

**Testimony of JoAnn Kamuf Ward**  
**Deputy Commissioner, Policy and External Affairs**  
**New York City Commission on Human Rights**  
**Before the Committee on Civil and Human Rights on Int. 134 and the work of the Law**  
**Enforcement Bureau**  
**April 5, 2022**

Good morning Chair Williams and members of the Committee on Civil and Human Rights. I am JoAnn Kamuf Ward, Deputy Commissioner of Policy and External Affairs at the New York City Commission on Human Rights. It is my pleasure to join you today to testify regarding the Intro 134, which would amend the City's administrative code to require certain employers to post salary and compensation on job postings. I am joined today by my colleagues, Deputy Commissioner of the Law Enforcement Bureau, Sapna Raj, and Special Counsel, Katherine Greenberg.

### **Agency Mandate & Structure**

Last month at the Commission's preliminary budget hearing, we had the opportunity to speak in depth about the breadth of our agency's work across New York City, and today I will give a brief overview before we turn to the substance of this hearing. The Commission is the local civil rights enforcement agency that implements the New York City Human Rights Law, one of the broadest and most protective anti-discrimination and anti-harassment laws in the country, with 27 protected categories, and which covers housing, employment, and public accommodations. By statute, the Commission has two main functions. First, the Commission's Law Enforcement Bureau enforces the City Human Rights Law by investigating complaints of discrimination from the public, initiating its own investigations on behalf of the City, and utilizing testing to help identify violations of the Law. Second, through the Community Relations Bureau, the Commission provides workshops and trainings on New Yorkers' rights and the obligations of businesses, employers, and housing providers under the City Human Rights Law, working with community partners and sibling agencies. Seven years ago, the Commission established the Office of the Chair, which houses the agency's policy, legislative, rulemaking, and adjudicatory functions and implements major Commission projects.

This morning, I will start with a discussion of the Human Rights Law's employment protections and Intro 134. My Colleague Sapna Raj will then speak about the work of the Law Enforcement Bureau.

### **Existing Employment Protections**

Since 2015, the NYC Human Rights Law has been amended by the City Council 38 (thirty eight) times. More than a dozen of these amendments are in the area of employment, which is the area

where we see the highest number of filed complaints.<sup>1</sup> I will note a few of the significant amendments to contextualize the discussion of Intro 134.

A number of the Human Rights Law expansions from the past seven years relate to the language that appears in job advertisements, and require employers to take specific steps to comply with the Law.

As a result, the City Human Rights Law:

- Prohibits discrimination on the basis of criminal history, which means employers cannot include language such as "no felonies" or "criminal background check required" in job advertisements. Where making any inquiries regarding criminal history, employers are required to obtain information from applicants, and to conduct a balancing test that they share with an individual if they choose not to hire them after conducting a criminal background checks
- Prohibits discrimination on the basis of credit score, which includes prohibiting employers from including language such as "credit check required" in many job advertisements
- Institutes one of the nation's first bans on salary history inquiries, which prevents employers from asking any questions during interviews or in job applications about an applicant's prior earnings and benefits
- Ensures rights of pregnant and nursing people, including lactation accommodations (both in 2018), including requiring employer to designate physical rooms for employees to express milk and create written policies regarding lactation accommodations, and

Each of these four amendments apply to employers with 4 or more employees. In fact, some provisions of the Human Rights Law apply to all employers, even those with only one employee. This includes prohibitions on sexual harassment and all protections as applied to domestic workers.

Because the NYCHRL's coverage is broader than federal law, which covers only employers with 15 or 20 plus employees, our law provides vital protections for hundreds of thousands of New York City workers who otherwise would have no protections against discrimination, harassment, or retaliation at work.

With that background, I will turn to the subject of today's hearing, Intro 134.

### **Intro 134 (Amending Local Law 32 of 2022)**

In December, the Commission testified regarding pay equity, speaking in support of the intent of what is now Local Law 32, which requires covered employers to include a salary range in job advertisements. Local Law 32 is currently slated to go into effect on May 15, 2022. The Commission has developed a fact sheet to assist employers in complying with this new provision. The fact sheet explains that when employers advertise a job that will be performed in

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<sup>1</sup> In Fiscal Year 21, the Commission received 1373 inquiries related to employment and 924 related to housing.

New York City, they have to include a good faith wage range.<sup>2</sup> Here, “good faith” means the range that the employer honestly believes they are willing to pay at the time of posting. As our fact sheet indicates, salary refers to the base rate of pay, be it hourly, annually, or paid at any other frequency. The fact sheet further clarifies that salary does not include other benefits or incentives that may be part of a compensation package, such as commissions, tips, bonuses, stock, or the value of employer-provided meals or lodging

In addition to developing written materials, the Commission is getting the word out to potential employers and employees about these new protections. Commission staff have already been speaking with business owners and attorneys about these new protections. Earlier this month, the Commission presented at a workplace compliance consortium webinar, with over a hundred attendees. We are joining several training sessions for lawyers this month, including one this afternoon, and one later this month, alongside the Department of Consumer and Workplace Protections.

There has been significant public interest and media coverage of Local Law 32, and a quick search this week resulted in more than a dozen alerts about New York’s salary transparency law, including legal alerts as well as in trade publications. Forbes magazine has covered the law in two pieces since December, and recently a piece in Newsweek. CBS New York did a segment on Local Law 32 in February as well.

Looking ahead, the Commission plans to ensure comprehensive outreach in the business corridors in each borough, and to collaborate with chambers of commerce and BIDs, as well as professional associations to share information on salary transparency legislation. The new protections will be built into our human rights law training, and information will be shared at the resource fairs, and roundtables we attend- pathways in which we engage with tens of thousands of New Yorkers annually.

As the City Council contemplates Intro 134, which amends Local Law 32 of 2022, the Commission again offers wholehearted support for measures that advance pay equity, including efforts to foster transparency in hiring, and other measures that level the playing field for employees and aim to tackle existing disparities.

This is consistent with the Commission’s commitment to ensure that all New Yorkers can live and work with dignity, free from all forms of discrimination, and our ongoing efforts to advance racial and gender equity more broadly.

The Commission believes that laws and policies that intentionally seek to eradicate the root causes of discrimination and inequity are pivotal. Each of us have seen or experienced, discrimination that is overt and intentional. However, every day discrimination occurs as a result of practices and policies that disproportionately disadvantage particular individuals and groups. In the employment context, hiring practices that seem neutral on their face can perpetuate, and even exacerbate inequity.

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<sup>2</sup> See N.Y.C. Comm. Hum. Rts., *Salary Transparency in Job Advertisements* (Mar. 22, 2022), at <https://www1.nyc.gov/assets/cchr/downloads/pdf/publications/Salary-Transparency-Factsheet.pdf>

Discrimination in pay or terms of employment can be difficult to detect, as employees are often hesitant to share salary information with colleagues, and often do not realize – and are unable to know – that they are being compensated at lower rates for comparable work. Recognizing this reality, local and state governments, including in New York, are taking steps to advance pay equity.

Salary transparency is a tool that can level the playing field for employees, and for women, people of color, and other New Yorkers who have historically been – and continue to be – harmed by wage disparities. Wages can be determinative of quality of life - they define what is affordable in the short term, and can impact the ability to accrue inter-generational wealth. Action to address pay inequity today can yield long term benefits.

In 2019, the Commission convened a public hearing on pay equity, working with the sibling agencies, the Commission on Gender Equity, and the Department of Consumer and Worker Protection, as well as members of the New York City Bar Association.<sup>3</sup> This hearing, and our work in this area, have emphasized that federal, state, and local legislative and policy changes are needed to foster fairness and equity.

