not
15 include other benefits or incentives that may be part
16 of a compensation package. That can include things
17 like commission, tips, bonuses, or stocks.

18 In addition to developing written
19 materials, the Commission is getting the word out to
20 potential employers and employees about job posting
21 requirements as part of our outreach and education
22 mandate. Commission staff have already been speaking
23 with business owners and attorneys about these new
24 protections. Earlier this month, the Commission
25 presented at a Workplace Compliance Consortium, and

2 we're joining several more trainings this month
3 including one for attorneys this afternoon and one in
4 a few weeks alongside the Department of Consumer and
5 Workplace Protections. I should underscore that we
6 endeavor to speak with business owners and potential
7 employees at every opportunity with the real goal of
8 fostering compliance with the Human Rights Law in
9 order to advance equity for all New Yorkers.

10 In addition to the work that we've been
11 doing, there's been a significant public interest and
12 media coverage of Local Law 32 to date. This includes
13 legal alerts and trade publications, Forbes Magazine
14 has covered the salary transparency law twice since
15 December, there was a recent piece in Newsweek, and
16 my Colleagues have spoken on CBS segments as well.

17 Looking ahead, the Commission plans to
18 ensure comprehensive outreach in the business
19 corridors in each borough and to collaborate with
20 Chambers of Commerce and BIDs as well as professional
21 associations to share information on salary
22 transparency legislation, and that's if we stay with
23 Local Law 32 or if the law is ultimately amended as
24 we're discussing today.

2 Any new protections will be built into
3 our Human Rights Law training, and information will
4 be shared at the resource fairs and round tables our
5 agency attends, pathways in which we engage with tens
6 of thousands of New Yorkers annually.

7 In our outreach, we plan to collaborate
8 with small business services along with other
9 government partners as we have done in several
10 instances in the last several years.

11 As the City Council contemplates Intro
12 134, which amends Local Law 32, the Commission again
13 offers wholehearted for measures that advance pay
14 equity including efforts to foster transparency in
15 hiring and other measures that level the playing
16 field for employees and aim to tackle existing
17 disparities. This is consistent with our mission and
18 our commitment to ensure that all New Yorkers can
19 live and work with dignity, free from all forms of
20 discrimination, and our commitment to advancing
21 racial and gender equity more broadly.

22 The Commission believes that laws and
23 policies that intentionally seek to eradicate the
24 root causes of discrimination and inequity are
25 pivotal. Each of us have seen or personally

1 experienced discrimination that is overt and
2 intentional. However, every day, discrimination
3 occurs as a result of practices and policies that
4 disproportionately disadvantage particular individuals
5 and groups. In the employment context, hiring
6 practices that may seem neutral on their face can
7 perpetuate and even exacerbate inequity.

9 Discrimination in pay or in the terms of
10 employment can be difficult to detect, as employees
11 are often hesitant to share salary information with
12 colleagues and often do not realize or are unable to
13 find out that they are being compensated at lower
14 rates for comparable work. Recognizing this reality,
15 local and state governments across the country,
16 including in New York, are taking steps to advance
17 pay equity. Salary transparency is one of the tools
18 that can level the playing field for employees and
19 for women and people of color and other New Yorkers
20 who have historically been and continue to be harmed
21 by wage disparities.

22 Wages are important because they can be
23 determinative of quality of life. They define what's
24 affordable for us in the short term, and they can
25 impact the ability of individuals and families to

2 improve intergenerational wealth so actions taken to
3 address pay inequity today can yield long-term
4 benefits.

5 This is an issue that the Commission has
6 long been focused on. In 2019, the Commission
7 convened a public hearing on pay equity alongside the
8 Commission on Gender Equity and the Department of
9 Consumer and Worker Protection. This hearing and all
10 of our work in this area have emphasized that
11 federal, state, and local legislative and policy
12 changes are needed to foster fairness and equity.
13 That hearing in 2019 underscored a range of
14 recommendations to address disparities in wages,
15 which include the need for increased transparency
16 surrounding pay, one of which is to post salary
17 ranges. Additionally, there was support for employer
18 reporting of pay data and demographic information as
19 well as periodic audits that can be publicized.
20 Testimony in the 2019 hearing also suggested that
21 there's a need for greater services and supports for
22 individuals that have been most impacted by wage
23 disparities and underpayment, and that included
24 measures such as raising the minimum wage, expansion
25 of access to affordable childcare as well as outreach

2 and training programs that enhance career development
3 and workplace readiness.

4 The Commission looks forward to work with
5 this City Council as well as it's sibling agencies
6 and relevant stakeholders, many of whom are here
7 today, to promote gender and racial equity and
8 advance pay equity in New York City.

9 Thank you, again, for the opportunity to
10 speak today. My Colleagues and I look forward to
11 continuing to discuss Intro 134 and to working with
12 you to ensure that New Yorkers can thrive, and it's
13 now my pleasure to turn the floor over to Deputy
14 Commissioner Sapna Raj to talk about the Commission's
15 innovative law enforcement work.

16 CHAIRPERSON WILLIAMS: Deputy
17 Commissioner, before you go, I just want to
18 acknowledge that we have been joined by Speaker
19 Adams, Council Member Brewer, Council Member Joseph,
20 and Minority Whip Vernikov.

21 DEPUTY COMMISSIONER RAJ: Thank you. Good
22 morning, Chair Williams and Members of the Committee
23 on Civil and Human Rights. I'm Sapna Raj, Deputy
24 Commissioner of the Law Enforcement Bureau at the New
25 York City Commission on Human Rights.

It's my pleasure to speak about the work of the Law Enforcement Bureau. The attorneys in the Law Enforcement Bureau evaluate and investigate allegations of discrimination brought to the Commission by members of the public and utilize the agency's investigatory and prosecutorial powers to root out (INAUDIBLE) practice or other forms of discrimination through Commission-initiated investigations. LEB, which is the Law Enforcement Bureau, and its specialized units, the Early Intervention Unit, the Source of Income Unit, and Gender-based Harassment Unit offer the option of resolving claims in lieu of filing the complaint, leading to quicker resolutions. Resolutions through the pre-complaint intervention have significantly increased over the past several years as LEB has worked to provide timely resolutions despite an increased caseload.

In fiscal year '21, the Commission fielded 9,055 inquiries from members of the public in the form of phone calls, emails, letters, visits to the Commission offices, and queries to Mobile Intake Units dispatched to community sites or at Commission events.

2 The Law Enforcement Bureau uses a variety
3 of tools to investigate and determine whether
4 violations of the Human Rights Law have occurred and
5 to provide redress. We are an enforcement agency, but
6 we do not simply issue determinations when violations
7 have occurred and the damages should be paid to the
8 complainant or that civil penalties should be paid to
9 the City of New York. Our aim is always to repair
10 harms experienced by individuals and communities
11 impacted by discrimination and to prevent future
12 Human Rights Law violations. The Commission takes a
13 cooperative approach to fostering Human Rights Law
14 compliance. In many instances involving first time
15 violators of the city Human Rights Law, when no
16 complainant was harmed by the violation, the
17 Commission has sought to educate businesses and
18 housing providers about their legal obligations and
19 work with them in creating nondiscriminatory policies
20 and practices rather than levying fines.

21 The Commission has several great pathways
22 to identifying violations of the Human Rights Law.
23 Any individual can contact the Law Enforcement Bureau
24 by our info line to report allegations of
25 discrimination and to file an individual complaint.

2 Any New Yorker has the right to file a complaint with
3 the Commission in the jurisdictional areas covered by
4 our law. The Law Enforcement Bureau may also become
5 aware of alleged unlawful discriminatory practices
6 through an anonymous tip, information shared by a
7 community-based organization, an elected official,
8 through social media, or media reports. In these
9 instances, the Commission can launch a Commission-
10 initiated action. The Law Enforcement Bureau also
11 uses testing as an investigative tool to determine
12 whether there is discrimination in housing,
13 employment, or public accommodations. The agency has
14 the authority to use testers to determine if they're
15 treated differently or given different information by
16 potential employers, landlords or real estate
17 brokers, restaurants, hospitals, stores, or other
18 public accommodations because they belong to a
19 protected class. This is a historically effective
20 tool used in civil rights litigation.

21 When the Commission learns of potential
22 discriminatory conduct through a tip, testing, or a
23 complaint filed by a member of the public, the Law
24 Enforcement Bureau has many options as to how to
25 proceed. The Commission has the authority to take a

2 range of actions before a complaint is ever filed.
3 One is to issue a cease-and-desist letter to notify
4 the alleged wrongdoer that actions taken may be a
5 violation of the New York City Human Rights Law,
6 demand the discriminatory actions cease and that
7 specific actions be taken including, for example,
8 restoring the victim of discrimination to the status
9 they were in before the discriminatory action or
10 change policies and procedures. While cease-and-
11 desist letters can be very effective, the Commission
12 uses a suite of investigative methods such as
13 requests for information on policies and practices,
14 demands for documents and data, and interviews of key
15 witnesses to build a comprehensive record of what
16 occurred. Each of these tools can help build a
17 factual record.

18 The amount of time that it takes to
19 respond and investigate depends on the unique factors
20 of each case, the underlying claim, the factual and
21 legal complexity, the availability and responsiveness
22 of those harmed by discrimination as well as any
23 witnesses and respondents. Ultimately, at the
24 conclusion of an investigation, the Law Enforcement
25 Bureau reaches a determination as to whether the

2 evidence it gathered supports the allegations in the
3 complaint or not. If the Law Enforcement Bureau finds
4 probable cause, the cases proceed to a hearing at
5 OATH presided over by an administrative law judge.
6 Before initiating the prosecution, the Law
7 Enforcement Bureau attempts to settle or conciliate
8 the case. If the case does not settle, then OATH will
9 hold a hearing, and the Commissioner of the
10 Commission on Human Rights will issue a final
11 decision dismissing the case or ordering relief for
12 the complainant.

13 At all points during the investigation,
14 once probable cause has been found and until a
15 decision and order is issued by the Commissioner, the
16 parties can and do enter into settlement of the
17 claims. Not all complaints are resolved by a Law
18 Enforcement Bureau determination on the merits. Many
19 cases settle for monetary restitution and/or
20 affirmative relief such as policy creation, training,
21 monitoring of the covered entity's business
22 practices, or community service.

23 In fiscal year '21, 30 percent of cases
24 were resolved through settlements. It is important to
25 note that not all inquiries become filed complaints.

1 The Commission has instituted a range of approaches
2 to quickly resolve matters. In the ongoing effort to
3 foster accountability and justice for New Yorkers
4 facing ongoing discrimination and harassment, the Law
5 Enforcement Bureau has increasingly pursued pre-
6 complaint interventions. This is where the Commission
7 attempts to resolve claims prior to the filing of a
8 complaint. In fiscal year '21, the Law Enforcement
9 Bureau obtained a positive outcome for a complainant
10 in 214 matters, such as a reasonable accommodation
11 for a disability or a transfer away from a harasser
12 without filing a complaint. In fiscal year '20, the
13 Law Enforcement Bureau resolved 403 matters in this
14 way. In fiscal year '21, the most common pre-
15 complaint interventions involved disability
16 accommodations in housing, unlawful source of income
17 discrimination in which a tenant or prospective
18 tenant was denied an apartment or the renewal of a
19 lease based on the use of rental assistance. Because
20 of LEB's interventions, New Yorkers were able to get
21 a ramp installed at their apartment building or have
22 the employer grant reasonable accommodations that
23 were requested due to a disability, pregnancy, or

2 religious beliefs without filing a complaint and
3 ensuing a litigation process which can be lengthy.

4 The Law Enforcement Bureau remains a
5 venue for justice where recoveries and affirmative
6 relief are calibrated to address the harms caused to
7 New Yorkers. Through conciliation and decisions and
8 orders, the Commission can award monetary damages for
9 the complainant, including lost wages, emotional
10 distress damages, and attorney's fees. The Law
11 Enforcement Bureau can also impose civil penalties of
12 up to 250,000 dollars that are paid to the general
13 fund of the City of New York. Since 2015, the
14 Commission has broken records year after year with
15 respect to damages and penalties assessed. Last year
16 was no different. In fiscal year '21, the Commission
17 recovered 9,741,000 dollars in compensatory damages
18 and civil penalties, the highest in Commission
19 history for the third year in a row, and 2.2 million
20 dollars more than fiscal year '20. Of that, 8,069,000
21 dollars was awarded in compensatory damages to
22 complainants and 1,678,000 in civil penalties to the
23 general fund of the City of New York.

24 In addition to securing monetary relief,
25 the Law Enforcement Bureau continues to innovate

2 creative resolutions that deter future harm and put
3 restorative justice principles into practice to
4 change the dynamics that lead to harms in the first
5 place.

6 Through case resolutions, the Commission
7 can order respondents to perform wide-ranging
8 affirmative relief including posting notice of rights
9 the Commission has issued, creating or revising
10 policies, conducting trainings, performing community
11 service, and more. Settlements and agreements usually
12 involve some combination of policy changes, training
13 for staff and management, civil penalties, posting
14 requirements, or other forms of affirmative relief.

15 In instances of employment
16 discrimination, the Commission has negotiated
17 resolutions that require respondents to invest in
18 employment pipeline opportunities for
19 underrepresented groups and to engage with community-
20 based organization to facilitate broader recruitment.

21 In housing cases, settlements have
22 included set asides of apartment for voucher holders
23 and broker incentives for working with voucher
24 holders. The Law Enforcement Bureau continues to
25 identify strategic interventions to address

2 discrimination in housing, employment, and public
3 accommodations and to respond to retaliation.

4 We look forward to working with the
5 administration and Members of the City Council to
6 identify and root out all manifestations of
7 discrimination and harassment.

8 Thank you for convening today's hearing
9 today. We look forward to your questions. Thank you.

10 JAYASRI GANAPATHY, MODERATOR: Thank you.

11 I will now turn it over to questions from Chair
12 Williams.

13 Panelists, please stay unmuted if
14 possible during this question and answer period.

15 Thank you.

16 Chair Williams, you may begin your
17 questions.

18 CHAIRPERSON WILLIAMS: Thank you. I will
19 start with the complaints process and results. One of
20 the primary functions of CCHR is the intake,
21 processing, investigation, and determination of
22 complaints. This process includes several steps, and
23 each case will be unique. I also want to mention the
24 quality of an investigation is very important. In the
25 first 4 months of fiscal 2022, there were 105

2 complaints filed and 253 closed. Additionally, the
3 average age of a complaint was 447 days. Does this
4 mean that of the open complaints, the average number
5 of days those cases have been open is 447?

6 DEPUTY COMMISSIONER RAJ: Yes, that means
7 that the cases were open for that period of time on
8 average. Some cases, depending on the complexity of
9 the case, some cases will remain open longer because
10 an investigation involves filing of the complaint,
11 filing for an answer by the respondent, submitting a
12 rebuttal by the complainant, investigating further by
13 getting documents and data and interviews of
14 witnesses so all of that can take a long time
15 depending on the complexity of the case, how many
16 witnesses are involved, what the data is like, and
17 how many documents are involved.

18 CHAIRPERSON WILLIAMS: Okay. What is
19 CCHR's goal for the time it takes CCHR to complete an
20 investigation?

21 DEPUTY COMMISSIONER RAJ: Again, I think
22 it depends on the case. I don't think we can say that
23 in general a case should take only X amount of time.
24 We try to resolve our cases as promptly as possible.
25 However, depending on the complexity of the case and

2 the parties involved, cases can take longer and cases
3 can take a much shorter period of time. Some cases
4 close in a very short period of time, and others take
5 much longer for the investigation to be completed.

6 CHAIRPERSON WILLIAMS: Okay. Can you
7 please describe the process of a complaint? I know
8 you mentioned there's investigation and a series of
9 things that take place from the incident to its
10 determination from CCHR. What is the life cycle of a
11 case?

12 DEPUTY COMMISSIONER RAJ: If a complainant
13 comes forward and wants to file a complaint and is
14 jurisdictional, we will draft the complaint. The
15 complaint is then reviewed by the complainant and
16 signed and notarized. All of that can take a little
17 bit of time depending on the complainant's, sometimes
18 it's hard to get in touch with a complainant and
19 haven't them sign the document. Once a complaint is
20 filed and served on the respondent, the respondent
21 has 30 days to respond and file an answer and a
22 position statement. In litigation, usually there is a
23 period of time when people get extensions of time in
24 order to do that. Once they have filed an answer and
25 position statement, the complainant has a chance to

2 submit a rebuttal. Once that rebuttal has been
3 submitted then we start the investigation by asking
4 for documents and information policies, data, and
5 names of witnesses that we may want to interview. We
6 also review the respondents. During this whole
7 process, at any point in the process, the case can
8 settle. Sometimes we are involved in settlement
9 negotiations at the same time that we are doing the
10 investigation. Once the investigation is complete,
11 then we determine whether we will find probable cause
12 or not. If we find probable cause, that case can
13 still settle but can be referred to OATH. Once it's
14 referred to OATH, there is a settlement conference
15 then there is a hearing scheduled. Once the hearing
16 is held, then the ALJ, the administrative law judge,
17 issues a report and recommendation. That report and
18 recommendation comes back to the Chair of the
19 Commission who issues a decision and order.