Testimony during the 2019 hearing underscored a range of recommendations to address wage disparities, which include the need for increased transparency surrounding pay, such as posting salary ranges.<sup>4</sup> Additionally, there was support for employer reporting of pay data and demographic information, as well as periodic audits.<sup>5</sup>

Testimony also suggested that there is a need for greater services and supports for individuals that have been most impacted by wage disparities and underpayment, including raising the minimum wage, and expansion of access to affordable childcare, as well as outreach and training programs that enhance career development and workplace readiness. The Commission looks forward to working with the City Council, as well as sibling agencies to promote gender and racial equity and advance pay equity in New York City.

Thank you again for the opportunity to speak today. My colleagues and I look forward to continuing to discuss Intro 134.

I will now turn the floor over to Deputy Commissioner Sapna Raj, for the second topic of this morning's hearing, the Commission's work enforcing the Human Rights Law through pre-complaint interventions, complaints filed by members of the public, and Commission initiated investigations.

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<sup>3</sup> See generally Challenges in Obtaining Pay Equity in the Workplace: A Report on New York City's 2019 Public Hearing on Pay Equity (2020),

[https://www1.nyc.gov/assets/genderequity/downloads/pdf/pay\\_equity\\_report\\_2020\\_final.pdf](https://www1.nyc.gov/assets/genderequity/downloads/pdf/pay_equity_report_2020_final.pdf).

<sup>4</sup> *Id.* at 35.

<sup>5</sup> *Id.* at 33.

**Testimony of Sapna Raj**  
**Deputy Commissioner, Law Enforcement Bureau**  
**New York City Commission on Human Rights**  
**Before the Committee on Civil and Human Rights on the Law Enforcement Bureau**  
**April 5, 2022**

Good morning Chair Williams and members of the Committee on Civil and Human Rights. I am Sapna Raj, Deputy Commissioner of the Law Enforcement Bureau at the New York City Commission on Human Rights. It is my pleasure to speak about the work of the Law Enforcement Bureau.

The attorneys in the Law Enforcement Bureau (“LEB”) 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 pattern-or-practice or other forms of discrimination through Commission-initiated investigations. LEB and its specialized units, the Early Intervention Unit, Source of Income Unit, and Gender-Based Harassment Unit, offer the option of resolving claims in lieu of filing a complaint, leading to a quicker resolution.

Resolutions through pre-complaint intervention have significantly increased over the past several years, as LEB has worked to provide timely resolutions despite an increased caseload. In FY 21, the Commission fielded 9,055 inquiries from members of the public, in the form of phone calls, emails, letters, visits to Commission offices, and queries to mobile intake units dispatched to community sites or at Commission events.

The Law Enforcement Bureau uses a variety of tools to investigate and determine whether violations of the Human Rights Law have occurred, and to provide redress. We are an enforcement agency, but we do not simply issue determinations that violations have occurred and that damages should be paid to the complainant or that civil penalties should be paid to the City if New York. Our aim is always to repair harms experienced by individuals and communities impacted by discrimination, and to prevent future Human Rights Law violations. The Commission takes a cooperative approach to fostering Human Rights Law compliance. In many instances involving first-time violators of the City Human Rights Law, where no complainant was harmed by a violation, the Commission has sought to educate businesses and housing providers about their legal obligations and work with them in creating non-discriminatory policies and practices, rather than levying fines.

### **Identifying Possible Human Rights Law Violations: Inquiries and Testing**

The Commission has several pathways to identifying violations of the Human Rights Law.

Any individual can contact the Law Enforcement Bureau via our Infoline to report allegations of discrimination, and to file an individual complaint. Any New Yorker has the right to file a complaint with the Commission in the jurisdictional areas covered by our law. The Bureau may also become aware of alleged unlawful discriminatory practices, through an anonymous tip,

information shared by a community-based organization, an elected official, through social media, or media reports. In these instances, the Commission can launch a Commission-initiated action.

The Law Enforcement Bureau also uses testing as an investigative tool to determine whether there is discrimination in housing, employment, or public accommodations. The agency has the authority to use testers to determine if they are treated differently or are given different information by potential employers, landlords/real estate brokers, restaurants, hospitals, stores, or other public accommodations because they belong to a protected class. This is a historically effective tool used in civil rights litigation.

When the Commission learns of potential discriminatory conduct, through a tip, testing, or a complaint filed by a member of the public, the Law Enforcement Bureau has many options as to how to proceed.

### **Tools to Respond to Allegations of Discrimination: Interventions and Investigations**

The Commission has the authority to take a range of actions before a complaint is ever filed. One is to issue a cease-and-desist letter to notify the alleged wrong-doer that actions taken may be a violation of the New York City Human Rights Law, demand the discriminatory actions cease and that specific actions be taken, including, for example, restoring a victim of discrimination to the status they were in before the discriminatory action or change policies and procedures.

While cease-and-desist letters can be very effective, the Commission uses a suite of investigative methods, such as requests for information on policies and practices, demands for documents and data, and interviews of key witnesses to build a comprehensive record of what occurred. Each of these tools can help build a factual record.

The amount of time that it takes to respond and investigate depends on the unique factors of each case: the underlying claim, the factual and legal complexity, the availability and responsiveness of those harmed by discrimination, as well as any witnesses and respondents.

Ultimately at the conclusion of an investigation, LEB reaches a determination as to whether the evidence it has gathered supports the allegations in the complaint or not. If LEB finds probable cause, the cases proceed to a hearing at NYC OATH – presided over by an Administrative Law Judge. Before initiating the prosecution, LEB attempts to settle, or conciliate, the case. If the case does not settle, then OATH will hold a hearing, and the Commissioner of CCHR will issue a final decision dismissing the case or ordering relief for the complainant.

### **Settlements**

At all points during the investigation, once probable cause has been found and until a Decision and Order is issued by the Commissioner, the parties can and do enter into settlement of the claims. Not all complaints are resolved by an LEB determination on the merits. Many cases settle for monetary restitution, and/or affirmative relief such as policy creation, training,

monitoring of the covered entity's business practices, or community service. In FY 21, 30% of cases were resolved through settlements. It is important to note that not all inquiries become filed complaints. The Commission has instituted a range of approaches to quickly resolve matters.

### **Pre-Complaint Interventions (PCI)**

In an ongoing effort to foster accountability and justice for New Yorkers facing ongoing discrimination and harassment, the Law Enforcement Bureau has increasingly pursued Pre-Complaint Interventions. This is where the Commission attempts to resolve claims prior to the filing of a complaint. In FY 21, LEB obtained a positive outcome for a Complainant in 214 matters, such as a reasonable accommodation for a disability or a transfer away from a harasser, without filing a complaint. In FY 20, LEB resolved 403 matters in this way.

In FY 21, the most common Pre-Complaint Interventions involved disability accommodations in housing (91 interventions), and lawful source of income discrimination, in which a tenant or prospective tenant was denied an apartment, or the renewal of a lease based on the use of rental assistance (13 interventions). Because of LEB's Interventions, New Yorkers were able to get a ramp installed at their apartment buildings or have the employer grant a reasonable accommodation that was requested due to a disability, pregnancy or religious beliefs, without filing a complaint and ensuing litigation process which can be lengthy.

### **Outcomes: Damages and Civil Penalties and Other Forms of Relief**

The Law Enforcement Bureau remains a venue for justice where recoveries and affirmative relief are calibrated to address the harms caused to New Yorkers.