20 CHAIRPERSON WILLIAMS: Okay. What parts of
21 the process do you feel take the longest amount of
22 time? Is it in the responses or is it in just the
23 investigative work?

24 DEPUTY COMMISSIONER RAJ: I think that
25 also depends on the case and who is involved.

2 Sometimes it takes a long time to get complainants to
3 respond, it takes a long time to get respondents to
4 respond. Other times, that happens quickly, but the
5 investigation takes longer because there's a lot of
6 information we are looking for. We want to make sure
7 the investigations are as thorough as possible so
8 that we reach the right determination, whether we
9 decide to find that there is no probable cause, that
10 we are going to administratively close the case, we
11 want to settle the case because we think there are
12 issues that show that there's some liability or
13 whether we want to refer it to OATH. I think it's
14 hard to say that it's always one or the other. It
15 depends on the case what takes longest.

16 CHAIRPERSON WILLIAMS: Okay. Would you say
17 that additional staff in your particular unit will
18 decrease the time it takes to complete an
19 investigation or is this something that cannot be
20 changed from staffing?

21 DEPUTY COMMISSIONER RAJ: I think we
22 always welcome more staff. I'm very, very proud of
23 the Law Enforcement Bureau and the work that we've
24 done despite the pandemic, despite all the other
25 issues we've had, that we are able to process the

2 complaints and we're able to find justice for New
3 Yorkers as promptly as possible, but I think no one's
4 going to say no to having more staff.

5 CHAIRPERSON WILLIAMS: Got it. What is the
6 current total caseload of CCHR?

7 DEPUTY COMMISSIONER RAJ: I think on
8 average the attorneys have about 70 cases that they
9 are handling at any one time.

10 CHAIRPERSON WILLIAMS: What's the total
11 though, because that's the average caseload per
12 attorney, but what's the total number of cases?

13 DEPUTY COMMISSIONER RAJ: I don't know
14 exactly how many cases we have currently pending. I
15 can always look into that and update you.

16 CHAIRPERSON WILLIAMS: Okay. Yes, we would
17 love to know how many cases in total. I have a few
18 more questions. CCHR mediates some complaints through
19 their free and voluntary mediation office. From
20 fiscal 2019 through fiscal 2021, annually the average
21 number of complaints successfully mediated is 42, and
22 that (INAUDIBLE) maybe someone can mute, awesome.
23 CCHR has had 3-year average for filing 653 complaints
24 annually. This would be approximately 6 percent of
25 opened complaints resulting in a successful

2 mediation. Can you please describe the mediation
3 process and has the feedback on the mediation process
4 been positive?

5 DEPUTY COMMISSIONER RAJ: Do you want to
6 answer that, JoAnn, or do you want me to?

7 DEPUTY COMMISSIONER WARD: It's fine for
8 you to answer. I think I just want to clarify.
9 Mediation is actually separate than law enforcement,
10 but Sapna intimately knows the process so I think
11 (INAUDIBLE)

12 DEPUTY COMMISSIONER RAJ: I could just
13 talk about how, I will say in the beginning to start
14 that our mediation process has received I would say
15 5-star reviews. People have been amazingly impressed
16 by how well our one mediator has handled mediations
17 that have been referred to her. The Law Enforcement
18 Bureau refers cases where both parties are
19 represented and we think that a mediation would be a
20 process than either investigating the case further in
21 our assessment or whether it goes to OATH.

22 CHAIRPERSON WILLIAMS: Okay. In reference
23 to what you just said, how do you prefer mediation as
24 an outcome of a complaint? When you receive a
25 complaint, how do you determine which complaints

2 should seek mediation, how is it prioritized in the
3 process of a complaint?

4 DEPUTY COMMISSIONER RAJ: I am going to
5 have Katherine Greenberg, who handles our mediation
6 referrals, to respond to this. Katherine.

7 SPECIAL COUNSEL GREENBERG: Thank you. Our
8 mediation program, we choose cases where we feel
9 there's a lot of investigative work still yet to be
10 done before we'd be ready to reach a determination,
11 where both parties have made compelling allegations
12 and we want to give them an opportunity to try and
13 negotiate a resolution among themselves before the
14 bureau really digs in to gather the evidence we would
15 need to reach a determination. It's typically cases
16 that are early in the process that get referred,
17 where we've served the complaint, gotten a response,
18 and where the parties are interested in trying to
19 resolve the matter with the facilitation of a
20 mediator before we begin an active investigation.

21 CHAIRPERSON WILLIAMS: Okay. Switching
22 gears a little bit, the most common outcome of a
23 complaint is administrative cause where CCHR finds
24 dismissal appropriate due to the inability to locate
25 a complainant, repeated failure of a complainant to

2 appear at meetings, unwillingness to provide
3 information, attend a hearing, and other items. This
4 accounted for 48 percent of closed complaints in
5 fiscal 2021. Why do you think that so many cases are
6 closed under administrative causes?

7 DEPUTY COMMISSIONER RAJ: There are many
8 reasons under administrative closures that we would
9 close a case, not only because we're not able to get
10 in touch with a complainant, but we have completed
11 the investigation and we think that there is not
12 going to be a finding of probable cause. Once we
13 close the case as administratively closed, what we
14 call an AC, the complainant, if they want to come
15 forward, can, of course, appeal that to the Office of
16 the Chair or they can file in state court for another
17 3 years so actually we find that a better
18 determination than finding of no probable cause.

19 CHAIRPERSON WILLIAMS: Okay. Are there any
20 other new challenges in relations to complaints or
21 processing that CCHR has confronted due to the COVID-
22 19 pandemic?

23 DEPUTY COMMISSIONER RAJ: I will say that
24 the number of complaints decreased during the
25 pandemic because of the eviction moratorium, because

2 people were not at work, and also because a lot of
3 the places of public accommodation were closed to the
4 public. We are seeing an increase now that those
5 things have changed and the city is opening up.

6 CHAIRPERSON WILLIAMS: Okay. Staying with
7 the COVID-19 theme, how much discrimination testing
8 has CCHR conducted as a part of its enforcement
9 efforts since the onset of the COVID-19 pandemic?

10 DEPUTY COMMISSIONER RAJ: You mean just
11 the testing itself?

12 CHAIRPERSON WILLIAMS: Yep.

13 DEPUTY COMMISSIONER RAJ: I have that
14 right here. In 2020, we completed 1,422 testing of
15 entities tested. In 2021, we completed 878. I think
16 to date in fiscal year 2022, we have about 400 tests.

17 CHAIRPERSON WILLIAMS: Okay. What about
18 pre-COVID because 2020 was like the COVID year.
19 Everything shut down in March so do you have any
20 numbers from 2019 or 2018 to sort of compare the
21 testing conducted before COVID-19?

22 DEPUTY COMMISSIONER RAJ: I do, and I can
23 actually get that to you, Council Member, but I will
24 say that even though we were in a pandemic, the
25 testing continued on a robust regimen. We did most of

2 our testing. We weren't doing any in-person testing
3 because we weren't sending our testers out into the
4 city to do in-person testing, but we did most of the
5 testing by telephone and online, and we were able to
6 complete quite a number of tests. It kind of reduced
7 a little bit from 2020 to 2021 and also in 2022, but
8 I think we are picking up the pace at this point.

9 CHAIRPERSON WILLIAMS: Okay. I will
10 actually pause there and open it up to my Colleagues
11 for questions in relations to complaints process and
12 results before we ask questions in reference to Intro
13 134.

14 All right. No questions. Okay. Thank you,
15 Deputy Commissioner. We look forward to following up
16 with you to get the numbers and some of the other
17 metrics we asked during this hearing.

18 Now, I will focus my attention to
19 testimony by Deputy Commissioner JoAnn regarding
20 Intro 134. Deputy Commissioner, does CCHR foresee any
21 difficulties in enforcing the amendments found in
22 Intro 134?

23 DEPUTY COMMISSIONER WARD: Hi. Thank you
24 for the question, and thank you all for your time. I
25 think it's always difficult to anticipate exactly

2 what enforcement will look like before a law goes
3 into effect, the transition from paper to practice,
4 and in Intro 134, before this amendment, we were
5 gearing up to start enforcing Local Law 32, and a
6 major component of that work, right, is letting
7 people know about the change in the law so education
8 is the first step to realizing our ultimate goal of
9 compliance with the Human Rights Law. I think one
10 piece that we see as the Commission that is very
11 helpful in terms of both outreach and education and
12 enforcement is clarity in the law and consistency of
13 who is covered by our law, be it in the employment
14 context, in housing, or in public accommodations. As
15 I noted in my testimony, the majority of the
16 provisions of our law apply to businesses with 4 or
17 more employees, and we believe it's a strength that
18 there's clarity in the protections that employers
19 have so that is one piece that I will flag between
20 Local Law 32 and Intro 134.

21 The other piece that I would flag is also
22 related to this point on clarity of protections and
23 requirements, relates to what actually employers are
24 required to put in their job advertisements, and
25 that, if you look at the text of the Local Law 32 and

2 our fact sheet, and, as I said in the testimony as
3 well, we define salary to be the base rate of pay or
4 the base wage regardless of the frequency of that
5 payment. Intro 134, I think, adds in some new
6 language that appears to go further in terms of what
7 is required for employers to include by referencing
8 compensation, which if we look to federal law and
9 other state law, compensation is more comprehensive
10 than salary and can include bonuses, tips, stocks,
11 and many other factors so I think in terms of
12 enforcement we would like to ensure clarity in what
13 is required by City Council for employers, but I will
14 turn it over to my Colleague, Katherine Greenberg, to
15 see if she has anything to add.

16 SPECIAL COUNSEL GREENBERG: No. No, thank
17 you.

18 CHAIRPERSON WILLIAMS: Okay. As a followup
19 to what you just said, and I know there's been a lot
20 of conversation around the number of employees, are
21 you aware of the city's administrative code and its
22 definition around microbusinesses?

23 DEPUTY COMMISSIONER WARD:

24 Microbusinesses, it's either 19 or 15 or more, so,
25

2 yes, I'm aware of it, but I have not read it
3 recently.

4 CHAIRPERSON WILLIAMS: Okay, because I
5 think a part of the intentions around the bill is to
6 have a special carve-out for small businesses and
7 there are definitions in different parts of the law,
8 of course not in your law, that sort of defines the
9 number of employees based off of their makeup as a
10 microbusiness or a small business, so just wondering
11 if you all thought through that. Okay, so how will
12 CCHR use the 6-month extension of the efficacy date
13 to make changes and conduct outreach to ensure
14 compliance? Can you unmute Deputy Commissioner JoAnn,
15 please? Thank you.

16 DEPUTY COMMISSIONER WARD: I look forward
17 to these hearings being in person. In terms of
18 thinking through enforcement, and I think I
19 referenced this a little bit already, the Commission
20 is always, as Deputy Commissioner Raj indicated,
21 interested in a cooperative approach and in fostering
22 compliance so we work very closely, we have a
23 Community Relations Bureau, which actually has an
24 office in each of the 5 boroughs, and works with
25 Chambers of Commerce and BIDs on a regular basis to

2 literally pound the pavement in communities and to do
3 business corridor outreach, and that's something that
4 we would certainly leverage between this point in
5 time and either the May effective date or, if there's
6 an amendment enacted, then into the November date so
7 we will be in communities spreading the word.

8 Obviously, we have a fact sheet that can disseminate,
9 but we also will include information on this law in
10 all the trainings and outreach that we do, which is a
11 mandate of the Community Relations Bureau. I think I
12 alluded to this in my testimony, but last year in
13 August and September when Key to NYC, the city's
14 vaccine mandate, was put into place, our Commission
15 was called upon to help small business owners
16 understand their obligations and how to comply with
17 Key to NYC. We worked very closely with Small
18 Business Services, with the Mayor's Office of
19 Nightlife, with DCWP, and with other community
20 partners to spread the word, and that's exactly what
21 we would do for this protection as well.

22 CHAIRPERSON WILLIAMS: Okay. I know in the
23 budget testimony, I think for me what came out of it
24 is the fact that CCHR is severely under-resourced,
25 right, that's like a fact. Maybe you all can't say

2 that. I know you all have to work with OMB, but it is
3 clear that CCHR could use more resources, and so just
4 wanting to understand sort of how you'll allocate
5 resources to conduct outreach because I know outreach
6 has been a concern in regards to what you said, the
7 fact that the lovely Council that I'm now a part of
8 has amended your law 38 times and each time that the
9 law is amended, of course, we then instruct the
10 agency to do all of this work but don't necessarily
11 attach all of our amendments to resources for you to
12 actually do the work to the highest quality so just
13 wanting to understand with the PEG, with such budget
14 constraints that you are already under, how you
15 envision sort of shifting resources to accommodate
16 both outreach and enforcement of the existing law?

17 DEPUTY COMMISSIONER WARD: Thank you. It's
18 a great question, and I think I have to start by
19 echoing what Sapna said which is that we would always
20 welcome more resources as an agency, and we are a
21 small agency and there have been many amendments to
22 our law, but I think we are very proud of the fact
23 that with each of these amendments, we have been able
24 to either pivot in the short term in our policy work,
25 for example, to ensure that we are focused on getting

2 the word out, to use our communications team to
3 ensure that we are getting the word out in as many
4 languages as possible to as many both employers and
5 potential employees as possible, and so we welcome
6 support, but we are confident that with the staff and
7 the resources that we have we will be able to get the
8 word out effectively, and that's because we're able
9 to leverage community partnerships and sibling
10 agencies and City Council with whom we partner a lot
11 in doing outreach and education and outreach so thank
12 you all for the work you do with us.

13 CHAIRPERSON WILLIAMS: Before I ask my
14 next question, I just wanted to acknowledge Council
15 Members Krishna and Louis who have joined us today.

16 Did the Commission interpret Local Law 32
17 to apply to jobs that could be performed outside of
18 New York City? Can you unmute Deputy Commissioner...

19 DEPUTY COMMISSIONER WARD: There's just a
20 slight delay. We talked a little bit about the
21 importance of consistency and clarity in protections,
22 and that same theme applies to the application of our
23 law in the employment context so the general way that
24 our law has been approached is really a single
25 unified understanding that our law applies where the

1 impact of discrimination is felt. In this context, if
2 a job would be undertaken in whole or in part in New
3 York, and that is known at the time of the posting,
4 then an employer would need to comply with the Human
5 Rights Law.
6

7 CHAIRPERSON WILLIAMS: Okay. Did the
8 Commission interpret Local Law 32 to apply to general
9 notices that an employer is hiring such as a help
10 wanted sign? If not, does CCHR find the clarification
11 in Intro 134 to be helpful?

12 DEPUTY COMMISSIONER WARD: Thank you. A
13 written advertisement is defined in our fact sheet,
14 our interpretation of Local Law 32, to date to say
15 that when you are posting and there are known
16 positions, you would be required as an employer if
17 you fall within the covered set of employers to
18 include a salary range, and that would include a help
19 wanted poster. In response to the second question, I
20 am a bit concerned that the carve-out, which I
21 understand conceptually, has the potential to swallow
22 the rule so there's the potential that an employer
23 can just have an open we will be hiring or we are
24 hiring and they might know the salary range but they
25 can use the potential carve-out to evade having to

2 include a salary range, but we would be keen to talk
3 to City Council and the stakeholders on this call and
4 elsewhere to think about how do we ensure that we are
5 finding the right balance between the potential
6 burden on employers and covered entities under our
7 law and protecting the rights of New Yorkers to
8 advance pay equity.

9 CHAIRPERSON WILLIAMS: Okay. I guess in
10 that same vein, do you anticipate that larger
11 employers will use general advertisements to avoid
12 compliance with the law?

13 DEPUTY COMMISSIONER WARD: I think I
14 generally operate from a position of good faith, and
15 I see, as we've seen these types of law pass in other
16 jurisdictions, we've seen general compliance, and I
17 would hope that for all the reasons people support
18 pay transparency and leveling the playing fields that
19 employers who may even be covered by the law in other
20 jurisdictions would do their best and as the law
21 requires put in a good faith effort to include the
22 knowledge that they have about their ability to pay
23 potential employees in job advertisements so I will
24 go with I'm hoping for the best and we are prepared

2 in the event that folks are not working in good
3 faith. Thank you.

4 CHAIRPERSON WILLIAMS: Got it. The fact
5 sheet that you mentioned, is that the official
6 guidance that CCHR has put out? I know there is
7 something online. If so, what informed the guidance?

8 DEPUTY COMMISSIONER WARD: Sure. These are
9 great questions. That is our interpretation of Local
10 Law 32. Obviously, is the law is amended along the
11 lines of Intro 134, we would go back to that guidance
12 and update it. That guidance was informed by a few
13 things. One, by a review of our own existing
14 protections and case law, interpretations of our law
15 and how it has been applied by courts as well as
16 conversations with stakeholders which include
17 business groups and include advocates who have been
18 working towards salary transparency, and I mentioned
19 in my testimony that we have been working with
20 sibling agencies on pay equity for several years and
21 many of those actors are people that we consult with
22 on a regular basis. I should flag that we are also
23 always open to feedback. That's from now until any
24 effective date and after the effective date, right?
25 Our goal is always for our materials to be clear and

2 helpful and informed by what's happening in practice
3 as well as in the legal system.

4 CHAIRPERSON WILLIAMS: Thank you. I will
5 pause again to open it up for questions from any of
6 my Colleagues who are currently on the hearing.

7 JAYASRI GANAPATHY, MODERATOR: Chair, we
8 don't see any hands raised.

9 Actually, I see we have Council Member
10 Joseph has her hand raised. Council Member Joseph.

11 COUNCIL MEMBER JOSEPH: Hi. Good morning,
12 everyone. Good morning, Chair. Thank you for this
13 very important conversation. Thank you, everyone.

14 I just wanted to ask a quick question
15 concerning businesses. How would it impact businesses
16 that are already small businesses, how would it
17 impact it, and how do we support them especially
18 coming back from COVID? No? You guys can hear me,
19 yes? Okay.

20 DEPUTY COMMISSIONER WARD: Yes. We can
21 hear you. It takes me a minute to catch up and unmute
22 myself.

23 COUNCIL MEMBER JOSEPH: No worries.

24 DEPUTY COMMISSIONER WARD: I think, as I
25 mentioned in my testimony, many provisions of our law

2 already apply to small businesses, and we are well
3 aware that this is a new requirement, and our focus
4 in the coming months, and that's including after the
5 law goes into effect, right, we don't do education
6 and then have enforcement. Education is an ongoing
7 part of our mandate so we will be consistently
8 working with small business owners, Chambers of
9 Commerce, and BIDs to explain what the law means, and
10 we understand that we are asking, our City Council
11 and this legislation is asking small businesses to
12 add something to job advertisements. I think often
13 employers have a sense of the universe in which they
14 are able to afford employees, and this law's really
15 asking them to share that information. As we
16 discussed previously, it's about a good faith salary
17 range so it's at the time of posting what do you
18 think you're able to pay. It doesn't prohibit
19 employers from being able to offer something
20 different if they find a candidate that they think is
21 fantastic and is more qualified than they ever
22 imagined or if their financial circumstances change
23 that the ultimate amount that is paid is less than
24 what's in the range. I think the intent here is
25 really about leveling the playing field and ensuring

2 that potential employees have a sense of whether it
3 makes sense to move forward applying for a job, is it
4 potentially a good fit, and asking employers to put
5 one of their cards on the table during the hiring
6 process.

7 COUNCIL MEMBER JOSEPH: Okay. Thank you.
8 You said that education comes first, right? You
9 educate the small business owners and then you roll
10 it out and is this also being provided in different
11 languages as well?

12 DEPUTY COMMISSIONER WARD: Okay. Yes, so
13 as a threshold matter we translate our materials, our
14 core materials, into 10 languages at least, but with
15 protections like this we also look at what is the
16 universe of business owners, what are languages that
17 might be helpful, even if it's not required for our
18 agency to publish something in that language, how are
19 we going to reach the most people, and a huge asset
20 on our staff is not only that we do written materials
21 in a range of languages but we have staff on our
22 Community Relations Team that speak more than 20
23 languages and Lead Advisors, Lead Liaisons across the
24 city in each borough and with relationships in a
25 variety of communities so we will leverage that

2 humongous asset in our outreach. Our trainings are
3 also done in multiple languages so it's speaking,
4 writing, and being able to respond to inquiries that
5 we receive in the languages that are accessible to
6 the New Yorkers that need to know information on the
7 Human Rights Law.

8 COUNCIL MEMBER JOSEPH: Wonderful. Thank
9 you so much. Thank you, Chair.

10 JAYASRI GANAPATHY, MODERATOR: Thank you,
11 Council Member Joseph. We have Council Member
12 Brewer's hand raised. Council Member Brewer, if you'd
13 like to go ahead.

14 COUNCIL MEMBER BREWER: Thank you very
15 much. I've tried to listen. There's a lot going on in
16 the office right now, but I tried to listen. As it
17 is, it's a good law that Helen Rosenthal passed, and
18 I think there are people who think it should stay the
19 same and then there are people who think that Intro
20 134 should be instituted. My question to you, I get
21 you're not taking a position, what you're stating is
22 that you're going to enforce whatever law comes
23 along. I think that's really what you're saying. My
24 question is do you have any opinion on this? What's
25 going on guys? Do you have any opinion on this or is

1 there (INAUDIBLE) complicated these things can be so
2 my question is when you answered the question about
3 New York versus not New York in terms of many of
4 these companies go, as you know, nationally not to
5 mention internationally, and also the size of
6 (INAUDIBLE) what is your experience about whether
7 this law should or should not, this Intro should or
8 should not be passed? Do you have an opinion?

10 DEPUTY COMMISSIONER WARD: There are many
11 different pieces of it, which influence my answer to
12 that question. I think in terms of the effective date
13 and what we've been hearing from folks on this call,
14 we are very open to ensuring, again, our goal is
15 compliance with the laws that we enforce, and as an
16 agency we are committed to continuing expansive
17 protections for all employees in New York so I think
18 the law that gets human rights protections to the
19 most people possible while also recognizing there's a
20 balance of employer needs and actions that we're
21 asking businesses to take or that this law will ask
22 businesses to take is something that requires ongoing
23 conversation. I stated, I think before, Council Woman
24 Brewer, that we see a value in clarity and
25 consistency so ensuring that the provisions of our

2 law to the extent possible apply equitably to
3 businesses and then that can be known in a fairly
4 concise and clear way to sophisticated businesses,
5 unsophisticated businesses, and everyday New Yorkers
6 who will benefit ideally from the protection of this
7 law.

8 COUNCIL MEMBER BREWER: Understandably, I
9 understand what you're saying. It's not, you're doing
10 what I said, which is you're going to enforce, I'm
11 sure equitably because the Commission's always done
12 that, but not taking a position. Can you just clarify
13 one more time how you handle, because this is the
14 issue with all of your challenges, those businesses
15 that have borders beyond the city of New York, how do
16 you handle something like that as so many of them do?

17 DEPUTY COMMISSIONER WARD: Sure. I did
18 want to clarify that the one piece where I think we
19 have a strong position is having clarity in the
20 drafting on what employers are required to include in
21 the job postings and so the current Intro 134
22 includes legally defined terms that are compensation
23 and salary and so clarifying what the intent of City
24 Council is and obviously we work with the Law
25 Department and City Council and other stakeholders

2 between this hearing and the eventual discussion of
3 what law is passed, but those are pieces that I just
4 wanted to flag.

5 I think my Colleague, Katherine
6 Greenberg, I'm going to pivot to you on the question
7 of looking at employers that are in multiple
8 jurisdictions.

9 SPECIAL COUNSEL GREENBERG: Yes, of
10 course. The focus of our law in terms of where it
11 applies has to do with the specific job itself
12 because, as Deputy Commissioner Ward had said before,
13 it's where the impact of the discrimination is, and
14 so that's typically going to be where the work is
15 being performed so an employer who has a brick and
16 mortar location in the 5 boroughs and that's where
17 their employees work, they are covered by the law and
18 all of their employees who work at their brick and
19 mortar location have the protections of the law. For
20 an employer who's based outside of New York City, it
21 would only be employees who are performing work
22 within the 5 boroughs, only those positions, that
23 would come under the New York City Human Rights Law.

24 COUNCIL MEMBER BREWER: I assume
25 (INAUDIBLE) days is the same thing. I assume you have

2 a definition because you can work here and
3 Connecticut and Australia, but I assume you have a
4 definition that precedes (INAUDIBLE) correct?

5 SPECIAL COUNSEL GREENBERG: Yes, Council
6 Member. That definition is uniform across the entire
7 city Human Rights Law and for housing providers and
8 public accommodations as well, but this is a
9 definition that's understood by employers, by their
10 counsel, by business groups so that they can have a
11 consistent understanding of which provisions of the
12 law would apply to them.

13 COUNCIL MEMBER BREWER: I'm still a little
14 confused, Madam Chair, but I'll yield to somebody
15 else. To be honest with you.

16 JAYASRI GANAPATHY, MODERATOR: Thank you,
17 Council Member Brewer. We have Council Member Farias
18 with her questions.

19 COUNCIL MEMBER FARIAS: Hi. Good morning,
20 everyone. Thank you for testifying. I just wanted to
21 ask a followup, clarity question around remote work
22 and hybrid work. What we've seen post-pandemic or
23 throughout the pandemic is employers have had to
24 adapt and their employees have had to shift quite a
25 bit to either keep their jobs or the level of hours

2 that they need to make the wages that they're given.
3 How is that under the law right now in terms of
4 remote and hybrid work?

5 DEPUTY COMMISSIONER WARD: I'm actually
6 going to turn this one back over to Katherine because
7 I think it's a continuation of the point that she was
8 just making.

9 COUNCIL MEMBER FARIAS: Thank you.

10 SPECIAL COUNSEL GREENBERG: Thank you very
11 much, and thank you for the question. It's an
12 excellent question that we've been hearing a lot of
13 as the way people work evolves. Currently, the city's
14 Human Rights Law, all of the employment protections
15 apply to people who are performing their jobs in New
16 York City, whether they're working in an office,
17 working in the field doing sales, or whether they're
18 working from their home remotely so in this context,
19 and all of the city's Human Rights Law's protections
20 that apply to hiring, if the employer is going to be
21 hiring somebody who works from New York City,
22 including working remotely, then the protections of
23 the law would apply to that person and the
24 requirements of the law would apply to the employer
25 so if an employer is going to be posting a job that

2 can be performed remotely from New York City, they
3 would be expected to comply with our law as is the
4 case with many other laws across the country.

5 COUNCIL MEMBER FARIAS: Okay. Great. Thank
6 you for that clarification.

7 JAYASRI GANAPATHY, MODERATOR: Thank you,
8 Council Member. Chair Williams, I don't see any other
9 hands raised if you'd like to go ahead.

10 CHAIRPERSON WILLIAMS: I just have one
11 more question because we didn't talk about the fines,
12 which I think is really high for a very small
13 business, and so just wanted to know your thoughts on
14 the fines and whether or not it be appropriate to
15 potentially create a cap for small businesses around
16 the fines. Again, we've had a lot of conversations
17 about the number of employees and I understand
18 exactly what you mean in terms of previous laws on
19 the threshold that you all had to use and so just
20 wondering what your thoughts are on the fines.
21 Because you said something that I thought was
22 interesting about a delicate dance and making sure
23 that, of course, we're not being over punitive but at
24 the same time wanting to protect workers.

2 DEPUTY COMMISSIONER WARD: Sure. I will
3 just give a brief response and then I'll turn it over
4 to the experts on enforcement, which are Deputy
5 Commissioner Raj and Special Counsel Greenberg. I
6 want to underscore here, first off, that we are not
7 an agency that walks around looking for violations or
8 issues, really fines alone. I think Sapna Raj talked
9 through the approach that we take, and there are many
10 tools in our toolbox before we get to the step of
11 fines and fees, and one of those is just letting
12 business owners know if a potential violation comes
13 to our attention what the requirements of our law are
14 and providing for a cure period through something
15 called a cease-and-desist letter so I think in many
16 instances that would be an approach that we would
17 take, but there's a number of factors that we have
18 used in looking at enforcement for the employment
19 protections I've already mentioned so I'll turn it
20 over to Sapna to respond more fulsomely.

21 DEPUTY COMMISSIONER RAJ: Thank you,
22 JoAnn. I think one thing you should remember is that
23 the fines that we're talking about, the 250,000
24 dollars, is a maximum. It's very rare that we have
25 imposed that. I would say that the times that I

2 remember that we've imposed that large of a fine was
3 in the settlement that we had with Fox News, which
4 was a sexual harassment Commission-initiated matter
5 and we had assessed 250,000 dollars per violation and
6 it was a million dollar settlement. That's extremely
7 rare. The maximum is 250,000. We look at the size and
8 sophistication of the business, we look at the
9 violation as JoAnn said and I have said today. We
10 also look to make sure that policies and practices
11 are changed, and a lot of times we will look at that
12 in order to determine what the fine needs to be, the
13 civil penalties need to be so it isn't a blanket fine
14 of 250,000 dollars. It's up to. It's a ceiling, and
15 it's not a floor.

16 CHAIRPERSON WILLIAMS: Thank you so much,
17 Deputy Commissioners, for your testimony. I look
18 forward to working with you to address these very
19 important concerns for New Yorkers.

20 JAYASRI GANAPATHY, MODERATOR: Chair, we
21 do have a question from Council Member Farias.

22 CHAIRPERSON WILLIAMS: Sure.

23 COUNCIL MEMBER FARIAS: Sorry. Thank you,
24 Chair, for allowing me one more followup. That was a
25 great question. Can I just quickly get the minimum,

2 do we have an estimate of what a minimum of a fine
3 would be for a small business, roughly, if there's an
4 estimation. Then the followup also is do we have a
5 time period for curing for a small business that's
6 typically utilized?

7 DEPUTY COMMISSIONER RAJ: (INAUDIBLE)

8 particular case and not just with this particular
9 legislation, but in all of our protected categories
10 there is no minimum. There are a lot of cases, if you
11 look at our website and our settlements page, you'll
12 see that a lot of cases are settled without a fine.
13 It can be just affirmative relief where the
14 respondent changes their policies and practices, gets
15 training, does postings, maybe they do community
16 work, but we don't always assess a fine. We don't
17 always assess damages either. It all depends on the
18 case, the complexity, what kind of respondent it is,
19 and what the facts are in each case.

20 COUNCIL MEMBER FARIAS: That's great to
21 hear so we're already protecting small businesses as
22 it is in this. Great. Is there like a minimum cure
23 period? Is it like 30 days, 60 days, 90 days, or is
24 this also case by case?

2 DEPUTY COMMISSIONER RAJ: That's also on a
3 case-by-case basis. There isn't necessarily a cure
4 period. We are looking to make sure that the
5 businesses comply with the law, know about the law,
6 and change their policies and practices so there's
7 not always a cure period.

8 COUNCIL MEMBER FARIAS: Awesome. Thank you
9 so much for my followup and today's testimony from
10 all 3 of you.

11 JAYASRI GANAPATHY, MODERATOR: Thank you,
12 Council Member. I will now turn it back over to Chair
13 Williams for any additional questions.

14 CHAIRPERSON WILLIAMS: Nope. We can move
15 to the next panel. Just want to thank the
16 administration again.

17 JAYASRI GANAPATHY, MODERATOR: Thank you.
18 We will now turn to public testimony. I'd like to
19 remind everyone that unlike our typical Council
20 hearings, we will be calling on individuals one-by-
21 one to testify.

22 Each panelist will be given 2 minutes to
23 speak. Please begin once the Sergeant has started the
24 timer.

2 Council Members who have questions for a
3 particular panelist should use the raise hand
4 function in Zoom, and I will call on you after the
5 panelist has completed their testimony. Council
6 Member do have at most 5 minutes for any additional
7 questions.

8 For panelists, once your name is called,
9 a Member of our staff will unmute you and the
10 Sergeant-at-Arms will give you the go ahead to begin
11 on setting the timer. Please wait for the Sergeant to
12 announce that you may begin before delivering your
13 testimony.

14 I would now like to welcome Senator
15 Jessica Ramos to testify. After Senator Ramos, I will
16 be calling on Winston Tokuhisa and then Charisma
17 White to testify. Senator Ramos, you can go ahead
18 when the Sergeant calls time.

19 SERGEANT HOPE: Time starts now.

20 SENATOR JESSICA RAMOS: Buenos dias. My
21 name is Jessica Ramos. I represent Senate District
22 13, which includes Corona, East Elmhurst, Jackson
23 Heights, and parts of Astoria, Elmhurst, and Woodside
24 in Queens. I also Chair the Senate Committee on Labor
25 and, like many of you on the City Council, bring my

2 experience working in service of my neighbors and the
3 labor movement to my position as a legislator.

4 In the labor movement, we know the best
5 answer to the question of guaranteed pay equity is a
6 collective bargaining agreement. Until that time
7 where every worker has the ability to negotiate
8 through a collective voice and on even footing with
9 their employer, we have a role to play as lawmakers
10 to address pay disparity that discriminates based on
11 race, gender, or any class. I don't need to review
12 the horrible statistics that outline the reality of
13 racial and gender-based pay discrimination with you.
14 The City Council acknowledged the importance of pay
15 transparency as a path to closing pay gaps when you
16 passed Local Law 32. You already know how this deeply
17 entrenched issue impacts women of color across
18 sectors.

19 Instead, I testify before you today to
20 share the concerns of the labor movement and raise my
21 own concerns with elements of the recently introduced
22 Intro 134, which on its face effectively weakens the
23 ability of Local Law 32 to meet its goals. I want to
24 thank Council Member Williams for graciously making
25 the time to discuss our shared goals of supporting

2 small businesses and M/WBEs while addressing pay
3 disparity, and I remain open and available to
4 collaborate and ensure the strongest possible outcome
5 is achieved.

6 First, language in Intro 134 defines a
7 small business as one of 15 or fewer employees rather
8 than the threshold of 4 employees codified in the
9 state Human Rights Law. There should be consistency
10 across the city and state, and the threshold that
11 exempts a business from posting their wages should
12 only be permitted to businesses with 4 or fewer
13 employees. Offices with fewer than 15 employees can
14 still be highly profitable and open to practices of
15 pay discrimination. The implied argument with the
16 carve-out for small businesses, however you define
17 them, is that they should have the opportunity to
18 engage...