Through conciliation and decisions and orders, the Commission can award monetary damages for the complainant, including lost wages, emotional distress damages, and attorneys' fees. The Law Enforcement Bureau can also impose civil penalties of up to \$250,000 that are paid to the general fund of the City of NY.

Since 2015, the Commission has broken records year after year with respect to damages and penalties assessed. Last year was no different. In FY 21, the Commission recovered \$9,741,100 in compensatory damages and civil penalties, the highest in Commission history for the third year in a row, and \$2.2 million more than in FY 20 (\$7,519,147). Of that, \$8,069,100 were awarded in compensatory damages to Complainants and \$1,678,000 in civil penalties to the general fund of the City of New York.

In addition to securing monetary relief, the Law Enforcement Bureau continues to innovate creative resolutions that deter future harm and put restorative justice principles into practice to change the dynamics that led to harms in the first place. Through case resolutions, the Commission can order Respondents to perform wide ranging affirmative relief, including posting Notice of Rights the Commission has issued, creating or revising policies, conducting trainings, performing community service, and more. Settlements and agreements usually

involve some combination of policy changes, training for staff and management, civil penalties, posting requirements, or other forms of affirmative relief. In instances of employment discrimination, the Commission has negotiated resolutions that require Respondents to invest in employment pipeline opportunities for underrepresented groups, and to engage with community-based organizations to facilitate broader recruitment. In housing cases, settlements have included set-asides of apartments for voucher holders and broker incentives for working with voucher holders.

The Law Enforcement Bureau continues to identify strategic interventions to address discrimination in housing, employment, and public accommodations, and to respond to retaliation. We look forward to working with the Administration and members of City Council to identify and root out all manifestations of discrimination and harassment.

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

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**Written Testimony of  
Andrea Johnson, Director of State Policy, Workplace Justice & Cross-Cutting Initiatives  
National Women's Law Center  
In OPPOSITION to Int. No. 134  
Before the New York City Committee on Civil and Human Rights**

**April 8, 2021**

Thank you for the opportunity to submit this testimony on behalf of the National Women's Law Center. NWLC has been working since 1972 to secure and defend women's legal rights and opportunities, and to help women and families achieve economic security. A large part of our work involves supporting local and state elected officials across the country in their efforts to pass laws that will help close gender and racial wage gaps.

Salary range transparency is a top equal pay policy priority right now and a trend we are seeing sweep the country. We submit this testimony in opposition to Int. No. 134 because its employer carve outs and exemptions would undermine the law's effectiveness as a tool to close NYC's racial and gender wage gaps.

**1. Secrecy around salary ranges perpetuates gender and racial wage gaps**

When an employer asks a job applicant what their salary expectations are without providing the applicant any information about the pay for the position, women and people of color lose out. Studies show that women often ask for less when they negotiate than men, even when the women applicants are otherwise equally qualified.<sup>1</sup> That may be, in part, because it is a common practice for job applicants to ask for an amount that is a 10 to 20 percent increase over their prior salary.<sup>2</sup> Given that women and people of color are typically paid less than white, non-Hispanic men, they would have to request a particularly large percentage increase over their current pay for their request to be on par with their white, non-Hispanic male counterparts. Since employers tend to anchor salary negotiations, consciously or subconsciously, on the job applicant's first salary request, providing applicants with a salary range that the employer is willing to pay helps level the negotiating playing field and reduces gender and racial wage gaps.

**2. Salary range transparency helps narrow gender wage gaps**

Research shows that when job applicants are clearly informed about the context for negotiations, including the salary range, women are more willing to negotiate, more successful in negotiating, and the gender wage gap narrows.<sup>3</sup>

Providing applicants and employees with salary range information also helps employees evaluate whether they are being paid fairly and work with their employers to resolve pay disparities. And salary range transparency provides companies with an opportunity to proactively review and evaluate their compensation practices and address any unjustified disparities between employees.

The much narrower wage gap in the public sector, where agencies typically have transparent and public pay structures, further proves that greater salary range transparency helps reduce wage disparities. Nationally, the gender-based wage gap for all full-time workers, based on median earnings, is 18 percent. However, in the federal government, where pay rates are publicly available, the gender-based wage gap in 2017 was 7 percent.<sup>4</sup>

### **3. Salary range transparency helps businesses more effectively and efficiently hire and set pay**

We are seeing more and more businesses—small and large alike—voluntarily implement salary range transparency not only because it helps employers avoid wage gaps and in turn, litigation and liability, but because it helps them more efficiently and effectively attract and match with interested candidates and avoid wasting time interviewing candidates who won't ultimately be interested in the position.<sup>5</sup> Indeed, a recent study found that the number of job postings that include salary ranges has been on the rise this year, given the increasingly tight labor market.<sup>6</sup> Candidates are increasingly expecting more transparency from employers and looking for salary ranges in job announcements.<sup>7</sup> In addition, providing employees with compensation information is shown to promote employee loyalty and productivity, which is good for employers' bottom line.<sup>8</sup>

### **4. States are increasingly enacting and considering salary range transparency requirements**

Seven states have enacted laws requiring employers to provide job applicants the salary range for a position at some point in the hiring process—four in just the last year: Colorado, Washington, Rhode Island, Connecticut, Nevada, Maryland, and California. And this year, at least a dozen states from California to Indiana have been considering legislation to require salary range transparency from employers.

Colorado's salary range transparency requirement, like New York City's, requires salary ranges be posted in the job announcement and, importantly, applies to all size employers. Salary range information is important no matter where you work and it is a simple measure to implement. Even if an employer doesn't have established pay ranges, all employers must budget an amount for the position for which they are hiring. Salary range transparency laws just ask employers to be open about that amount or range.

### **Conclusion**

Requiring employers to provide salary ranges to applicants is a crucial step towards closing the wage gap. And since the wage gap has barely budged in more than a decade, we must act now. We urge the members of this Committee to show up for working people in New York City by opposing Int. 134.

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<sup>1</sup> See Linda Babcock & Sara Laschever, *WOMEN DON'T ASK: NEGOTIATION AND THE GENDER DIVIDE* (2003); Jenny Save-Soderbergh, *Are Women Asking for Low Wages? Gender Differences in Wage Bargaining*

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*Strategies and Ensuring Bargaining Success*, Swedish Inst. Soc. Res. Working Paper Series 7/2007 10 (2007), available at [https://ideas.repec.org/p/hhs/sofiwp/2007\\_007.html](https://ideas.repec.org/p/hhs/sofiwp/2007_007.html).

<sup>2</sup> See Jacquelyn Smith, *How Much Money to Ask for in a Salary Negotiation* (May 22, 2015), <http://www.businessinsider.com/how-much-money-to-ask-for-in-a-salary-negotiation-2015-5>; Melissa Phips, *Interview Questions about Your Salary Expectations* (Nov. 11, 2016), <https://www.thebalance.com/interview-questions-about-your-salary-expectations-2061235>.

<sup>3</sup> See, e.g., Maria Recalde & Lise Vesterlund, *Gender Differences in Negotiation and Policy for Improvement*, National Bureau of Economic Research (Dec. 2020); Hannah Riley Bowles, Linda Babcock & Kathleen L. McGinn, *Constraints and Triggers: Situational Mechanics of Gender in Negotiations*, 89 J. PERSONALITY & SOC. PSYCH. 951, 955-56 (2005)

<sup>4</sup> Gender Pay Differences: The Pay Gap for Federal Workers Has Continued to Narrow, but Better Quality Data on Promotions are Needed, GOVERNMENT ACCOUNTABILITY OFFICE (2020), <https://www.gao.gov/assets/720/711014.pdf>.

<sup>5</sup> NAT'L WOMEN'S LAW CTR, EMPLOYER LEADERSHIP TO ADVANCE EQUAL PAY: EXAMPLES OF PROMISING PRACTICES (Mar. 1 2017), <https://nwlc.org/resources/employer-leadership-to-advance-equal-pay-examples-of-promising-practices/>.

<sup>6</sup> See Roy Maurer, *More Employers post Salary Ranges to Attract Workers* (Aug. 16, 2021), <https://www.shrm.org/resourcesandtools/hr-topics/talent-acquisition/pages/salary-ranges-.aspx>.

<sup>7</sup> See Roy Maurer, *More Employers post Salary Ranges to Attract Workers* (Aug. 16, 2021), <https://www.shrm.org/resourcesandtools/hr-topics/talent-acquisition/pages/salary-ranges-.aspx>; Greg Lewis, "This Job Description Heatmap Shows You What Candidates Really Care About (and What They Ignore)," LinkedIn (June 19, 2018), available at <https://www.linkedin.com/business/talent/blog/talent-acquisition/job-description-heatmap>.

<sup>8</sup> See, Deborah Thompson Eisenberg, *Money, Sex and Sunshine: A Market-Based Approach to Pay Discrimination*, 43 Ariz. State L.J. 951, 1001-15 (2011); Lamb, N. & Klein, W., *A Proactive Approach to Wage Equality is Good for Business*, *Employment Relations Today* (Summer 2015), <http://arjuna-capital.com/news/a-proactive-approach-to-wageequality-is-good-for-business/>; See, Andrew Chamberlain, *Is Salary Transparency More Than a Trend?*, *Glassdoor* (Apr. 27, 2015), <https://www.glassdoor.com/research/studies/issalary-transparency-more-than-a-trend/>.



## Testimony to the Civil and Human Rights Commission

### About Int. 134 which proposes dangerous amendments to LL32

One Fair Wage supports the NYC Salary Range Law - Local Law 32 (LL32) that provides for salary transparency for workers in all businesses with more than four workers in New York City. Many of these workers are front line workers- women of color and immigrants who work in the accommodation and food service industries.

The Center for American Progress in an article on “It’s a Good Jobs Shortage: The Real Reason Why So Many Workers are Quitting” spoke to the tight labor market as an opportunity for improvements in job quality, especially for people of color. Industries hardest hit by resignations are accommodation and food services where one in four workers are women of color and one in five work in retail.<sup>1</sup>

A recent survey in New York City, found that over a third of restaurant workers are considering leaving their jobs since the start of the pandemic and over 40 percent say it is due to their low wages. Two-thirds of these restaurant workers indicated that earning a full, stable, livable wage would make them stay at their job.<sup>2</sup>

Low paid workers across industries are leaving their jobs at a higher rate than any other group- these are also jobs that have the poorest working conditions and few to no benefits. Everyone can see that restaurants and bars all over NYC have closed or changed their hours before they do not have adequate help.

One Fair Wage has been fighting for several years to gain fair wages for tipped workers. **This is an economic, racial and gender justice issue** because the majority of the workforce of tipped workers is over two thirds women and disproportionately women of color. As well, they must

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<sup>1</sup> Center for American Progress: It’s a Good Job Shortage: The Real Reason Why So Many Workers are Quitting.

<https://www.americanprogress.org/article/its-a-good-jobs-shortage-the-real-reason-so-many-workers-are-quitting/>.

<sup>2</sup>

Fair Wage. (February 2021). Doing More for Less: New York Restaurant Workers’ Experiences of Tips, Surcharges, Racial Inequity, and Why They’re Leaving the Industry During COVID-19. New York, NY: One Fair Wage. 17 Ibid. 18 National Restaurant Association

address that fact that they experience over three times the poverty rate of the rest of the workforce in the US and are victims of the highest sexual harassment rates of any industry.<sup>3</sup>

The reality is there is not a worker shortage, there's a wage shortage. That is why we assert that:

- Employers should implement **LL 32 and make available salary ranges so employees know where they stand, and candidates can anticipate if the job is a match for their expectations.**
- LL 32 must apply to small businesses except for those under 4 employees. INT 134 raises that exemption to employers with 15 employees. Passing INT 134 would mean over 58,000 small businesses, of which approximately 8,000 are in accommodation and food services employing 67,000 workers, would be exempt. **Don't let that happen.**
- Women and people of color cannot and will not settle any longer for the same inadequate, dangerous and often exploitative jobs they had before the pandemic.
- This is the moment for employers to offer better jobs and equalize the playing field for all workers including low wage workers.

All workers deserve a decent wage which enables them to support their families. Eliminating the subminimum wage for tipped workers and implementing the Salary Range Law will facilitate that goal.

**We share the same goal: to ensure gender and racial equity and to give equal opportunity for all to earn a decent wage, especially for women of color. Please vote NO on INT 134 and keep LL 32 intact without amendments.**

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<sup>3</sup> One Fair Wage Fact [https://onefairwage.site/wp-content/uploads/2021/04/OFW\\_MythsAndFacts\\_6.pdf](https://onefairwage.site/wp-content/uploads/2021/04/OFW_MythsAndFacts_6.pdf)



**NYC Council Committee on Civil and Human Rights  
Hearing on Int 134 which amends LL32, the NYC Salary Range Law  
April 5, 2022  
Submitted by Beverly Neufeld for PowHer New York**

**NYC Salary Range Local Law 32 and Int 134  
Questions and Supporting Research**

During the April 5, 2022 hearing on Int 134<sup>1</sup>, questions arose about the purpose and efficacy of the NYC Salary Range Law-LL32<sup>2</sup>, and how and if it will mitigate the persistent gender and racial wage disparities experienced by NYC workers. This Q & A document attempts to address those questions, as well as how proposed Int 134 will dramatically limit the scope and impact of LL32 and NYC's goal of ending wage inequality.

- **THE WAGE GAP AND SALARY TRANSPARENCY**
- **NYC SALARY RANGE LAW LL32 AND INT 134**
- **BUSINESS AND SALARY RANGE DISCLOSURE**

**What does NYC Local Law 32 of 2022, enacted on January 15, 2022, require?**As stated by the NYC Commission on Human Rights factsheet: "Starting May 15, 2022, employers advertising jobs in New York City must include a good faith salary range for every job, promotion, and transfer opportunity advertised."<sup>3</sup>

**THE WAGE GAP and SALARY TRANSPARENCY**

Is there a gender and racial wage gap in New York?