19 SERGEANT HOPE: Time expired.

20 SENATOR JESSICA RAMOS: In opaque and
21 discriminatory hiring process. Whether you are a
22 microbusiness or a startup, pay discrimination should
23 not be a tool at your disposal to scale your
24 business. This is an implication we must reject and
25

2 instead look to give support to even our smallest
3 businesses with other legislative tools.

4 Second, the exemption for general notices
5 that an employer is hiring without reference to a
6 particular position creates a loophole for companies
7 of all sizes to avoid compliance and transparency. I
8 cannot foresee what the purpose of this exemption
9 would be other than to create a venue for employers
10 of all sizes to attempt to recruit talent without
11 having to disclose the wage they intend to pay. By
12 creating unnecessary ambiguity, this provision is
13 likely to be used by employers to avoid compliance
14 and risks swallowing the entire law.

15 I will close by saying that I carry a
16 complimentary bill to Local Law 32 in the State
17 Senate with my counterpart, Assembly Labor Chair
18 Latoya Joyner. S5598B would mandate that employers
19 disclose compensation or range of compensation upon
20 announcement of a job opportunity and would provide
21 the state Department of Labor with improved
22 enforcement capacity. By enhancing transparency
23 around compensation at the start of the hiring
24 process and limiting the role of employer bias, this
25 bill will empower applicants with critical

2 information, prevent wage discrimination, reduce
3 negative negotiation outcomes, and address systemic
4 gender-based wage disparities that originate during
5 the hiring process.

6 I look forward to our continued
7 partnership as we work at every level of government
8 to ensure that as people return to work after the
9 pandemic they have the ability to earn equal pay for
10 equal work. Thank you for your time.

11 JAYASRI GANAPATHY, MODERATOR: Thank you,
12 Senator Ramos. I would now like to welcome Winston
13 Tokuhisa to testify. After Winston Tokuhisa, we will
14 be calling on Charisma White followed by Kecia Kemp.
15 Winston, you can go ahead when the Sergeant calls
16 time.

17 SERGEANT HOPE: Time starts now.

18 WINSTON TOKUHISA: Ever since I first
19 became homeless in 2006, I've repeatedly been robbed
20 in the very worst way imaginable. Not in the
21 conventional sense with regard to money or property,
22 not to say that it has not happened, but worse still
23 are the best years of my life. It is not lost on me
24 that had the New York City Commission on Human Rights
25 (INAUDIBLE) appropriately I could have saved at least

1 a few. It was only by chance that a City Council
2 Member's office referred to the (INAUDIBLE) training
3 conducted by then Partnership for the Homeless and
4 Neighbors Together. Through them, I learned how to
5 find apartments for voucher, what my rights were, and
6 how the city then could assist me. Little did I know
7 even this knowledge in isolation would not be enough
8 to get me a house. In January 2019, I documented and
9 filed a complaint for my first (INAUDIBLE) experience
10 before being introduced to the CCHR investigator
11 assigned to my case. Previously, I'd heard stories
12 about (INAUDIBLE) scenarios where an intervention
13 took place and voucher holders were placed in the
14 apartment they wanted or a comparable one.
15 Unfortunately, I was not so lucky. While the
16 investigator was encouraging, by June she was no
17 longer with the organization. This change, while
18 seemingly innocuous, marked the beginning of the end.
19 For the subsequent months, (INAUDIBLE) investigator
20 became less and less frequent until they stopped
21 completely. The last I heard, I have some money
22 coming to me as an outcome of a trial, but who can
23 say. It's unfortunate that this (INAUDIBLE) gives
24 hope to the hopeless but then (INAUDIBLE). As
25

2 (INAUDIBLE) said, (INAUDIBLE) it's more like Uno. For
3 far too long, the most vulnerable of your neighbors,
4 such as myself, have gotten a raw deal. I hope you'll
5 take it upon yourselves to make it right by ensuring
6 no less than 1 million dollars is allocated to fund
7 the New York City Commission on Human Rights Source
8 of Income (INAUDIBLE) Unit. Thank you.

9 JAYASRI GANAPATHY, MODERATOR: Thank you,
10 Winston. I would like to now welcome Charisma White
11 to testify. After Charisma White, I will be calling
12 on Kecia Kemp followed by Francilia (phonetic)
13 Wilkins. Charisma, you can go ahead when the Sergeant
14 calls time.

15 SERGEANT HOPE: Time starts now.

16 CHARISMA WHITE: Hello. My name is
17 Charisma White. I am an advocate for homeless New
18 Yorkers throughout the 5 boroughs. It took me around
19 3 years to get a lawyer from the CCHR. The process
20 was of income discrimination against me and help me
21 get the apartment that I am in now. During those 3
22 years, I was homeless. My landlord is currently
23 trying to evict me with a family of 3. I'm in the
24 process of looking for a new place to live, and it's
25 taken me over a year to find a new apartment. I'm

2 working the CCHR, but they are not responding fast
3 enough for me to find a new home for my family and
4 me. When the Commission does not respond in a timely
5 manner, it leaves people like me homeless. The only
6 lawyer in the SID unit that I have been working with
7 to try and help me get housed is leaving Friday, that
8 was last Friday. If I don't have a mediator from the
9 CCHR to help me get a viewing with landlords that
10 don't respond to me, I'm left with nothing. It is
11 critical that the Source of Income Discrimination
12 unit at CCHR gets its funding it needs. In fiscal
13 year 2023, CCHR...

14 SERGEANT HOPE: Time expired.

15 CHARISMA WHITE: Should be funded at a
16 baseline of 1 million dollars to meet this critical
17 need. Thank you for your time.

18 JAYASRI GANAPATHY, MODERATOR: Thank you.

19 As a reminder, if any Council Members have questions,
20 you can use the Zoom raise hand function.

21 I would like to now welcome Kecia Kemp to
22 testify. After Kecia Kemp, we will be calling on
23 Francilia Wilkins followed by Frank Curbine
24 (phonetic). Kecia, you can go ahead when the Sergeant
25 calls time.

2 SERGEANT HOPE: Time starts now.

3 KECIA KEMP: Hello. My name is Kecia Kemp.

4 I was in possession of a CityFHEPS voucher while I
5 was in NYCHA apartment in Brooklyn, New York. The
6 landlords were not accepting my voucher. I reached
7 out to CCHR, and I heard back from them roughly 90
8 days later. This is unacceptable. In my experience,
9 the city agency completely dropped the ball. I
10 currently am in a shelter and need the advocacy of
11 the CCHR to help me to get into a stable and safe
12 housing. How is it possible that I have to wait for
13 months for a callback from CCHR? With CCHR's help, I
14 could get out of the shelter system. I need CCHR to
15 respond to my calls promptly to get out of the
16 shelter system. We have to do what is right and get
17 more funding for CCHR. In the fiscal year 2023, CCHR
18 should be funded at a baseline of 1 million. I would
19 appreciate whatever advocacy you can provide for all
20 services rendered and needed and necessary for this
21 time of need. It's not just for myself. It's for all
22 those who are in the same sort of situation that
23 myself is in. Thank you.

24 CHAIRPERSON WILLIAMS: Thank you for your
25 testimony, and, yes, I will assure you that I have

2 been advocating to increase the funding to ensure
3 that the Source of Income unit can properly enforce
4 and help New Yorkers who are facing voucher
5 discrimination. Thank you so much for your testimony.

6 KECIA KEMP: Thank you.

7 JAYASRI GANAPATHY, MODERATOR: Thank you.

8 I do not see Francilia Wilkins or Frank Curbine in
9 our panelists. The next witness we will call will be
10 Kathy Wylde. Following Kathy Wylde, we will be
11 calling on Margaret Price and then Andrea Johnson.
12 Kathy, you can go ahead when the Sergeant calls time.

13 SERGEANT HOPE: Time starts now.

14 KATHRYN WYLDE: Thank you. I'm joining
15 with the 5 borough Chambers of Commerce and many
16 other representatives of both small business and
17 large business to express our thanks to the Council
18 for being willing to consider our comments, which we
19 were not able to make during the original
20 consideration of Local Law 32 because there just
21 wasn't the opportunity. I think that the key to this
22 to understanding the importance of the amendments,
23 which we support, is to understand the conditions
24 both post-pandemic and in general in New York City
25 for small business at this time and also for our

2 global nature of our city's workforce, which means
3 that we have jobs here in New York City that are very
4 important to protect pay parity equity, but we also
5 have positions that are in other jurisdictions around
6 the world and the clarity that businesses are looking
7 for (INAUDIBLE) make sure that we're...

8 CHAIRPERSON WILLIAMS: I think everybody
9 was unmuted so we need to mute everybody back. Okay.

10 KATHRYN WYLDE: As you know, small
11 business, particularly, lost a lot during the
12 pandemic. We also have very restrictive immigration
13 policies, part of them because of the COVID-19, part
14 of them because of the national policies that cut
15 back on international availability of talent. Today,
16 we have 200,000+ job opening postings every day in
17 the city so we have a very tight talent market, and
18 employers generally are anxious to support pay equity
19 laws, but we think that the time to inform businesses
20 of this law, and also this law applies to nonprofits,
21 the time to inform just isn't there and to educate
22 them on compliance. It's also important to note in
23 terms of the burden on small businesses that
24 enforcement of these laws under the Human Rights Law
25 are complaint-driven...

2 SERGEANT HOPE: Time expired.

3 KATHRYN WYLDE: And are subject to private
4 rights of action and that this involves expenses that
5 small businesses are not accustomed to. We've found
6 that businesses with under 15 employees, many of
7 them, in fact a large majority of them, are a
8 combination of immigrant and M/WBE businesses so
9 those businesses in particular, it takes time to
10 reach out for them so we particularly appreciate the
11 pushback in the effective date of this Local Law so
12 there's time to educate them, and we're also looking
13 for the opportunity for employers to be able to
14 participate in making this law work because it's in
15 all of our interests to have an effective law. Thank
16 you for this opportunity and for the consideration
17 that you're providing.

18 JAYASRI GANAPATHY, MODERATOR: Thank you,
19 Kathy. Chair, it looks like we do have questions from
20 Council Member Brewer followed by Council Member
21 Farias. Council Member Brewer, if you'd like to go
22 ahead.

23 SERGEANT HOPE: Time starts now.

24 COUNCIL MEMBER BREWER: Thank you very
25 much. My question is what specifically in the

2 proposed Intro do you think would be helpful for
3 clarity? What specifics? Is it the 15? Is it the
4 international? What is it that you think would help
5 clarify the situation?

6 KATHRYN WYLDE: Number one, push back the
7 date so that employers have time, especially, this is
8 small employers, nonprofit and business, education.
9 For big employers who follow these things and have
10 law firms that follow them, it's more an issue of
11 being able to figure out how they're going to
12 communicate to their current employees what they're
13 doing, how they're going to reevaluate what their
14 salary ranges are, and they just need time to make
15 sure that what they're doing in terms of their New
16 York City employees, how that applies to their global
17 situation and how their existing workforce sees these
18 new job postings so that's number one.

19 Then, I think that the other important
20 thing is the clarification with regard to that this
21 applies to New York City jobs, whether they're remote
22 or, the job definition is somebody can be working
23 from home but they're still working in a New York
24 City job, and I think that that was not clear in the
25 original legislation. I think the Human Rights

2 Commission has attempted to make that more clear, but
3 that's very important to us.

4 COUNCIL MEMBER BREWER: Thank you.

5 JAYASRI GANAPATHY, MODERATOR: Thank you,
6 Council Member Brewer. Council Member Farias, you can
7 go ahead.

8 SERGEANT HOPE: Time starts now.

9 COUNCIL MEMBER FARIAS: Thank you. I just
10 have some clarifying questions around the testimony
11 or the memorandum you sent around earlier. I
12 understand the date and push back. I agree in order
13 to give folks time to kind of get accommodated and
14 actually present how the equitable salary ranges they
15 would like to pay black and brown people and
16 communities or low-wage workers, we should allow them
17 time to do that, but do we feel like a competitive
18 market isn't good for small businesses in terms of,
19 hearing your testimony, we have like unprecedented
20 competition for qualified black and brown folks...

21 KATHRYN WYLDE: The point of that... Council
22 Member, the point of that both on the talent shortage
23 that we have in the city right now with a lot of jobs
24 that are not filled because we haven't focused enough
25 on upscaling our own people and we've cut off

2 international immigration and so global talent is not
3 flowing into the city as it has under more generous
4 immigration policy. We've got that set of issues that
5 employers are facing right now. With regard to
6 diversity, which has become an important value, and
7 this is with the large employers I'm talking about,
8 there is really a premium in certain jobs that you
9 want to pay to get more senior people of color so
10 it's not necessarily going to fall within the same
11 job category. It's not been clear to us whether
12 someone who doesn't apply for a job and then you end
13 up with the maximum salary of that job being more
14 than what was advertised, is there litigation
15 potential there, where an employer can be sued
16 because they pay more a candidate? For example, a
17 hospital that has to recruit somebody from out of
18 state and pay more to get a licensed professional
19 because they've got a shortage of talent for a
20 diversity candidate that an employer is going to pay
21 more to because they're trying to meet their DEI
22 values so that's a question because New York is a
23 very litigious place. Anything you do in terms of
24 adding new provisions to the Human Rights Commission,
25 all this stuff is complaint-driven, that's

2 enforcement in this area so this is an invitation to
3 lawsuits, and that's the concern that both and large
4 and small business have.

5 COUNCIL MEMBER FARIAS: For me, as a Afro-
6 Latina, a woman of color, a young person in
7 workforce, both who has worked in the nonprofit
8 sector, both in city government and now as someone as
9 a boss or employer in some facet for a team of
10 people, I think we are losing people because we're
11 not paying black and brown people, immigrant people,
12 women, young people, the salaries that they deserve.
13 I personally over years of interviewing for a lot of
14 different sectors or a lot of different titles have
15 wasted my time going through multiple interviews and
16 reaching to the endpoint where the salary range was
17 not suitable for my value and my experience and so I
18 can't fully understand how we have an issue here
19 where we should be protecting workers and ensuring
20 that people in our communities can actually apply for
21 the jobs that they're qualified for. I think we're
22 looking at outsourcing jobs because the people that
23 we have in our neighborhoods are refusing to work for
24 the places for low-wage work that isn't of the same
25 value that they are willing to offer. Personally, and

1 I'll let you speak, I just want to wrap this thought
2 up, company culture matters. If you're creating an
3 environment that's welcoming and that's open and
4 that's willing to pay people for their value and
5 their skillset and experience, I believe that they
6 will work for your employment or for your company
7 even if it's maybe a little bit less than what
8 they're willing to do because they feel welcome and
9 they feel like it's an environment where they want to
10 work and be able to thrive in so, for me, salary
11 ranges, I'm just having a very difficult time
12 understanding why we are hyperfocused on 15 or less
13 employers, the people that are actually supposed to
14 be employing the people in my community to make sure
15 that they can actually stay here when we're fighting
16 gentrification, when we're looking at recovery, when
17 we're fighting for higher wages, we have folks in
18 sectors right now that are asking to increase our
19 minimum wage and here we are fighting to balance out
20 the field and be able to not have people waste their
21 time...

23 SERGEANT HOPE: Time expired.

24

25

2 COUNCIL MEMBER FARIAS: Interviewing for
3 businesses that do not want to pay them the salary
4 range that they deserve.

5 KATHRYN WYLDE: I agree with you on all
6 those points. I don't think the law addresses those
7 points. I think if you were consulting with employers
8 on how to frame a law that addresses those points, it
9 would be one that actually measured results, not one
10 that was simply putting a salary range in a job
11 posting. That doesn't guarantee anybody anything.

12 COUNCIL MEMBER FARIAS: We can agree to
13 disagree right there. I don't have any more time
14 left. Thank you, Chair, for letting me go over.

15 JAYASRI GANAPATHY, MODERATOR: Thank you,
16 Council Member. Seeing no other questions, I would
17 like to now invite Margaret Price followed by Andrea
18 Johnson and then Merble Reagon. Margaret, you can go
19 ahead when the Sergeant calls time.

20 SERGEANT HOPE: Time starts now.

21 MARGARET PRICE: Thank you very much for
22 allowing me to speak. I am author of the book Single
23 Women and Money published by Rowman and Littlefield.
24 I'm also co-chair of Manhattan's Community Board 8
25 Women and Families Committee. At our Women and

2 Families Committee meeting March 30th, the Committee
3 overwhelmingly passed a resolution strongly opposing
4 the proposed Intro 134 which would diminish the value
5 of the upcoming salary transparency law. Women in New
6 York state are paid a median 86 cents for every
7 dollar a man typically earns. The salary transparency
8 law takes a significant step toward closing this
9 harmful, discriminatory wage gap. That the City
10 Council would even consider diminishing a law that
11 would help end wage discrimination is unfortunate.
12 Moreover, the City Council should not be considering
13 legislation that would bar employees in smaller
14 businesses from the worker protections available to
15 employees in larger businesses. We also believe that
16 New York's employers by now should be well-prepared
17 to comply with the salary transparency law by May
18 15th. Thus CB8's Women and Families Committee
19 strongly opposes the amendment 134, and we urge the
20 City Council to oppose it as well. Thank you very
21 much.