Yes. A significant gender and racial wage gap exists in almost all industries and despite educational attainment. In New York, all full-time working women earn 86 cents compared to all men. At current trends, parity will not be reached until 2046<sup>4</sup>. Black women and Latinas earn 64 cents and 56 cents, respectively, compared to full-time

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<sup>1</sup> *The New York City Council - File #: Int 0134-2022*  
<https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=5528005&GUID=4544EE38-4659-44F6-9092-19D965A680AE&Options=ID%7CText%7C&Search=134>, 2022

<sup>2</sup> *The New York City Council - File #: Int 1208-2018*  
<https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=3713951&GUID=E7B03ABA-8F42-4341-A0D2-50E2F95320CD>, 2018

<sup>3</sup> *Salary-Transparency-Factsheet* <https://www1.nyc.gov/assets/cchr/downloads/pdf/publications/Salary-Transparency-Factsheet.pdf>, 2022

<sup>4</sup> *The Status of New York Women*, Institute for Women's Policy Research  
<https://statusofwomendata.org/wp-content/themes/witsfull/factsheets/economics/factsheet-new-york.pdf>, 2018

working white, non-Hispanic men<sup>5</sup>. In New York City, those numbers are even lower and the poverty rate for Black women and girls is one in four<sup>6</sup>, for Latinas 3 in 10.<sup>7</sup>

### How can we close the gender and racial pay gap?

**New York has passed various laws to end discriminatory practices that result in lower wages for marginalized groups.** For example, laws now protect workers from retaliation if they talk about their salaries<sup>8</sup> and create a new standard of equal pay for substantial similar work.<sup>9</sup> In NYC, Local Law 18 divulges data on the public workforce<sup>10</sup>, and NYC led the way barring employers from asking salary history so that workers are paid based on their skills not on their past earnings which are lower because of prior discrimination.<sup>11</sup>

**Salary range disclosure is the next step, not the only step, in our road to pay equity.** Research affirms that it is an effective way to close the pay gap because it creates wage transparency.<sup>12</sup> Requiring employers to post salary ranges ends secrecy which breeds pay disparities. This serves several critical functions by:

- reducing unconscious bias in salary-setting,
- giving jobseekers more information to evaluate the fit of a job and more leverage during the hiring and negotiation process,
- streamlining the hiring process for both employers and jobseekers, and
- demonstrating a company's culture of openness which helps attract and retain top talent.

Salary disclosure requirements force employers to contemplate a pay range at the front-end of their process that centers around objective factors (i.e., budget, value assigned to the position, skills and experience required, and job responsibilities), instead of relying primarily on subjective candidate-specific factors which tend to incorporate unconscious biases that devalue work done by women and minorities<sup>13</sup>

### What is the purpose of pay transparency?

Controlling for education, industry, and job title, women continue to make less than men, a reality that compounds over time and is exacerbated by race, leaving women of color at the very bottom of the payscale. **By concealing the source of the problem, pay secrecy makes it difficult to tackle these stubborn inequities.**

The purpose of the NYC Salary Range Law LL 32 is, therefore, to address persistent pay secrecy to help close the gender and racial pay gaps for women and people of color; establish more fair, equitable, and transparent pay practices for everyone;<sup>14</sup> and encourage employers and businesses to adopt more efficient and streamlined salary setting practices that are less prone to discriminatory decision-making.

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<sup>5</sup> *The Wage Gap, State by State*, National Women's Law Center (NWLC) <https://nwlc.org/resources/wage-gap-state-state/>, 2021

<sup>6</sup> *Inside the Gender Wage Gap, Part I: Earnings of Black Women in New York City: Office of the New York City Comptroller* <https://comptroller.nyc.gov/wp-content/uploads/documents/BW-Equal-Pay-Day.pdf>, 2018

<sup>7</sup> *Inside the Gender Wage Gap* (Office of the NYC Comptroller) <https://comptroller.nyc.gov/wp-content>, 2018

<sup>8</sup> *Guidance on Pay Equity for Employers in New York State* (Department of Labor) [https://dol.ny.gov/system/files/documents/2021/03/fact-sheet\\_-\\_guidance-on-pay-equity-for-employers-in-new-york-state.pdf](https://dol.ny.gov/system/files/documents/2021/03/fact-sheet_-_guidance-on-pay-equity-for-employers-in-new-york-state.pdf), 2021

<sup>9</sup> *Salary History/Pay Equity* (Department of Labor) <https://dol.ny.gov/salary-historypay-equity>, 2019

<sup>10</sup> *Pay Equity in NYC* (NYC Council) [https://council.nyc.gov/data/pay-equity/#:~:text=In%202019%2C%20the%20New%20York.of%20New%20York%20\(NYC\),2018](https://council.nyc.gov/data/pay-equity/#:~:text=In%202019%2C%20the%20New%20York.of%20New%20York%20(NYC),2018)

<sup>11</sup> *Salary History Questions During Hiring Process are Illegal in NYC* (NYC Commission on Human Rights) <https://www1.nyc.gov/site/cchr/media/salary-history.page>, 2017

<sup>12</sup> *Salary Range Transparency Reduces the Wage Gap* (NWLC) <https://nwlc.org/wp-content/uploads/2018/06/Salary-Range-and-Transparency-FS-2020-1.17.2020-v2.pdf>, 2020

<sup>13</sup> *Breaking barriers: Unconscious gender bias in the workplace* (Int'l Labour Org) [https://www.ilo.org/wcmsp5/groups/public/---ed\\_dialogue/---act\\_emp/documents/publication/wcms\\_601276.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---act_emp/documents/publication/wcms_601276.pdf), 2017

<sup>14</sup> Bobby Ghosh, *Salary Transparency Is Good for Everybody*, Bloomberg Opinion, <https://www.bloomberg.com/opinion/articles/2022-02-15/salary-transparency-will-empower-women-and-young-workers>, 2022

### While they may sound good in theory, do pay transparency laws help close the pay gap in practice?

Yes. Research conducted in jurisdictions that have enacted pay transparency provisions and among employers who have adopted transparent pay practices shows that pay transparency laws do in fact help reduce the gender pay gap.<sup>15</sup>

### How will LL32 enhance fair and equitable pay practices for lower-wage workers?

This new law requires all employers to disclose the salary range that they can offer, thus eliminating their ability to set exploitative wages behind closed doors. Simultaneously, it will give low-wage workers information about how jobs are valued, allowing them to have better options and identify employers with better pay practices.

## **NYC SALARY RANGE LAW - LOCAL LAW 32**

### Why should New York City maintain LL32 without modifications?

**Proactive, meaningful action needs to be taken for NYC to effectively address the intractable gender and race-based pay gaps, and pay transparency is a necessary step in doing so.**<sup>16</sup>

Business trends and developments in state law amply demonstrate, the movement towards pay transparency is both inevitable and a best practice. New York City is home to some of the largest and most influential employers in the country. As more and more states look to adopt pay transparency provisions, **New York City should remain at the forefront shaping the law in this area to drive more equitable and fair pay practices across the country.** NYC can do more to create pay transparency, but LL32, like the Salary History Ban, is a critical next step.

**Backpedaling on this well-publicized and popular law thwarts progress.** NYC workers are anticipating salary ranges in job listings for employment opportunities in 2022 and undermining the law, especially by a new, majority female City Council, is perplexing and reduces public trust.

### How will the proposed amendments in Int 134 hurt the salary range law?

**Int 134 proposes amendments that severely undermine the purpose and scope of LL32.** They will:

- **Exempt employers with 15 or fewer employees, instead of the current 4 or fewer employees** which is the standard for the NYC Human Rights law and protects more workers across all industries. This unnecessary exemption cuts out an estimated 58,000 businesses and 481,000 workers, of which 222,000 are women.<sup>17</sup> The NYCCHR routinely supports smaller businesses by: giving a 30 day “cure” or

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<sup>15</sup> Michael Baker et al., *Pay Transparency and the Gender Gap* (Nat'l Bureau of Econ. Research Working Paper No. 25834), [https://www.nber.org/system/files/working\\_papers/w25834/w25834.pdf](https://www.nber.org/system/files/working_papers/w25834/w25834.pdf); Michael Baker et al., *Can Transparency Laws Fix the Gender Wage Gap?*, Harvard Business Review (Feb. 26, 2020), <https://hbr.org/2020/02/can-transparency-laws-fix-the-gender-wage-gap>; Maria Recalde & Lise Verterlund, *Gender Differences in Negotiation and Policy* (Nat'l Bureau of Econ. Research Working Paper No. 28183), [https://www.nber.org/system/files/working\\_papers/w28183/w28183.pdf](https://www.nber.org/system/files/working_papers/w28183/w28183.pdf); *Does Pay Transparency Close the Gender Wage Gap?*, PayScale, <https://www.payscale.com/content/whitepaper/Pay-Transparency-Closing-Gender-Wage-Gap.pdf> (last visited Mar. 8, 2022) (“The high-level results of this research show that when respondents agree that pay is transparent in their organization, the gender wage gap vanishes for women doing similar jobs to men when all compensable factors are adjusted.”).

<sup>16</sup> Aman Kidwai, *Pay transparency can address gender wage gap better than alternatives study finds*, HR Dive, [www.hrdive.com/news/pay-transparency-can-address-gender-wage-gap-better-than-alternatives-stud/592850/](http://www.hrdive.com/news/pay-transparency-can-address-gender-wage-gap-better-than-alternatives-stud/592850/); *Does Pay Transparency Close the Gender Wage Gap?*, PayScale, 2021 <https://www.payscale.com/content/whitepaper/Pay-Transparency-Closing-Gender-Wage-Gap.pdf>.

<sup>17</sup> Quarterly Census of Employment and Wages (2019) and the 1-year American Community Survey data (2019).



“grace” period, making fines proportionate to the size of the company, and using robust education campaigns, such as monthly trainings in every borough and in multiple languages.

- **Exempt all jobs that could be done remotely, in whole or in part.** New York businesses can use this as a loophole to avoid salary posting for this segment of the workforce which has grown even larger because of the pandemic. Out-of-state businesses regularly hire NYC’s talented workers and comply with NYC laws governing employment, i.e. income tax and paid sick days. All jobseekers, whether they work on the jobsite or virtually, should know the pay range before interviewing or negotiating salary.
- **Create a giant loophole for all employers to place a general "Help Wanted" job listing** without having to reveal salary information. This will create less transparency and can easily be used by employers to sidestep salary range disclosure. It is also a missed opportunity to stop the common practice of exploiting vulnerable workers paying below minimum wage.
- **Postpone the start date** for the law from May 15, 2022 to November 1, 2022. If the goal is to give more time for employers to adjust to this new requirement, the **enforcement date can be postponed** for larger employers and compliance for small businesses can be rolled out later. The public and businesses large and small are well aware of the new law. Indeed, at the end of this document there are 80 articles about the NYC law, so knowing that it will be starting in May is widespread.

## **BUSINESS AND SALARY RANGE DISCLOSURE**

### **How will requiring salary ranges impact employers and won't it be bad for business?**

While employers will have less flexibility to underpay workers, research shows that transparent pay practices have numerous positive outcomes for employers and business. Salary is one of the most important factors candidates consider when looking for employment.<sup>18</sup> By requiring employers to disclose salary up front, this law eliminates inefficient hiring practices, allowing candidates to apply for jobs that actually meet their salary requirements instead of going through a full recruitment process in order to assess whether they can accept a position. Moreover, the law would allow employers to attract a more qualified applicant pool; increase employee trust and retention; eliminate unfair pay schemes, which are known to breed resentment and result in high turnover; and improve job satisfaction, employee engagement, and productivity.<sup>19</sup>

Moreover, HR firms across the country are increasingly advising employers to get on board. The move towards greater pay transparency is inevitable, not only because more businesses are moving towards disclosing salary ranges (whether required to or not),<sup>20</sup> but also because more employees are exercising their right to share compensation information that companies have long sought to keep secret.<sup>21</sup> According to Payscale, “Pay

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<sup>18</sup> Greg Lewis, *This Job Description Heatmap Shows You What Candidates Really Care About (and What They Ignore)*, LinkedIn Talent Blog, <https://www.linkedin.com/business/talent/blog/talent-acquisition/job-description-heatmap>, 2018

<sup>19</sup> *Does Pay Transparency Close the Gender Wage Gap?*, PayScale, <https://www.payscale.com/research-and-insights/pay-transparency/#:~:text=Fortunately%2C%20when%20analyzed%20against%20pay,ever%20%241%20a%20man%20earns> (last visited Mar. 8, 2022); Samantha Cooney, *Should You Share Your Salary With Co-Workers? Here's What Experts Say*, Time (Aug. 14, 2018), <https://time.com/5353848/salary-pay-transparency-work/>.

<sup>20</sup> Roy Maurer, *More Employers Post Salary Ranges to Attract Workers*, SHRM, <https://www.shrm.org/resourcesandtools/hr-topics/talent-acquisition/pages/salary-ranges-.aspx>, 2021

<sup>21</sup> *Does Pay Transparency Close the Gender Wage Gap?*, PayScale, <https://www.payscale.com/research-and-insights/pay-transparency/#:~:text=Fortunately%2C%20when%20analyzed%20against%20pay,ever%20%241%20a%20man%20earns> (last visited Mar. 8, 2022) (“With the advent of the internet, advances in technology, and the sharing of all kinds of personal information via social media, compensation is no longer the mystery that it once was. People today are sharing salary information openly and anonymously, both online and off, with the result that employees are finding out what they are being paid compared to others in similar positions — and quitting their jobs because of it.”).

transparency will be a part of any modern compensation plan, as the future is trending in this direction.”<sup>22</sup> Companies that attempt to keep pay a secret will be at a competitive disadvantage compared to other employers and are likely to suffer reputational costs.

### Is there research on the benefits of salary transparency for business?

There is overwhelming research that pay transparency is actually beneficial for organizations. Out of thousands of articles, the following are instructive:

- “...better access to job information can encourage smarter job searching, help improve the quality of job matches, and may lead to shorter unemployment spells for workers. Salary transparency helps expose pay gaps between otherwise similar workers, encouraging underpaid employees to renegotiate or move to better-fitting jobs, improving overall efficiency in labor markets. Most studies find **employees are more productive and engaged when pay structures are transparent and predictable.**”<sup>23</sup>
- “**Wage transparency would benefit employers** because it would provide them with more data to better analyze if their employees are paid equally for equal work, and if employees are not paid equally, why. There is even more motivation for lawmakers to require wage transparency because employee access to wage data provides a number of benefits to private sector employers.”<sup>24</sup>
- “Consistent with our prediction, the [**pay transparency**] laws lead wages to decline by approximately **2% overall.**”<sup>25</sup>

### Won't this law limit employers' ability to retain talent and bring on exceptional candidates outside the range?

Under this law, employers retain the flexibility to issue a “good faith” salary range in order to attract talent and there are simple ways that an employer can draft a posting to attract candidates with varying levels of experience. For example, an employer can include multiple salary ranges if they want to attract candidates with different levels of experience within a single post. As employers become more accustomed to disclosing salary ranges up front, they likely will become better at issuing an accurate range.

### How does LL32 and Int 134 apply to remote work?

LL32 will apply to remote opportunities and details regarding enforcement will be left to the NYC Commission on Human Rights. According to the Commission’s guidance, the law applies to covered employers “when advertising for positions that can or will be performed, in whole or in part, in New York City, whether from an office, in the field, or remotely from the employee’s home.”<sup>26</sup>

While employers may attempt to exclude New York City employees from postings, attempts to do so in Colorado were addressed and promptly corrected by Colorado’s Department of Labor. Employers who choose to exclude workers geographically undercut their own efforts by reducing their candidate pool and excluding talent.