22 CHAIRPERSON WILLIAMS: I just want to
23 state that I don't think that this bill intends to
24 erase salary equity. I understand what the concerns
25 are and have spoken offline before this hearing and

2 really are listening to all of the things that are
3 being brought up today, but I think we need to be
4 careful about using certain language that is not
5 really intended with the bill or even baked in some
6 of the changes. I just wanted to note that.

7 MARGARET PRICE: Am I allowed to respond?

8 CHAIRPERSON WILLIAMS: If you want.

9 MARGARET PRICE: We believe that any
10 diminishing of the salary transparency law would be
11 most unfortunate, especially for the thousands and
12 thousands of the workers in small businesses who
13 would not therefore be able to benefit from the law
14 that you so smartly passed back in December.

15 CHAIRPERSON WILLIAMS: First of all, I
16 wasn't in the Council then, but I understand what
17 you're saying and I thank you very much for your
18 testimony.

19 MARGARET PRICE: Thank you.

20 JAYASRI GANAPATHY, MODERATOR: Thank you.
21 I would like to now call Andrea Johnson followed by
22 Merble Reagon followed by Julia Elmaleh-Sachs.
23 Andrea, you can go ahead when the Sergeant calls
24 time.

25 SERGEANT HOPE: Time starts now.

2 ANDREA JOHNSON: Thank you. Andrea Johnson
3 with the National Women's Law Center, and I'm here to
4 express our concerns with Intro 134. The Law Center
5 has been working for a decade with elected officials
6 across the country to pass laws that will help close
7 gender and racial wage gaps. We're seeing right now
8 that salary range transparency is a top policy
9 priority and a trend that we're seeing really sweep
10 the country because research shows time and again
11 that providing applicants the salary range for
12 position helps narrow gender wage gaps. There is a
13 direct correlation there. It narrows those gender
14 wage gaps that otherwise can arise in negotiation. In
15 just the last year, we've seen 4 states, Washington,
16 Rhode Island, Connecticut, and Nevada, pass laws
17 requiring employers to provide job applicants a
18 salary range for position at some point in the hiring
19 process. We're also seeing more and more businesses,
20 small and large alike, voluntarily implement salary
21 range transparency, not only because it helps
22 employers avoid wage gaps and litigation but because
23 small businesses have told us it helps them more
24 efficiently and effectively find and match with
25 interested candidates and avoid wasting time

2 interviewing people who aren't interested. Indeed, a
3 recent study found that the number of job postings
4 that include salary ranges has been on the rise this
5 year given the increasingly tight labor market.
6 Colorado's salary range posting requirement like New
7 York City's applies to all size employers, understand
8 that your original law applies to those with 4 or
9 more employees, but Colorado's law applied to all
10 employers because this information is important no
11 matter where you work and it is a simple measure to
12 implement. Employers know from their own budgeting
13 what they are generally able to offer for a position.
14 This just says be transparent about that. Thank you
15 for your consideration of my testimony, and I'm happy
16 to answer questions.

17 JAYASRI GANAPATHY, MODERATOR: Thank you,
18 Andrea. Seeing no questions, I will now call on
19 Merble Reagon followed by Julia Elmaleh-Sachs and
20 then Amelia Adams. Merble, you can go ahead when the
21 Sergeant calls time.

22 SERGEANT HOPE: Time starts now.

23 MERBLE REAGON: Good morning. My name is
24 Merble Reagon. I have worked along with many others
25 for 50 years to help more than 25,000 New York City

2 women and working families to prepare for better
3 jobs, college, and business ownership. Yet, this is
4 our reality today. It will be in my written
5 testimony. I am here because of these and other
6 statistics on behalf of women, people of color, and
7 all those who work hard every day to make New York
8 City a great place to live and work for all of us.
9 The proposed amendment, Intro 134, may seem like
10 small and innocuous corrections. Please don't believe
11 it. Read it carefully, and you will see that it has
12 real potential to water the original bill down to
13 almost nothing. It actually provides gigantic
14 loopholes that some employers will indeed use to
15 completely circumvent the intent of New York City's
16 salary transparency bill. Please stay on the side of
17 New York City workers as together we take further
18 steps toward pay equity and transparency. Please take
19 the time to decide what amendments or clarifications
20 if needed might actually make the salary transparency
21 bill better protect New York City workers. If you
22 want to be better informed about this proposed
23 amendment, go to the PowHer New York website for more
24 information. My written testimony provides
25 information about the Women's Center for Education

2 and Career Advancement and our recent research
3 defining exactly how much income working New Yorkers
4 need to support their families. Thank you to the
5 Committee Chair, Nantasha Williams, and the Committee
6 Members for this opportunity to testify today. Please
7 feel welcome to contact me for further information.

8 JAYASRI GANAPATHY, MODERATOR: Thank you,
9 Merble. I will now call on Julia Elmaleh-Sachs
10 followed by Amelia Adams and Barbara Kushner. Julia,
11 you can go ahead when the Sergeant call times.

12 SERGEANT HOPE: Time starts now.

13 JULIA ELMALEH-SACHS: Thank you. Good
14 morning. My name is Julia Elmaleh-Sachs, and I'm a
15 Plaintiff's Side Employment Attorney at Crumiller
16 P.C. In December 2021, I sat before the New York City
17 Council to testify in support of the latest salary
18 transparency bill which was later signed into law
19 with broad support from plaintiff's attorneys and
20 other workers advocates. It requires employers in New
21 York City with 4 or more employees to post the
22 minimum and maximum salary when advertising a job,
23 promotion, or transfer opportunity. Its purpose is
24 crystal clear, to close the wage gap for women and
25 people of color by promoting transparency around

2 hiring and compensation. Today, I sit before this
3 City Council once again to testify on behalf of NELA
4 New York, the New York affiliate of the National
5 Employment Lawyers Association, working with PowHer
6 New York, and, to be frank, I am disturbed. Disturbed
7 that this City Council is considering walking back
8 the city's salary transparency law, a law that
9 represents a historic win for workers in the fight
10 against workplace discrimination before it has even
11 taken effect. The amendments proposed today not only
12 undermine the purpose of the law by creating
13 exemptions for wide slots of employers across the 5
14 boroughs, it perpetuates systemic inequities against
15 the very people who were meant to benefit from this
16 law, women and people of color. As attorneys for
17 employees, we frequently represent workers who are
18 subjected to all kinds of discriminatory abuse by
19 their supervisors. This misconduct sometimes includes
20 wage discrimination. Too often, women and people of
21 color are paid less than their colleagues who are
22 performing substantially similar work. This is
23 nothing new. For years, workers rights activists have
24 used the hashtag equal payday to call attention to
25 the wage gap. In 2022, women in the U.S. earned just

2 83 cents on the dollar compared to men on average
3 according to the National Committee on Pay Equity.

4 SERGEANT HOPE: Time expired.

5 JULIA ELMALEH-SACHS: The figures are even
6 more bleak for women of color, 75 cents for Asian
7 Americans, Native Hawaiian and Pacific Islander
8 women, 58 cents for black women, 50 cents for
9 indigenous women, and just 49 cents for Latino women.

10 New York City's salary transparency law aims to
11 shrink these wage gaps by requiring employers to be
12 more transparent around compensation, but Intro 134
13 threatens to set a dangerous precedent for those
14 seeking to chip away at the anti-discrimination
15 protection afforded by the city's Human Rights Law.

16 First, the bill limits the definition of employer to
17 include only those with 15 or more employees, a
18 significant departure from the original threshold of
19 4 or more employees. As many today will explain in
20 greater detail, this carve-out for certain small
21 businesses risks opening Pandora's box for corporate
22 interest to create additional loopholes that would
23 help companies avoid compliance with the city's anti-
24 discrimination law.

2 JAYASRI GANAPATHY, MODERATOR: Julie
3 Elmaleh-Sachs, time's expired.

4 JULIA ELMALEH-SACHS: Oh, I'm sorry.

5 CHAIRPERSON WILLIAMS: I have a question.

6 JULIA ELMALEH-SACHS: Sure.

7 CHAIRPERSON WILLIAMS: Can you, and this
8 is for anybody that was on that panel, can you
9 explain how this would prevent pay equity?

10 JULIA ELMALEH-SACHS: Absolutely. Many of
11 the city's employers have 14 or less employees, and,
12 by not being required to post salary ranges, those
13 employees that may apply to those jobs will not know
14 what their counterparts are making so that's one of
15 the ways that it would not promote salary
16 transparency and equity and another way which I was
17 about to speak of when my time ran out is that the
18 exception for remote work is a really big exception.
19 Now, with the pandemic so many of us, as you know,
20 are working remotely and an employer could say that
21 their job posting prefers in-person work or remote
22 work which would allow them to not post the salary
23 range so all of those potential employees that might
24 apply to that job will not know what the salary
25 range, will not know what their male counterparts or

2 white counterparts might be making at work for those
3 jobs.

4 CHAIRPERSON WILLIAMS: Committee Counsel,
5 if I'm wrong, please chime in, but I don't think that
6 this bill gets to one of the roots that you're
7 talking about in terms of knowing what, you just said
8 white counterparts, and I don't think the bill,
9 there's no way to know what a white person is making
10 at a company through the salary ranges being on a job
11 description unless we're doing something because how
12 would you know what, unless a company is completely
13 disclosing all of the salaries, which this bill does
14 not do, this bill is focused on job descriptions, and
15 I understand what you're saying and I actually think
16 that is like the larger issue when you actually get
17 into a company and like actually seeing what the
18 salaries are, this bill is in reference to job
19 descriptions so if you could share like how one would
20 ascertain what the different salaries are within a
21 company through this legislation because that, I
22 don't understand that point.

23 JULIA ELMALEH-SACHS: I'm happy to
24 respond, but I'm also happy to allow others who have
25 their hands raised to respond.

2 CHAIRPERSON WILLIAMS: Sorry. You can
3 unmute Andrea.

4 ANDREA JOHNSON: Thank you so much, Chair,
5 for that question. There has been research showing
6 that in negotiations it is common for wage gaps to
7 arise at that point because, a few factors. One being
8 that women tend to ask for less than men even when
9 equally qualified, and I think there's sort of
10 internalized bias that is at play there, but research
11 does show that when women have the context about a
12 negotiation, what is negotiable in the salary range
13 for that position, that information helps close those
14 wage gaps and I include citations to that in my
15 written testimony to show that so this is a major
16 tool that has been identified by the equal pay
17 community as crucial to closing gender and racial
18 wage gaps that otherwise arise in negotiations.

19 CHAIRPERSON WILLIAMS: I understand that
20 part, but the comment that was made was that we would
21 be able to see what our counterparts are making,
22 right, so if the focus is women, because I think the
23 focus seems to be just women, I know people of color
24 being tossed in and out of the conversation, but it
25 seems the focus seems to be women, which I

2 understand, and the comment was that we would be able
3 to see what other people are making, and I don't
4 really understand how we would be able to see what
5 people are making if this is specific to the job
6 description. There's no way to see what people are
7 making internally. That was the comment that Julie, I
8 believe you made.

9 JULIA ELMALEH-SACHS: Can I respond?

10 CHAIRPERSON WILLIAMS: Sure.

11 JULIA ELMALEH-SACHS: Thank you, Chair
12 Williams. I believe the law as it stands right now
13 also applies to promotions and transfers so that
14 would, for people who are already working at a
15 company and would like to have a promotion or a
16 transfer opportunity that would apply to their
17 counterparts that are already at that promotion level
18 as well. They would at least know a salary range and
19 be able to know whether they're making the same
20 amount of...

21 CHAIRPERSON WILLIAMS: I get what you're
22 saying, and we can move on because I don't want to
23 sort of expound upon this point, but you made a
24 statement that we would then be able to see what
25 everybody in a company is making and this law doesn't

2 do that. It's really to a particular job description.

3 Now, I get the argument that it helps with salary

4 negotiations and actually, randomly, this article

5 actually fell in my lap. I was looking at news

6 listserv that I'm on, and it was crazy. I just

7 happened to be looking at my emails last night, and

8 the title was "What Salary Transparency Won't Solve

9 for Women," and in the article, not that I agree or

10 disagree with this article, but in the article one of

11 the things that they pointed out is it's really in

12 the negotiations, it's really when we talk about

13 bonuses and other incentives where we see the most

14 pay inequities in jobs, and even you just said it

15 yourself, a part of pay transparency, which I agree

16 with you, I agree with all of the testimonies that it

17 does sort of chip away at pay equity because it

18 allows for transparency around how much a particular

19 person would make if they applied to a said job and

20 they can use that information to negotiate for a

21 higher salary, understanding what those minimum and

22 maximum salaries are, but it's just the notion that

23 all of a sudden pay equity will be solved and we

24 would know what everyone is making within a

25 particular company through this legislation, and the

2 legislation doesn't do that so I just wanted to make
3 that point, but we can go to the next person,
4 Jayasri.

5 JAYASRI GANAPATHY, MODERATOR: Thank you,
6 Chair Williams. I would like to now call on Amelia
7 Adams to testify followed by Barbara Kushner and then
8 Tim Johnson. Amelia, you can go ahead when the
9 Sergeant calls time.

10 SERGEANT HOPE: Time starts now.

11 AMELIA ADAMS: Hi. Good afternoon, and
12 thank you, Chair Williams, for this opportunity. I
13 don't know if anyone can see me because I just see
14 the, oh, that's my timer, so sorry. I am testifying
15 on behalf of me as a business owner. I run a
16 consulting firm, Adams Advisors, and I actually
17 welcome the changes that Chair Williams has proposed.
18 I think 2 of them that I kind of want to harp on is
19 that in talking to other fellow business owners
20 around the original bit of implementation, a number
21 of folks were just not aware and I think there were
22 some good questions that other Council Members
23 brought up around like outreach, education, but I
24 also was just shocked that one of the comments in the
25 testimony, admin, talking about advertising in

2 Forbes, and I just think that is so removed from
3 where everyday businesses are getting information
4 from and such things. I submitted, and I'm going to
5 be submitting more testimony, (INAUDIBLE) support of
6 these changes for small business owners who welcome
7 like more time to actually get their house in order
8 because I know that as a small, black woman-owned
9 business, we are often overlooked for many things,
10 grants, RFPs, and I think the, my time is running
11 out, sorry. We are often looked over in a lot of
12 things and having this cut off where I originally
13 wasn't in the original cut off so this new change of
14 15 employees or more, I wouldn't be covered, and I
15 think I pay a decent salary and benefits and things
16 like that but compared to larger firms, if you put
17 side by side positions that I'm..

18 SERGEANT HOPE: Time expired.

19 AMELIA ADAMS: Advertising and the
20 positions that other firms are putting out, I may be
21 seen as a non-desired workplace because my salary
22 starting range is not as high and I yield my time.

23 JAYASRI GANAPATHY, MODERATOR: Thank you,
24 Miss Adams. I'd like to now call on Barbara Kushner
25 to testify followed by Tim Johnson and then Jessica

2 Walker. Barbara, you can start when the Sergeant
3 calls time.

4 SERGEANT HOPE: Time starts now.

5 BARBARA KUSHNER: Thank you. Thank you,
6 Chair Williams. As a woman of color and an owner of
7 an M/WBE business, I'm an advocate for gender and
8 racial pay parity. I started my own company out of
9 frustration with the discriminatory treatment of
10 black women in the workforce so I applaud the City
11 Council's concern with addressing this issue and
12 seeking to achieve racial and gender equity in
13 compensation practices. At the same time, I do not
14 believe that a law that requires employers to list
15 minimum and maximum salaries in a job posting is a
16 solution to the pay parity issue. In fact, for an
17 M/WBE company in an industry like mine, construction
18 management, the current law would make my situation
19 worse. I already have to pay more than majority-owned
20 firms for qualified job candidates because
21 competition for talent is very tight. If I publish a
22 maximum salary for an engineer, my large majority-
23 owned competitors can easily outbid my offer. This
24 will push salaries up which may be good for job
25 candidates but not for business owners like me. I

2 think there are far better ways to encourage pay
3 parity without hurting small and mid-sized employers
4 like myself. When I bid for a contract in New Jersey,
5 for example, they require that I comply with AA-302
6 Reporting Statute where I provide information on the
7 race and gender of my employees. A similar form for
8 the city of New York can be modified to add salary by
9 race and gender to such a reporting form that
10 companies could file annually or whenever a city
11 contract is awarded. This is the approach that
12 President Obama took in his executive order that
13 required companies with more than 100 employees to
14 submit to the EEOC. If the Council has consulted with
15 employers before enacting this law, I think we should
16 have proposed better solutions. I support the
17 amendments..

18 SERGEANT HOPE: Time expired.

19 BARBARA KUSHNER: But they do not go far
20 enough to protect people in my situation. Thank you.

21 JAYASRI GANAPATHY, MODERATOR: Thank you,
22 Barbara. I would just like to acknowledge we have
23 Council Member Salamanca who has joined us today.

24

25

2 Next, I will be calling Tim Johnson
3 followed by Jessica Walker and then Gloria Middleton.
4 Tim, you can go ahead when the Sergeant calls time.

5 SERGEANT HOPE: Time starts now.

6 TIM JOHNSON: Chair Williams and Members
7 of the New York City Council Committee on Civil and
8 Human Rights, I am here representing the Greater New
9 York Hospital Association. We represent and include
10 in our membership all the hospitals, both public and
11 voluntary in the city, all of our members are not-
12 for-profit. We also work very closely with community-
13 based organizations, community health centers, and we
14 are concerned that Local Law 32 as written may harm
15 the ability for hospitals, those other healthcare
16 organizations, and others to be able to recruit from
17 the widest talent pool that they have available if
18 the law is implemented as written. I agree with
19 Barbara that some further amendments are necessary,
20 and, right now, we are facing in the state of New
21 York including in the city of New York a healthcare
22 staffing crisis. The Governor of New York has put
23 forth executive orders and declarations around
24 healthcare staffing, and I think that it's very, very
25 important that our safety net hospitals, the other

2 healthcare organizations are able to draw upon the
3 widest talent pool that they can, and I think that
4 Local Law 32 and even with Intro 134 has the
5 potential to reduce that talent pool of available
6 people applying for these jobs. When I hear the
7 Deputy Commissioner earlier saying that one of the
8 benefits of this law is that folks can look at it and
9 decide is this a good fit, I don't necessarily want
10 people to look at it and rule out healthcare jobs. I
11 want more people to get in and allow those
12 organizations to have the opportunity to really make
13 a case that these mission-based organizations that
14 may not pay as much as a lot of other organizations
15 are actually a great place to work, and I would
16 really be looking for a further amendment such as...

17 SERGEANT HOPE: Time expired.

18 TIM JOHNSON: To require employers to
19 disclose salary ranges at conditional offer or
20 something like that, but we're happy to work with the
21 Council. I would also note in closing that most of
22 the healthcare jobs in the city of New York are
23 subject to collective bargaining. They have been
24 negotiated between unions and employers, and I would
25 just ask you to take that into consideration in

2 thinking about further amendments, and I'll stop
3 there. Happy to answer any questions.

4 JAYASRI GANAPATHY, MODERATOR: Thank you,
5 Tim. I will actually now call on Council Member
6 Farias to ask any questions she has.

7 COUNCIL MEMBER FARIAS: I initially had my
8 hand up when we were receiving testimony from Barbara
9 Kushner. If she's still on, could I ask the question?

10 JAYASRI GANAPATHY, MODERATOR: Yes,
11 Council Member, she's still on.

12 COUNCIL MEMBER FARIAS: Great.

13 SERGEANT HOPE: Time starts now.

14 COUNCIL MEMBER FARIAS: Thank you so much
15 for testifying earlier. You said something that I
16 just have a clarifying question on. You were making a
17 comparison between a New Jersey compliance law that
18 you have to file with your business over there and
19 stating that by breaking down the race and gender of
20 your employees, it shows comparatively the salary
21 ranges that you are then paying each of those people.
22 Did I understand that correctly?

23 BARBARA KUSHNER: Not quite. What it does
24 do, right now, that is a form that we fill out. It's
25 called the AA-302 with the Department of Treasury for

2 the State of New Jersey, and that form allows you to
3 break down gender, ethnicity, the number of African-
4 Americans, Asians, whatever, in your company, and you
5 have to list the number and what office they're
6 located in. It does not ask you about pay or anything
7 like that. I am saying that this is a typical form
8 that can be used and modified to include the pay
9 range for the, you know, if you've got, for instance,
10 one black person in that office, there won't really
11 be a pay range, you're going to have to put that
12 person's pay down there.

13 COUNCIL MEMBER FARIAS: Okay.

14 BARBARA KUSHNER: So there are different
15 ways to handle this.

16 COUNCIL MEMBER FARIAS: In New York, we do
17 not have that same...

18 BARBARA KUSHNER: That's right.

19 COUNCIL MEMBER FARIAS: Right now so
20 regardless of maybe New Jersey should make a change
21 for their salary ranges to be included, right now, we
22 don't have anything like that so comparatively in New
23 Jersey we can't say you as yourself have 3 black
24 employees and 1 white employee and the white employee
25 is getting paid more than 2 of the 3 black employees,

2 and I think that's the reason why we need the salary
3 ranges because what we're talking about here is the
4 inequity in salary, right, and posting a position and
5 being able to say I have full autonomy in applying
6 for a job with your construction company because I'm
7 saying I could totally do whatever they're asking me
8 for on this job description with the full list of
9 duties and responsibilities within that range of the
10 minimum and the maximum, I feel comfortable every
11 single day going to work within that salary range
12 because that's where I feel I'd be willing to get
13 paid for so I just wanted to make sure that that in
14 New Jersey maybe they're ahead of the game on us in
15 being able to do that, but that's definitely not the
16 case. Okay, I just wanted to clarify that. Thank you.

17 BARBARA KUSHNER: Just to respond to that.
18 A salary range will only do so much for an employer.
19 For instance, I just advertised for a controller on
20 this platform called Workable, and I get people
21 through Indeed or Monster, and I have a salary range
22 there from 90,000 to 125,000 dollars so I'm getting
23 resumes. I take a look at those resumes and then I
24 evaluate that person to see if they are adequate
25 based on their credentials for that job, and at that

2 time I'm not even thinking about salary. I'm thinking
3 about the credentials of what I need so I don't want
4 people to assume as the employer that if I was a
5 white, Asian, whatever employer, Hispanic, Latino,
6 that I am discriminating because I'm looking at the
7 person's qualification right off the bat, not what
8 I'm going to pay them. I want that good, qualified
9 person.

10 COUNCIL MEMBER FARIAS: No, 100 percent,
11 absolutely, and thank you for already doing that. I,
12 myself, as an employer make sure I have salary ranges
13 too because I don't want people to feel like one,
14 they cannot do the duties that are listed at a range
15 that they're uncomfortable with for salary but also
16 so there is a level of expectation set that there are
17 standards or there are minimum standards that I'm
18 looking for in a candidate and those people should be
19 self-selecting in to apply for that so I agree with
20 you in that sense. I'm glad you're already complying
21 and you're doing that for folks in the community who
22 want to work for you as an employer. I appreciate
23 your testimony. I just wanted to get some clarifying
24 points on why I personally feel like the salary

2 ranges on job qualifications and requirements are
3 essential.

4 JAYASRI GANAPATHY, MODERATOR: Thank you,
5 Council Member. Seeing no other questions, we will
6 now welcome testimony from Jessica Walker followed by
7 Gloria Middleton and then Beverly Neufeld. Jessica,
8 you can go ahead when the Sergeant calls time.

9 SERGEANT HOPE: Time starts now.

10 JESSICA WALKER: Hi. Thank you. I'm
11 Jessica Walker, the President of the Manhattan
12 Chamber of Commerce. We are a business organization,
13 and, since COVID started, we have been going door-to-
14 door to try to help as many small businesses thrive
15 as we can. First, I just want to say we are still
16 very much in COVID recovery mode. With a lot of these
17 small businesses, there's still a lot of pain and a
18 lot of debt that many of them have taken on so we are
19 very concerned about where they are. Let me just
20 start there.

21 I support the bill before you today even
22 though I totally understand the aims of what you're
23 trying to do, but I do think that these changes are
24 needed, particularly to help small businesses right
25 now. We have done, like I said, going door-to-door,

2 we've done hundreds of webinars during COVID to try
3 to educate small businesses on all the different laws
4 that have come out, the different mandates, but there
5 is just so much confusion and so this would be
6 another law that not only would be very confusing for
7 a lot of businesses to implement because many small
8 businesses do not have an HR manager. It's usually
9 the small business owner who is implementing a lot of
10 this, and it's a hardship and opens them up to a lot
11 of lawsuits if they don't do it correctly so that's
12 why I think it's really important that we do support
13 the move, particularly to 15 employees. Honestly, it
14 probably should be higher, but I think that is a good
15 start, and, of course, supporting slowing down the
16 implementation of this because we've really got to
17 get the word out. There's laws that are already on
18 the books that small businesses don't understand so
19 this is just something else that could really be
20 confusing and, like I said, open them to lawsuits.
21 Thank you so much, and, of course, we want to be
22 helpfully in any way that we can.

23 CHAIRPERSON WILLIAMS: Thanks, Jessica.

24 Can I ask you a quick question? Because I know some
25 of the Chambers typically work with different

2 agencies. I know the Queens Chamber always works with
3 SBS. Has CCHR worked with the Chambers to support the
4 outreach efforts around existing employment
5 practices?

6 JESSICA WALKER: We have hosted some
7 webinars on different laws as they have come out,
8 but, like I said, small businesses are busy running
9 their businesses so they can only do so much in terms
10 of coming to a webinar, and, again, there are so many
11 different laws. During COVID, there were different
12 mandates around (INAUDIBLE) and whatnot, and, of
13 course, businesses needed information on PPP and all
14 the other help that was available so there was just
15 so much coming at them and there continues to be. So,
16 yes, we have worked together in the past, but it's,
17 again, one drip in this big ocean of all the things
18 that small businesses owners need to know about.

19 CHAIRPERSON WILLIAMS: And how would you
20 respond to concerns that large employers will use
21 general listings to avoid salary postings? I know you
22 work with a different range of businesses in the
23 Chamber.

24 JESSICA WALKER: Yeah. I mean I think that
25 Kathy Wylde really addressed some of that in terms of

2 that there are different, sometimes you need to be
3 able to explain that. We're a nonprofit. I work with
4 a lot of different nonprofits, and I know that, for
5 example, they get different grants that have salary
6 lines that are sort of built into those grants, and
7 it is, it's a little hard for other staff members to
8 see that when you really don't have full control over
9 it. There are some legitimate reasons why that can be
10 difficult for a business to do.

11 CHAIRPERSON WILLIAMS: Thank you.

12 JAYASRI GANAPATHY, MODERATOR: Seeing no
13 other questions, I would like to now call on Gloria
14 Middleton to testify followed by Beverly Neufeld and
15 then Debipriya Chatterjee. Gloria, you can go ahead
16 when the Sergeant calls time.

17 SERGEANT HOPE: Time starts now.

18 GLORIA MIDDLETON: Good morning, Committee
19 Chair Williams and Committee Members and City Council
20 Members. My name is Gloria Middleton. I am President
21 of Communication Workers of America Local 1180. Local
22 1180 represents almost 9,000 active city
23 administrative and private sector workers and close
24 to 6,000 retirees. One of our main objectives as a
25 unit representing predominantly women and women of

2 color has been to fight for equal salaries for all. I
3 am hear today to speak out against all proposed
4 amendments to Local Law 32 as they are dangerous and
5 will fully dilute the intention of the new law that
6 is scheduled to take effect on May 15th. By requiring
7 all employers to include both the minimum and maximum
8 salaries in their job postings, Local Law 32 simply
9 does what should have been done decades ago, level
10 the paying field for women, women of color, and all
11 minorities. Far too many times I have heard too many
12 women tell me she left a job interview where she was
13 asked what salary she was expecting only to sell
14 herself short by suggesting an amount far below her
15 actual worth. The wage gap between white men and
16 women and women of color earnings continues to rob a
17 clear sector of workers of fair wages and the
18 economic stability to support themselves and their
19 families. In the year 2022, we should be long be past
20 the point of even having this conversation. Yet, here
21 we are fighting to stop any interference in the
22 progress we are finally making to close the wage gap
23 that has hurt so many far too long. I am strongly,
24 strongly urging the entire City Council to vote
25 against any changes on amendments that are creating

2 loopholes for businesses. There is nothing difficult
3 about stating your salary range in a job...

4 SERGEANT HOPE: Time expired.

5 GLORIA MIDDLETON: Posting unless you are
6 trying to do something devious. Local Law 32 is
7 perfectly suited to stop the destructive wage gap
8 that has reeked economic havoc on the progress of
9 women and minorities. Thank you for allowing me to
10 testify.

11 JAYASRI GANAPATHY, MODERATOR: Thank you,
12 Gloria. Next, we will call on Beverly Neufeld
13 followed by Dibpriya Chatterjee and Seher Khawaja.
14 Beverly, I believe we have 2 of you listed on our
15 Zoom so if you could just let us know which one to
16 mute. Thank you.

17 BEVERLY NEUFELD: There we go. How is
18 that? Can you hear me?

19 JAYASRI GANAPATHY, MODERATOR: Yes, that's
20 great.

21 BEVERLY NEUFELD: Oh, terrific, great.
22 Thank you so very much for this opportunity to speak
23 to you today about Intro 134. I'm Beverly Neufeld,
24 and I'm Founder and President of PowHer New York. We
25 are a collective group of gender and racial justice

2 organizations. We agreed to work together because we
3 want to achieve economic equality for New York women.
4 We have a letter that I will put into testimony, but
5 I'd like to use my time just in a different way, and
6 that is to express some sentiments that our community
7 feels right now. We started out as the Equal Pay
8 Campaign in 2007 and for 16 years we have worked with
9 leaders, workers, and with businesses to find ways to
10 break down the problem of wage equity. Every year, we
11 stand on the steps of City Hall. This year, as you
12 can see, this is our picture. It was an enthusiastic
13 gathering. Everyone called for a way to end wage
14 inequity. It is commonly done. I have videos. You can
15 go online and hear all the leaders of New York call
16 for it. How do you do that though is the question?
17 You need to take action. It doesn't happen because we
18 want it to. So what we've done is we've worked hard
19 together and we passed some laws. I frankly have to
20 say the business community has never approved of any
21 of the laws that we have passed. They have never
22 spoken in favor of the salary history ban
23 particularly so I'm not surprised that now they are
24 mounting an effort to not push back but to really
25 eviscerate Local Law 32. This law was passed, I have

2 very little time, but I do want to point out this law
3 was passed legitimately, it was passed with full,
4 almost completely in favor of it. These are not
5 tweaks...

6 SERGEANT HOPE: Time expired.

7 BEVERLY NEUFELD: That are being, thank
8 you, these are not tweaks that are being proposed.
9 These are not slight changes. These are carve-outs
10 that are tremendous and they really put in jeopardy
11 everything that we have tried to achieve together so
12 I do urge the City Council to stand up to whatever
13 sources are at play here and pushing us toward
14 thinking about the needs, we're not supposed to be
15 here.

16 JAYASRI GANAPATHY, MODERATOR: (INAUDIBLE)

17 BEVERLY NEUFELD: (INAUDIBLE) to think
18 about the needs of business. We're here...

19 JAYASRI GANAPATHY, MODERATOR: Thank you.

20 BEVERLY NEUFELD: To think about the needs
21 of workers so I ask you to take that into
22 consideration, and thank you very much for the time.

23 JAYASRI GANAPATHY, MODERATOR: Thank you,
24 Beverly. Next, we will call on Debipriya Chatterjee
25 followed by Seher Khawaja and then Elizabeth Valez

2 (phonetic). Debipriya, you can go ahead when the
3 Sergeant calls time.

4 SERGEANT HOPE: Time starts now.

5 DEBIPRIYA CHATTERJEE: Hi, everyone. Thank
6 you, Chair Williams and Committee Members, for
7 providing the opportunity to testify today. My name
8 is Debipriya Chatterjee, and I'm a Senior Economist
9 with the Community Service Society of New York, a
10 nonprofit organization that works to promote economic
11 opportunity for New Yorkers. We have championed
12 workers rights and poverty alleviation for 175 years.
13 Most recently, we worked to pass Paid Sick Leave Law
14 statewide and in New York City secured half price
15 transit fares and made rent relief available through
16 (INAUDIBLE) alongside our coalition partners.

17 My testimony today will focus on Intro
18 0134 and how this bill would rend the salary range
19 transparency legislation that was passed already
20 toothless and thus undo years of work towards
21 achieving pay parity along racial, ethnic, and gender
22 lines. My fellow advocates of pay parity have already
23 shared information on the problem that we are hoping
24 to address by the salary range transparency law. This
25 law requires employers to post exactly that, a range,

2 a maximum and minimum level of salary compensation
3 that an employee can be expected to receive. It's not
4 an alien concept. Most corporations, nonprofits, most
5 importantly the city of New York, does it. Numerous
6 studies have shown that greater transparency reduces
7 pay inequities, typically by empowering women and
8 most importantly women of color to negotiate better
9 wages. Intro 0134 wants to exclude employers with 5
10 to 15 employees from having to declare the salary
11 range. In the name of helping struggling businesses,
12 the current bill is impeding progress towards pay
13 parity. There are about 58,000 of these businesses
14 per data from New York State's Department of Labor.
15 These businesses employ around half a million workers
16 and have an average annual payroll of 550,000
17 dollars. By excluding these businesses, the city
18 would imperil over 222,000 women, workers who would,
19 once again, apply for jobs without any idea about
20 salary. Opponents of the original salary bill have...

21 SERGEANT HOPE: Time expired.

22 BEVERLY NEUFELD: Required that the
23 businesses by having to post the range, it would be
24 anti-competitive and might hurt employers' chances of
25 attracting talent, but there are ways of beefing up

2 compensation beyond the salary range by providing
3 perks, stock options, bonuses, etc., and...