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<sup>22</sup> *Does Pay Transparency Close the Gender Wage Gap?*, PayScale, <https://www.payscale.com/research-and-insights/pay-transparency/#:~:text=Fortunately%2C%20when%20analyzed%20against%20pay,ever%20%241%20a%20man%20earns.>

<sup>23</sup> Chamberlain, A. (2015). *Is Salary Transparency More Than a Trend?* [https://www.glassdoor.com/research/app/uploads/sites/2/2015/04/GD\\_Report\\_2-2.pdf](https://www.glassdoor.com/research/app/uploads/sites/2/2015/04/GD_Report_2-2.pdf).

<sup>24</sup> Underhill, B. (2019). *Moving Closer to Pay Parity by Requiring Wage Transparency: A Private Sector National Standard*. *U. Det. Mercy L. Rev.*, 97, 157 [https://heinonline-org.proxy.library.nyu.edu/HOL/Page?collection=journals&handle=hein.journals/udetmr97&id=188&men\\_tab=srchresults](https://heinonline-org.proxy.library.nyu.edu/HOL/Page?collection=journals&handle=hein.journals/udetmr97&id=188&men_tab=srchresults).

<sup>25</sup> Cullen, Z. B., & Pakzad-Hurson, B. (2021). *Equilibrium effects of pay transparency* (No. w28903), National Bureau of Economic Research, <https://www.hbs.edu/faculty/Pages/item.aspx?num=52648>.

<sup>26</sup> *Salary Transparency in Jobs Factsheet*, NYCCHR <https://www1.nyc.gov/assets/cchr/download>, 2022

Int 134 would exempt employers from posting salary ranges for jobs that can, in part or in whole, be done remotely. This would exclude a huge, unknown number of jobs, although a recent survey found that 62% of workers aged 22 to 65 claim to work remotely at least occasionally.<sup>27</sup>

### Isn't an employer's salary information proprietary and a trade secret that should be subject to confidentiality?

No. Federal and New York State law already safeguard the rights of employees to discuss and disclose salary information.<sup>28</sup> As well, with the advent of internet sites, there are many sources online that list actual or estimated salaries and more and more employees share salaries online.

### Won't this law be costly and burdensome on employers, particularly small businesses, by requiring them to overhaul their hiring and salary setting processes?

While this law may impose an initial lift on employers that do not have systematic processes in place for setting pay, it ultimately does not require employers to do anything that they shouldn't otherwise be doing in their hiring and recruitment processes. Every employer should be reviewing their budget, determining job responsibilities, making assessments about how much a position is worth, and setting salary or compensation for each employee they plan to hire based on these factors.

**LL32 simply requires employers to set a compensation range at the front end of the hiring process so that their decisions are not solely based on subjective factors, which are prone to unconscious biases.** By being thoughtful about compensation, businesses save money<sup>29</sup> and are expected to save costs with respect to litigation, retention, and productivity.

### Won't this result in more costly litigation for employers?

The purpose of LL32 is to give employers an opportunity to establish more fair and equitable pay schemes. In complying with these requirements, employers will have the opportunity to get ahead of the problem and avoid or address problematic pay practices that could result in a pay equity challenge.

### How are these types of laws working in other places?

**Seven states and three cities now have some form of salary transparency laws.**<sup>30</sup> Colorado's law requires employers to include salary ranges in job postings, and the Colorado Department of Labor reports a high rate of compliance despite initial attempts to thwart the law.<sup>31</sup>

### Won't LL32 limit employees' ability to negotiate higher salaries?

No. While it does seek to standardize salary-setting, centering it around objective and non-discriminatory factors, **it does not prevent employees from negotiating and does not prevent employers from adjusting the range.** The NYC Commission on Human Rights made inclear in testimony that LL32 does not prohibit employers from offering more to a better qualified candidate, or less if financial circumstances change for the company, for

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<sup>27</sup> Statistics On Remote Workers That Will Surprise You (2022), Apollo Technical LLC, <https://www.apollotechnical.com/statistics-on-remote-workers/>.

<sup>28</sup> 29 U.S.C. § 158(a)(1); N.Y. Lab. Law § 194.

<sup>29</sup> Cullen, Z. B., & Pakzad-Hurson, B. (2021). *Equilibrium effects of pay transparency* (No. w28903). National Bureau of Economic Research <https://www.hbs.edu/faculty/Pages/item.aspx?num=52648>.

<sup>30</sup> Liu, Jennifer. *States and cities where employers must share salary ranges when hiring*, CNBC, <https://www.cnbc.com/2022/01/12/states-and-cities-where-employers-must-share-salary-ranges-when-hiring.html>, 2022

<sup>31</sup> *Equal Pay for Equal Work*, Colo. Dep't of Labor and Employment, [https://cdle.colorado.gov/sites/cdle/files/documents/Equal\\_Pay\\_for\\_Equal\\_Work\\_Fact\\_Sheet\\_Web\\_0.pdf](https://cdle.colorado.gov/sites/cdle/files/documents/Equal_Pay_for_Equal_Work_Fact_Sheet_Web_0.pdf) (last visited Mar. 8, 2022) ("A review of hundreds of job postings by Colorado's 50 largest employers during the first months of EPEWA confirms that the overwhelming majority (and an increasing number over time) are posting compensation as required -- showing that this group of successful businesses has successfully adjusted their job postings to give Coloradans the greater pay transparency that the Act requires, and that is leveling the playing field for all Coloradans.")

example.<sup>32</sup> A goal of LL32 is to improve negotiating outcomes for women and people of color, who typically come to the table with lower starting salaries and less leverage, are less successful in negotiations due to unconscious biases, and are thus less likely to benefit from or succeed in negotiating higher and more appropriate rates of compensation.

### Is there more that NYC can do to create transparency?

Yes! There are additional ways for the government and business to create pay transparency. *Leveling the Playing Field*,<sup>33</sup> a resource guide authored by the NYC Commission on Gender Equity and PowHer New York, offers many examples of best practices and next steps, like companies conducting regular pay audits and making necessary adjustments.<sup>34</sup> And, we can learn from international initiatives. For example, in Europe, companies are required to submit pay equity analysis annually.<sup>35</sup>

A few important laws that the NYC Council could consider would:

- Establish a Pay Equity Commission to monitor enforcement, set goals, and monitor progress.
- Require NYC contractors report equal pay data, which could be expanded to all businesses, as mentioned at the hearing.
- Ensure women and people of color are hired in greater numbers on NYC construction and infrastructure projects.
- Assist the private sector, especially small and medium sized companies, in reaching parity with training on best practices and audits.
- Reduce caregiver bias and poverty through higher wages for city workers and incentives for the private sector.
- Create pay equity programs for NYC women, including for marginalized youth because the wage gap starts in the teenage years.

As well, in response to the findings on Local Law 18, the NY City Council presented the following recommendations to improve pay equity and help end occupational segregation in City agencies:

- Update Local Law 18 to require additional data that will improve the Council's ability to analyze the data in future reports.
- Require agencies to collect and report on the gender and race of civil service exam applicants and acceptance and graduation statistics from agency training programs
- Require analysis of job postings and recruitment material for biases
- Expand the existing law that requires the DOE and DCAS to make high school students aware of civil service opportunities
- Require agencies to perform outreach to local communities regarding civil service opportunities
- Require agencies to perform internal pay equity analyses and adjust salaries as necessary to achieve pay equity
- Conduct comparable worth analyses of jobs primarily held by women/non-white workers
- Conduct interagency analyses for majority women/non-white agencies

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<sup>32</sup> The New York City Council Video Testimony(Committee on Civil and Human Rights)  
<https://legistar.council.nyc.gov/DepartmentDetail.aspx?ID=36493&GUID=559CC905-3846-4587-A181-C55A4427FE19>.