4 JAYASRI GANAPATHY, MODERATOR: Thank you.

5 DEBIPRIYA CHATTERJEE: I would just like
6 to say that given that women still earn only 83 cents
7 on the dollar relative to men, it is more important
8 than ever to address pay parity in a tight labor
9 market. This is the best time for workers.

10 JAYASRI GANAPATHY, MODERATOR: Thank you.

11 DEBIPRIYA CHATTERJEE: Thank you.

12 CHAIRPERSON WILLIAMS: I have a quick
13 question. You said you got your data from New York
14 State, but can you explain exactly what the data says
15 and was it specific to New York City and how did they
16 define small businesses? Did they have a number of
17 employees?

18 DEBIPRIYA CHATTERJEE: Yes, so the data
19 that was made available to me by the New York City
20 Subdivision of the New York State Department of
21 Labor. They go into the quarterly census of
22 employment and wages, the QCW data, and filter out
23 all the businesses that employed from 5 to 15
24 employees, all the establishments that had 5 to 15

25

2 employees, and provided annual wages, and the total
3 number of establishments that did that.

4 CHAIRPERSON WILLIAMS: They quote data
5 from which year?

6 DEBIPRIYA CHATTERJEE: This is the last 4
7 quarters, the last 4 quarters, so they gave me these
8 numbers, and the gender number that I shared with you
9 so it comes from using the American Community
10 Service, which publishes the gender makeup for each
11 industrial sector, so like finances 45 percent women,
12 construction is 27 percent women, so when you take
13 these percentages and apply those on this kind of
14 breakup that the State Department of Labor provided,
15 I get around 222,000 women who would be affected. I
16 could have also generated these numbers for different
17 races, like workers of color and so on, but we didn't
18 have time for that before the testimony. Thank you.

19 JAYASRI GANAPATHY, MODERATOR: Thank you.
20 Seeing no other questions, I would like to now
21 welcome Seher Khawaja to testify followed by
22 Elizabeth Valez and John T. O'Malley. Seher, you can
23 go ahead when the Sergeant calls time.

24 SERGEANT HOPE: Time starts now.

2 SEHER KHAWAJA: Thank you, and good
3 afternoon. My name is Seher Khawaja, and I'm a Senior
4 Attorney at Legal Momentum, the Women's Legal Defense
5 and Education Fund. For over 5 decades, we have been
6 at the forefront of using the law to advance gender
7 equality, and it is with that expertise that I am
8 testifying today to proposed Intro 134.

9 Last year, New York City enacted Local
10 Law 32, a pay transparency law, that we believe will
11 have a transformative impact in advancing pay equity
12 in New York City, particularly for women of color who
13 have been left behind. Research cited in our written
14 testimony amply demonstrates that this approach helps
15 tackle unconscious bias against women of color, much
16 needed leverage, and drives employers to pay more
17 equitably. Intro 134 and its seemingly innocuous
18 amendments would obliterate this impact by excluding
19 a large sector of New York City workforce from
20 critical protections, would create loopholes that
21 would allow a large number of employers, big and
22 small, to avoid compliance altogether, and establish
23 a scheme that would create inequity among employers
24 and roll back our progressive worker-centered Human
25 Rights Law. Intro 134 intends to expand the existing

1 small business exemption from 4 to 15 employees,
2 taking us backwards. Recent successes to expand
3 protections to domestic workers and to all victims of
4 sexual harassment have brought us close to a critical
5 truth, which is that every worker in New York City
6 deserves the protection of our Human Rights Law. Each
7 time we expand the employer thresholds in this way,
8 we tell more workers that they are not entitled to
9 antidiscrimination protection simply because of the
10 size of their employers, and what we know is that a
11 significant number of workers who will be excluded
12 are exactly the people this bill was meant to support
13 and who the Council has vowed to advocate for, women
14 of color and low wage work. Included businesses would
15 likely include hair salons, nail salons, daycare
16 providers, restaurants, and retail stores where women
17 of color are over-represented, typically make lower
18 wages, and would benefit significantly from knowing
19 rates of pay when applying for jobs. The claim that
20 small businesses are competitive because they can
21 conceal pay rates inherently suggests that small
22 businesses succeed based on underselling workers,
23 which I do not believe must be the case as we know of
24 women and minority-owned businesses that already
25

2 disclose pay rates and are thriving. Small businesses
3 have much to gain, alternatively, from pay
4 transparency including efficiencies and retention,
5 job satisfaction, and trust. As more businesses
6 disclose salary, this information is going to be out
7 and small businesses...

8 SERGEANT HOPE: Time expired.

9 SEHER KHAWAJA: To be able to make this
10 shift rather than to avoid it. If we're going to
11 protect women of color in our workforce, we must
12 recognize that strategies to protect small businesses
13 can no longer be pitted against or be at the expense
14 of a large number of women who work for these small
15 employers, many of whom endure some of the worst
16 forms of exploitation in our experience. In lieu of
17 these problematic exemptions...

18 SERGEANT HOPE: Time expired.

19 SEHER KHAWAJA: We recommend extending the
20 enforcement date and providing training, outreach,
21 and guidance as the Commission is already doing.

22 JAYASRI GANAPATHY, MODERATOR: Thank you,
23 Seher. We would like to now call on Elizabeth Valez
24 to testify followed by John T. O'Malley and then Mary

2 Luke. Elizabeth, you can go ahead when the Sergeant
3 calls time.

4 SERGEANT HOPE: Time starts now.

5 CHAIRPERSON WILLIAMS: I'm sorry. I don't
6 think that the administration is currently doing any
7 outreach because when we spoke to them during their
8 testimony, they mentioned like this is something that
9 they're going to do so I just wanted to clarify a
10 point. I don't think they're doing any outreach,
11 which I think is a part of the problem. I'm sorry.
12 The next person can testify.

13 SERGEANT HOPE: Time starts now.

14 ELIZABETH STONE: Hi. My name is Elizabeth
15 Stone. I'm a restaurant server and park sub and a
16 member of the Restaurant Opportunity Centers United.
17 I've been in the food service industry for over a
18 year, and I've been working as a server in New York
19 City for 6 months. As someone relatively new to the
20 industry, I've found that one of my biggest obstacles
21 to job security is the lack of salary transparency in
22 job postings. At my current position, I was offered a
23 flat rate of 10 dollars an hour with no transparency
24 regarding a salary range or expectations for future
25 salary growth. As a financially independent young

2 adult, it is extremely unsettling and difficult to
3 feel secure within such an unstable standard.

4 Recently, I've begun searching for new positions in
5 food service and have experienced a myriad of
6 inconsistent, uninformative job postings. I feel
7 stuck in my position and scared to move forward to an
8 employee that may ultimately pay me less. On top of
9 this, I feel that I have no bargaining power to
10 persuade my current employer to pay me more as
11 opposed to leaving for a different position. Most
12 postings I have encountered state simply the minimum
13 wage if anything at all despite the increasing demand
14 for servers in the upcoming summer months. Especially
15 as a waitress with New York City experience, I know
16 my skills are valuable. Yet, I constantly feel a lack
17 of security or bargaining power. If employers of
18 small restaurants would simply post salary ranges, I
19 would be able to financially plan, reduce stress, and
20 make ends meet. At the end of the day, I believe I
21 deserve to know how much I can make as a waitress in
22 Brooklyn. Thank you.

23 JAYASRI GANAPATHY, MODERATOR: Thank you,
24 Elizabeth. We will now call on John T. O'Malley

2 followed by Mary Luke and then Linda Hartley. John,
3 you can go ahead when the Sergeant calls time.

4 SERGEANT HOPE: Time starts now.

5 JOHN T. O'MALLEY: Thank you. John
6 O'Malley. I'm an employee in New York City. Fairness,
7 leveling the playing field, and prohibiting
8 discrimination. These are the principles that we're
9 striving to improve with this policy. Consumers get a
10 better deal when they know the value of the vehicle
11 before they go to the dealer to negotiate. Unions get
12 a better contract when they know how much the
13 employer can afford before they negotiate the
14 contract. Defendants get a better deal when they know
15 what evidence is against them before they conference
16 with the prosecutors. Job applicants get a better
17 deal when they know the wage range before they are
18 interviewed and negotiate. In order to achieve the
19 fairness we seek and prohibit discrimination, we must
20 require that the part that has the information to
21 disclose it to the party that does not have the
22 information. In all these examples, there's a process
23 of requesting information and requiring that it must
24 be provided, and, currently, under the New York City
25 Human Rights Law employers must list the wage range

1 on the job posting before the interview and in good
2 faith. As far as I know, nobody's attempting to hide
3 the value of vehicles and nobody's trying to roll
4 back the regulations requiring disclosure of
5 information on union negotiations, but prosecutors
6 have been complaining recently about the new
7 discovery rules that have increased their workload,
8 but we have to inform the accused of the evidence
9 against them, and, while there could be some pressure
10 to roll back those advances, one attorney from legal
11 aid cautions against this saying it cannot be the
12 case and must not be the case that the way you solve
13 a workload problem for the prosecutors is to diminish
14 the rights of somebody accused of a crime. Intro 134
15 seeks to roll back the requirements to disclose wage
16 range for over 90 percent of workers in New York
17 City. That's over 4 million workers. The New York
18 City Council established that it's discriminatory to
19 withhold the wage range information until after the
20 interview, that the employer should provide a good
21 faith range that they believe to be true on the job
22 posting. This is critical because once interviewed
23 the employer may adjust the wage offer based on the
24 applicant rather than the job. This is
25

2 counterintuitive to your stated purpose. Modeling the
3 words of the attorney from the Legal Aid Society...

4 SERGEANT HOPE: Time expired.

5 JOHN T. O'MALLEY: It cannot be the case
6 and must not be the case that the way to solve
7 discrimination problems is to diminish the number of
8 people covered by the law. I hope that you agree, and
9 I hope that you will not pass Intro 134. Thank you.

10 CHAIRPERSON WILLIAMS: Thanks for your
11 testimony, John. What type of business do you run?

12 JOHN T. O'MALLEY: I don't run a business.
13 I'm an employee.

14 CHAIRPERSON WILLIAMS: Oh, you said you're
15 employee. I thought you said you were an employer.
16 Okay. Thank you.

17 JAYASRI GANAPATHY, MODERATOR: Thank you.
18 Seeing no other questions, I would like to now call
19 on Mary Luke to testify followed by Linda Hartley and
20 then Solange Charas. Mary, you can start when the
21 Sergeant calls time.

22 SERGEANT HOPE: Time starts now.

23 MARY LUKE: Thank you very much for this
24 opportunity. I'm Mary Luke, and I'm Vice President of
25 UN Women USA, which is an NGO and also with PowHer

2 New York. I appreciate this opportunity to speak
3 against Intro 134. New York City plays a unique role
4 on the international stage because it is home to the
5 United Nations, and I'm so proud of New York City's
6 historic role as a model sister city and safe city
7 and one of the first cities to pass the salary
8 history law. Local Law 32 is another example of New
9 York City's leadership position supporting gender
10 equity. This is a step towards gender equity. It's
11 not the whole thing. Not any law is the whole thing,
12 but making changes to diminish this law which is the
13 model for promoting salary transparency in hiring and
14 promotions even before it's implemented would be an
15 embarrassment for a progressive city like ours. I
16 want to speak about the amendment on exempting
17 employers with 15 or fewer employees and also the
18 general help wanted ads which often are directed
19 towards immigrants. I speak as a first generation
20 Asian-American raised in a Chinese-speaking household
21 with parents who worked in a restaurant. When I
22 started my professional life as a nurse and a
23 researcher, I was totally clueless about wages,
24 workers rights, and furthermore did not even think it
25 was appropriate to ask about such things. Many

2 immigrants now, especially those newly arrived, have
3 limited English and education and can easily be
4 exploited. They often start out and remain in low
5 wage jobs such as beauty salons, restaurants, service
6 workers, care workers..

7 SERGEANT HOPE: Time expired.

8 MARY LUKE: And these are some of the
9 minority women-owned businesses that would be exempt
10 under Intro 134. It's more important than ever that
11 workers, all workers, under Local Law 32 have access
12 to salary range information so they can start their
13 work life and advance in their jobs knowing they will
14 be paid fairly and equally for work of equal value.
15 Thank you very much.

16 JAYASRI GANAPATHY, MODERATOR: Thank you,
17 Mary. I would like to now call on Linda Hartley to
18 testify followed by Solange Charas and then Nicholas.
19 Linda, you can go ahead when the Sergeant calls time.

20 SERGEANT HOPE: Time starts now.

21 LINDA HARTLEY: Thank you. President John
22 Kennedy signed the Equal Pay Act into law in 1963
23 saying the new legislation would end the
24 unconscionable practice of paying female employees
25 less wages than male employees for the same job. I'm

1 Linda Hartley, Principal and Business Owner of
2 H2Growth Strategies. With a team of 8 consultants, we
3 have partnered with over 100 nonprofits to raise more
4 than 1.5 billion dollars. I serve as a board member
5 of PowHer New York and am co-author of Big Impact,
6 about leadership and social change in the nonprofit
7 sector. So here we are nearly 60 years after the
8 Equal Pay Act and still millions of dollars to women
9 in their careers every year due to pay inequities. I
10 have a relevant story to share. Early in my career, I
11 joined a major New York university where I performed
12 well and was promoted several times while completing
13 an MBA at night. My boss told me many times my
14 performance was far superior to the older man who had
15 held the job before me and a female colleague risking
16 her own job in sharing wage information told me I was
17 being paid 20 percent less than my male counterpart.
18 It took nearly a year to argue for and obtain a 10
19 percent increase, only halfway toward that 20 percent
20 difference, so just looking at that year's
21 difference, if you take the initial 7,500 dollars
22 lost due to pay inequity and invested it at 7 percent
23 over 40 years, the total loss is 112,000 dollars. A
24 wage transparency law back then would have enabled me
25

2 to negotiate for a higher starting salary and higher
3 raises based on my performance. The New York City
4 salary range law is a model for the state and the
5 country empowering workers and leveling the paying
6 field for all workers. I urge the Committee on Civil
7 and Human Rights not to gut the bill with proposed
8 amendments. It has been literally 60 years...

9 SERGEANT HOPE: Time expired.

10 LINDA HARTLEY: Past time to end the
11 unconscionable practice of paying women less because
12 we can. Thank you.

13 CHAIRPERSON WILLIAMS: Thanks, Linda. I
14 have a quick question. The story that you shared
15 about your own pay inequity issue, how do you think
16 that pay transparency would have addressed the issue?

17 LINDA HARTLEY: Well, when I was hired and
18 I had known about the pay salary I would've
19 negotiated a higher starting salary right there and
20 knowing what the level is, it would have at least
21 inferred that there was perhaps someone that was
22 being paid more for that job before and for someone
23 that's in the job already, if you're looking at ads
24 that your employer is sending out, of course, you'll
25 know then about where you fit in that pay range,

2 whether you're getting paid so it's going to be
3 helping anyone, even who is already employed because
4 they're free to look at salary ranges as well when
5 the employer sends out ads.

6 CHAIRPERSON WILLIAMS: But there's no
7 guarantee that you would get the higher range or the
8 lower range because they still could technically
9 negotiate down and discriminate.

10 LINDA HARTLEY: Yes, and that 20 percent
11 difference could've been right within that range.
12 You're right.

13 CHAIRPERSON WILLIAMS: I do get the point,
14 but I think that some of the testimony today is
15 heavily skewed, which I understand because have to
16 make this particular argument because this is the
17 thing that is being amended, but it's heavily skewed
18 to a particular sort of activity around disclosing
19 salaries on job descriptions but there's really no
20 way for us to determine whether or not women or
21 people of color will still be discriminated against
22 if they get the lower bottom half of the particular
23 salary range. I was just thinking about that, and I
24 was thinking about that I think Barbara said about
25 the New Jersey law, which I think actually makes a

2 lot of sense, because my thing is like to your story
3 about the woman who told you and shared the salary,
4 that to me is more of the issue because even when a
5 person is hired, if they gave a woman the lower
6 salary, there's no way for people within the company
7 or the job or whatever the makeup of the business is
8 to know who's getting the higher range or the lower
9 range unless people are having the conversation
10 within the office so I mean I think, again, this is a
11 great first step, and I understand that this is
12 important, but I do feel like it only goes to a
13 certain limit because there's still no way to
14 determine whether or not there is a pay equity issue
15 just because you disclose a salary on a job
16 description, and, again, I don't disagree with that,
17 I'm just saying there's no way to really determine
18 how much a person is getting paid unless you're like
19 us in city and state government where the salaries
20 are for public information. That is really the only
21 way to say, okay, we've done an inventory and we see
22 that most of the women are getting paid this or most
23 of the black folks are getting paid this and others
24 are getting paid that. There's no way to really
25 compare, and so I'm making that point to say while

2 this is an important measure, I think that we are
3 focusing on one side of the table and not the full
4 scope of what actually addresses pay equity so I was
5 just wondering your thoughts.

6 LINDA HARTLEY: There's 2 points, and
7 you've made some very good points, and we have to go
8 further. This is a step in the right direction, the
9 full law, and it allows people, especially women, if
10 you've got the salary range and you're interviewing
11 for a job, you can negotiate for a higher starting
12 range. It helps you do that.

13 CHAIRPERSON WILLIAMS: I understand that
14 point. I think it's important, and this is just me,
15 right, if I'm having one conversation, I want to have
16 a comprehensive conversation and so I think a lot of
17 the testimony is focused on like one particular
18 aspect that will help to address pay equity, but
19 we're not talking about the totality of the issue,
20 and so I just wanted to bring that into the
21 conversation, but I appreciate what you were saying,
22 and I see all of these hands and I wish that you had
23 would have engaged in conversation with me before the
24 hearing instead of being on the hearing and engaging

2 in conversation with me here, but we can go to the
3 next person who is supposed to testify.

4 LINDA HARTLEY: Thank you.

5 JAYASRI GANAPATHY, MODERATOR: Thank you,
6 Chair Williams. I do see that Council Member Farias
7 has her hand raised. Council Member, you can go
8 ahead.

9 COUNCIL MEMBER FARIAS: I just thought
10 what Chair Williams was stating, I just wanted to
11 follow up and say, yes, and it sounds like you have
12 more bills to put in because I think Jersey
13 definitely needs to step their game up, but it would
14 be great for us to have some salary transparency
15 bills come up. In the past, we've tried it, and it
16 hasn't worked, but maybe this is the Council where we
17 can put some of that up and see the push because I
18 think what you're saying is critical to the larger
19 conversation that needs to be had around salary
20 transparency or wage equity transparency, and I think
21 that this Intro, particularly what we're seeing with
22 amendments, is going to exasperate some of the very
23 issues that we're bringing up here because of all
24 those issues. I think that's what some of the
25 testimony is hyper-focused is because we do not want

2 it to be exacerbated and continue on, but I'm happy
3 to keep working on some bills to get more
4 transparency out there with you, Chair, if we...

5 CHAIRPERSON WILLIAMS: Yeah, and we should
6 talk offline. I know we were supposed to chat because
7 I want to have this dialogue and I think, I mean I'm
8 happy that we actually are having hearings where
9 there's dialogue because that's not something that
10 I've seen in the past as a person who's worked in
11 government, but I'm a person that likes to have
12 dialogue, and hearings don't always offer the
13 opportunity to have full dialogue because you want to
14 get your few talking points and then it's over,
15 right, and then we want to respect everybody's time
16 so we don't want to go back and forth on a public
17 hearing, and I get what you're saying and I don't
18 disagree with what you're saying at all. I just think
19 that we need to have a comprehensive conversation..

20 COUNCIL MEMBER FARIAS: Yeah, 100 percent.

21 CHAIRPERSON WILLIAMS: And not to just
22 focus on one particular thing, but I, again, I do
23 hear all of the concerns, before the hearing heard
24 the concerns, and I'm sure you can ask Committee
25 Counsel the tons of things that I have asked and have

2 expressed concerns with, but I think it's important
3 that we, at least, have the deliberation and hear
4 from all of the sides and figure out what is the best
5 way to move forward with the existing law and making
6 amendments to the law.

7 COUNCIL MEMBER FARIAS: I just wanted to
8 say I'm here to support, and I hear you on the
9 additional stuff we need to do, but, yeah, I can
10 yield time. Thank you.

11 JAYASRI GANAPATHY, MODERATOR: Thank you,
12 Council Member. We will now turn to testimony from
13 Solange Charas followed by Nicholas Natoli and then
14 Miguel Raez-Velazquez (phonetic). Solange, you can go
15 ahead when the Sergeant calls time.

16 SERGEANT HOPE: Time starts now.

17 SOLANGE CHARAS: Thank you, Chair Williams
18 and Council Members. My name is Dr. Solange Charas,
19 and I'm a human capital subject matter expert with a
20 PhD in management and MBA in accounting and finance
21 and a BA in economics and 30 years of experience as a
22 corporate executive and expert compensation
23 consultant. Chair Williams, as a comp expert, I'm
24 happy to talk to you about how companies manage
25 salary ranges, salary administration, merit increases

1 that prevent substantive gaps in pay for same level
2 jobs in a different conversation. I am here to talk
3 to you about the benefits of Local Law 32 as passed
4 without amendments. Many have already highlighted how
5 any amendments will take the law off its original
6 intended course. In the past, I have testified in
7 support of Local Law 32 on how pay transparency
8 benefits employees, organizations, and the community
9 at large, but today I want to provide you information
10 about how this happens. This issue has been studied
11 by the academic community for decades and research
12 proves that there is a positive correlation between
13 human capital transparency and profitability for all
14 businesses, large and small. Transparency is the
15 solution to address the negative effect of
16 information asymmetry. This is a theory that was
17 posited by Joseph Stiglitz who won a Nobel Prize for
18 this topic. What information asymmetry is, it occurs
19 when one party has more information than another that
20 generates inefficiencies in decision-making to the
21 detriment of the party with less information, in this
22 instance, the employee, and in the aggregate, the
23 overall impact is gross economic inefficiencies.
24 Decades of research, the most research from Harvard,

2 shows that pay transparency actually benefits
3 organizations and employees. Don't be fooled into
4 believing that transparency will create a hardship
5 for small companies. It is simply not true...

6 SERGEANT HOPE: Time expired.

7 SOLANGE CHARAS: And having been at all
8 levels of the organization, I can denounce those who
9 say otherwise because of their fear or uninformed
10 opinion. The days of trade secrecy as a competitive
11 advantage related to human capital are over, they
12 never worked anyway, and the world is moving in this
13 direction. Let's not let New York be behind the
14 times. The world is watching us. Thank you for your
15 consideration.

16 CHAIRPERSON WILLIAMS: No problem. Can you
17 share the research you've done around this topic
18 specifically?

19 SOLANGE CHARAS: There's a whole body of
20 research on the area of transparency. It actually
21 shows...

22 CHAIRPERSON WILLIAMS: No. You, you, did
23 you do any research around this topic?

24 SOLANGE CHARAS: I am not a principal
25 researcher in the area of compensation. I'm a

2 principal researcher in the area of corporate
3 government, ESG, and this issue is big in ESG,
4 everyone's looking at it from the World Economic
5 Forum on a global basis to what's going on with the
6 SEC and I am an expert in how human capital impacts
7 the social governance for board governance and
8 disclosure, but as a compensation consultation I've
9 been a practitioner in this area for 30 years. I
10 don't research it. I practice it. What I research and
11 what I consult in is corporate governance.

12 CHAIRPERSON WILLIAMS: Okay.

13 SOLANGE CHARAS: But I have a body of
14 academic articles that I'm very happy to share with
15 you. Again, the most recent is a woman who's just
16 getting her PhD at Harvard who has shared her
17 research with me around pay transparency, and I'm
18 happy to share that with you if you'd like to see it.

19 CHAIRPERSON WILLIAMS: I would love to see
20 her methodology, who she interviewed...

21 SOLANGE CHARAS: Her last name is Adler,
22 and I am waiting, actually she's just...

23 CHAIRPERSON WILLIAMS: Adler?

24 SOLANGE CHARAS: Yeah. Her first name is
25 Laura, Laura Adler. She's getting her PhD from

2 Harvard, and her whole dissertation is on pay
3 transparency.

4 CHAIRPERSON WILLIAMS: Oh, she's not
5 published yet? Her current existing research is, her
6 dissertation is going to be on that?

7 SOLANGE CHARAS: She's finding her PhD on
8 this research so, in fact, it has higher level of
9 scrutiny than any academic article.

10 CHAIRPERSON WILLIAMS: Hold up. I'm in a
11 PhD program so I understand the scrutiny. That's all
12 I was asking. She didn't publish her article yet? It
13 is a part of her dissertation research?

14 SOLANGE CHARAS: Yes, which she's...

15 CHAIRPERSON WILLIAMS: Okay.

16 SOLANGE CHARAS: Printing this month.

17 CHAIRPERSON WILLIAMS: Okay.

18 SOLANGE CHARAS: And she promised to share
19 her dissertation with me. With her consent, I'm happy
20 to share it with you or I'm happy to put you in touch
21 with her.

22 CHAIRPERSON WILLIAMS: Sure.

23 SOLANGE CHARAS: You can get it from the
24 horse's mouth.

25

2 CHAIRPERSON WILLIAMS: Sure, I would love
3 to talk to her, and you said something else. I'm not
4 fooled by anybody. I genuinely am listening to all of
5 the concerns from the people that both oppose and
6 support the legislation so I don't have one sway over
7 the other, it is my bill, and so, of course, I have
8 the obligation to defend the bill, but that does not
9 mean that I am not flexible and that does not mean
10 that I am not listening to the many concerns that
11 were raised today and thinking very intently about
12 how we address the concerns that were made so I just
13 also wanted to note that.

14 SOLANGE CHARAS: Thank you. I appreciate
15 that. I'm sure you, as an academic and has a PhD
16 candidate, you understand how critical prior research
17 is in terms of understanding and supporting an
18 outcome and there is an overabundance of research
19 that shows that transparency is a much better
20 approach than trade secrecy so, you know, what we
21 find in the academic community helps inform the
22 decisions that business people should make and they
23 often don't look at the academic community because,
24 you know, Ivory Tower versus everyday business.

2 CHAIRPERSON WILLIAMS: When I wrote my
3 essay to get into the PhD program, what I
4 specifically spoke about was the fact that the
5 academic world often doesn't work in conjunction with
6 the government and policy world to be more
7 intentional and thoughtful and so this is why I asked
8 for the research because I really do want to look at
9 the research and, if there's any other articles or
10 books or studies that you want to share, I'm open to
11 that. A lot of the stuff that I saw that came out
12 from PowHer really, there wasn't anything that was
13 attached to research. It was just sort of bullet
14 points, not that you don't have research, but I
15 didn't see the research attached to a lot of the
16 advocacy that was being put forth and so I would love
17 to receive that and read about it. I'm totally open
18 to that.

19 SOLANGE CHARAS: Hopefully, somebody at
20 PowHer will help me figure out how to get you the
21 documents or I'll send it through PowHer to you so,
22 Chairperson Williams, if I can't reach out to you
23 directly it'll come through PowHer.

24

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2 CHAIRPERSON WILLIAMS: Yeah, my email is
3 very simple. It's just nwilliams@council.nyc.gov.
4 It's very easy.

5 SOLANGE CHARAS: N like...

6 CHAIRPERSON WILLIAMS: Yeah, like my name,
7 Nantasha Williams at council.nyc.gov. I'm like very
8 accessible.

9 SOLANGE CHARAS:
10 nwilliams@council.nyc.com. Okay.

11 CHAIRPERSON WILLIAMS: Dot gov. Dot gov,
12 sorry.

13 SOLANGE CHARAS: I will send you stuff
14 and, just before I get off because I'm already late
15 for my next meeting, where I got my PhD, our PhD is a
16 scholarly practitioner focus so everything that we do
17 in the PhD program...

18 CHAIRPERSON WILLIAMS: I love practitioner
19 focuses.

20 SOLANGE CHARAS: There you go. Thank you
21 very much for your time. I appreciate your attention.

22 CHAIRPERSON WILLIAMS: No, you're welcome.
23 Thank you for waiting. I know you're like one of the
24 last people so thank you for your patience and
25 waiting and listening through all of this.

2 SOLANGE CHARAS: It's worth it.

3 JAYASRI GANAPATHY, MODERATOR: Thank you,
4 Chair, and thank you, Solange. I would like to now
5 call on Nicholas Natoli followed by Miguel Raez-
6 Velazquez and then Miriam Clark. Nicholas, you can go
7 ahead when the Sergeant calls time.

8 SERGEANT HOPE: Time starts now.

9 NICHOLAS NATOLI: Hi. I'm testifying today
10 as an individual resident. I come from District 3 in
11 Manhattan. Last October, I was the victim of a
12 violent hate crime in which the attacker who
13 performed this act is now charged with a felony. I
14 think we can all see that the crime rates in the city
15 are abundant and petrifying, detrimental to the
16 overall well-being of everyone. Last year, terrorists
17 opened fire on Israel sparking a rise in anti-Semitic
18 crime, and, last week, Israel found 11 innocent
19 civilians murdered by Palestinian terrorists. A CUNY
20 student led group came together to call for a
21 globalized intifada. This is very concerning for me
22 as a human but also as a Jewish constituent of New
23 York, and she had lists of Zionist organizations that
24 she was handing out, again, violence against Jewish
25 people continues to rise. I was just wondering what

2 is the Council of Human Rights doing, where is there
3 focus as these rates continue to rise, like what's
4 going on now, when can we expect results in the
5 future, and I'll yield the remaining of my time to
6 open up the discussion for you guys.

7 CHAIRPERSON WILLIAMS: Thanks, Nicholas. I
8 would love to follow up with what you discussed
9 offline to see if we could address some of the issues
10 that you flagged.

11 JAYASRI GANAPATHY, MODERATOR: Thank you.
12 Thank you, Chair. Next we have Miguel Raez-Velazquez
13 followed by Miriam Clark. Miguel, you can go ahead
14 when the Sergeant calls time.

15 SERGEANT HOPE: Time starts now.

16 JAYASRI GANAPATHY, MODERATOR: It looks
17 like we do not have Miguel in the Zoom. Accordingly,
18 I will call Miriam Clark. Miriam, you can go ahead
19 when the Sergeant calls times.

20 SERGEANT HOPE: Time starts now.

21 MIRIAM CLARK: Thanks. I am Miriam Clark.
22 I'm a lawyer representing employees at a small law
23 firm, the Legislative Committee Chair of NELA New
24 York, which is an organization of employee lawyers,
25 and I just wanted to speak briefly about the

2 connection between this bill, which is a start, and
3 by this bill I mean Local Law 32, and pay
4 transparency and the larger question of equal pay as
5 I see it in my practice. Here are some examples to
6 answer your question, Chair Williams, or in part, I
7 think about how the bill even at the beginning, a
8 start like this, can really affect people's lives
9 when it comes to discrimination. For example, if a
10 person is working in a position, I've had many
11 clients, especially women and people of color, who
12 are told that they can't get salary increases because
13 they're at the top of the salary range. This was not
14 something that they knew when they took the job. Had
15 they known it when they took the job, they might've
16 looked elsewhere because being at the top of the
17 range is another way of telling somebody you're not
18 going to get a raise, you might never get a raise.
19 Now, sometimes it's actually true that there was a
20 salary range and the person was at the top of that,
21 but sometimes it's not true. They're not really at
22 the top of the range. The employer just doesn't want
23 to give that person a raise, and I think we know
24 historically that it is white men who tend to benefit
25 when there is a lack of transparency. That's why we

2 have these huge salary gaps that others have
3 reference so transparency around salary ranges has a
4 profound effect on women, people of color, others who
5 have less bargaining power to start with, or who have
6 been the victims of either deliberate or not
7 deliberate...

8 SERGEANT HOPE: Time expired.

9 MIRIAM CLARK: I just also want to say
10 that the CCHR FAQs which I've read are very clear and
11 helpful that my understanding is that the CCHR does
12 trainings multiple times a month, both virtually and
13 live in every single borough, and these are directed
14 towards small businesses, and I have to say the small
15 businesses of the city of New York have stepped up
16 incredibly well when it comes to complying with the
17 Human Rights Law, and I'm confident that they can
18 step up and comply with this as well.

19 JAYASRI GANAPATHY, MODERATOR: Thank you,
20 Miriam. Council Member, we do not have any other
21 witnesses. Do you have any questions you would like
22 to ask?

23 CHAIRPERSON WILLIAMS: No. I just look
24 forward to working with all sides of this argument to
25 ensure that we continue to protect all workers but

2 also keep in mind some of the concerns that have been
3 expressed by the business community, and I am very
4 thankful to have so many people come on and express
5 their thoughts, concerns, support, opposition of
6 Intro 134. I also just want to again thank the
7 Speaker and her leadership for, again, allowing us
8 the time to have these conversations, and I, as a new
9 Council Member, sort of seeing a lot of the advocacy
10 around this particular bill, the first thing that
11 came to mind was as advocates we're so used to sort
12 of having to call Hail Mary's because oftentimes our
13 voices are not heard within the space and that is not
14 the intent here. It is also not the intent of this
15 legislation to gut or eviscerate any of the wins we
16 saw during last year when it was originally passed,
17 and I just welcome continued deliberations and
18 conversations around this so we can make sure we get
19 to a place that everyone's okay with, maybe won't
20 love, but everyone is okay, and I think that's what's
21 most important. Beverly, I do see your hand is
22 raised. I welcome the opportunity to talk with you
23 offline. I did try to reach you the other day, and
24 so, again, looking forward to chatting with you. I

2 thank you for your advocacy in organizing everyone to
3 join today.

4 JAYASRI GANAPATHY, MODERATOR: Thank you,
5 Chair Williams. If we have inadvertently missed
6 anyone that had registered to testify today, please
7 use the Zoom raise hand function and let us know.

8 Seeing no raised hands, Chair, I think we
9 are all set to close out this hearing.

10 CHAIRPERSON WILLIAMS: All right. Thank
11 you so much. I just gavel out, correct? [GAVEL]

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C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date May 30, 2022