<sup>33</sup> *Leveling the Playing Field: Best Practices for Gender Pay Equity in the Workplace*, NYC Government  
<https://www1.nyc.gov/assets/genderequity/downloads/pdf/Pay-Equity-Brochure.pdf>, 2018

<sup>34</sup> Barnard- Bahn, Amii. *How to Identify — and Fix — Pay Inequality at Your Company*, Harvard Business Review,  
<https://hbr.org/2020/11/how-to-identify-and-fix-pay-inequality-at-your-company>, 2020

<sup>35</sup> Pronczuk, Monika. *E.U. Pushes Companies to Close Gender Pay Gap*, The New York Times,  
<https://www.nytimes.com/2021/03/04/world/europe/european-union-pay-gap-equity.html>, 2021

### Explanation of “degrees” of transparency<sup>36</sup>

The research in general does not distinguish the different levels of transparency, however, in general, ample recent research demonstrates that there is a beneficial impact of salary range transparency on pay inequities.

**Salary range disclosure is consistent with “low transparency” related to “pay for the job”, which has minimal costs/impact.** In fact, the research shows that there is a beneficial impact to managing salaries to budget for organizations that adopt a pay transparency policy (discussed above). Citations are below for excerpts:

- “Pay transparency is emphasized as a means to help narrow earnings gaps at the firm level”<sup>36</sup>
- “Pay transparency may help reduce these wage discrepancies by mitigating differences in job searching and negotiating behaviors, which are two contributing factors to wage gaps.”<sup>37</sup>
- “I find that the introduction of reporting requirements led to a 1.6 percentage- point narrowing of the gender pay gap at affected employers. This large-magnitude effect is primarily due to a decline in male wages within affected employers, and is not caused by a change in the composition of the workforce. To explain this effect, I propose that a worker preference against high pay gap employers induces the closing of pay gaps upon information revelation.”<sup>38</sup>
- “State bans on pay secrecy and federal legislation to amend the FLSA to allow workers to share information about their wages may improve the gender wage gap, especially among women with college or graduate degrees”<sup>39</sup>

The table below provide information about the “degrees” of transparency<sup>40</sup>

Dimension	No transparency	Low transparency	Medium transparency	High transparency
Company pay process	No information provided to employees about how pay is determined	Provision to all employees of a general overview of pay policy and principles (e.g., compensation philosophy, market-based approach, competitive pay levels, etc.)	Provision to all employees of a substantive description of how pay is determined (e.g., explanation of job-analysis and job-evaluation processes, use of salary surveys, etc.)	Training for managers and employees in the fundamentals of how pay is determined
Pay for the job	No disclosure of pay grades/ranges to employees	Disclosure of pay grades/ranges to employees and job applicants	Disclosure to each employee of pay grades/ranges for that employee's job family and career path	Disclosure to all employees of pay grades/ranges for all jobs in the company
Individual employee pay	No disclosure of individual wage/salary data to anyone except the employee	Avoidance of restrictions on employee discussions of pay; provision of annual total compensation statement to employees	Disclosure to employees of salaries of coworkers in the same job classification	Disclosure of salaries of all employees in the organization

<sup>36</sup> Trotter, R. G., Zacur, S. R., & Stickney, L. T. (2017). The new age of pay transparency. *Business Horizons*, 60(4), 529-539, <https://discuss.tp4.ir/uploads/short-url/glCYaJizqtKp4CvfYwBmRT328KN.pdf>.

<sup>37</sup> Scheller, E. M. (2021). *Pay Transparency and the Wage Gap: The Effects of Pay Transparency, Gender, and Race on Job Searching and Negotiating* (Doctoral dissertation, University of Nebraska at Omaha), <https://www.proquest.com/docview/2585796061?fromopenview=true&pg-origsite=gscholar&parentSessionId=LwWG0eC9T0eiQq%2FbKSSW%2FVwRpDS%2BQT3TP1KVLDT7%2FI%3D>.

<sup>38</sup> Blundell, J. (2020). *Wage responses to gender pay gap reporting requirements*, <https://cep.lse.ac.uk/pubs/download/dp1750.pdf>.

<sup>39</sup> Kim, M. (2015). *Pay secrecy and the gender wage gap in the United States*. *Industrial Relations: A Journal of Economy and Society*, 54(4), 648-667, <https://onlinelibrary.wiley.com/doi/full/10.1111/irel.12109>.

<sup>40</sup> Trotter, R. G., Zacur, S. R., & Stickney, L. T. (2017). *The new age of pay transparency*. *Business Horizons*, 60(4), 529-539, <https://discuss.tp4.ir/uploads/short-url/glCYaJizqtKp4CvfYwBmRT328KN.pdf>.

**News Articles about the NYC Salary Range Law (LL32)  
December 2021-March 2022**

<a href="#">New York City's Upcoming Salary Range Disclosure Law Guidance Issues and Proposed Amendments Are Introduced</a>	3/31/2022
<a href="#">New York City Publishes Fact Sheet on Salary Transparency in Job Advertisements</a>	3/29/2022
<a href="#">NYC Issues Guidance on Salary Transparency Law: 5 Key Takeaways for Employers</a>	3/28/2022
<a href="#">New pay transparency laws can help in salary negotiations</a>	3/27/2022
<a href="#">New York City Council Proposes Amendment to Pay Transparency Law</a>	3/25/2022
<a href="#">New York City Issues Guidance on Requirement to Disclose Salary Ranges in Advertisements</a>	3/25/2022
<a href="#">How Well New York Does When It Comes To Pay Equality For Women - WIBX 950</a>	3/22/2022
<a href="#">The Entirely Predictable Impact of Salary Transparency</a>	3/22/2022
<a href="#">United States: Equal Pay Day 2022: Key Trends In Pay Equity</a>	3/22/2022
<a href="#">7 things companies get wrong when writing job descriptions</a>	3/20/2022
<a href="#">Start-up founders, investors team up to end gender pay gap</a>	3/17/2022
<a href="#">The Gender Pay Gap: New York City's Enduring Shame</a>	3/16/2022
<a href="#">What NYC's new salary transparency law will mean for you</a>	3/15/2022
<a href="#">Making employers share pay in job postings could narrow gender wage gap, advocates say</a>	3/15/2022
<a href="#">NYC companies will have to share job salaries upfront — and it could help close the pay gap</a>	3/15/2022
<a href="#">How NYC's Pay Transparency Law Could Have A National Impact—On The Pay Gap And Your Job Search</a>	3/15/2022
<a href="#">‘That ain’t right’: City Council Members rally to end gender pay gap</a>	3/15/2022
<a href="#">Women rally for equal pay at New York City Hall</a>	3/15/2022
<a href="#">Another Voice: Equal Pay Day reminds us of women's unfair burden</a>	3/14/2022
<a href="#">Why employers should include salary range in job listings</a>	3/9/2022
<a href="#">Pay transparency is a surprisingly good employee retention strategy</a>	3/9/2022
<a href="#">May Day! Salaries for All To See in NYC Starting in May   New York Law Journal</a>	3/8/2022
<a href="#">How Salary Transparency Can Help Women in the Workplace</a>	3/2/2022
<a href="#">Should salaries have to be disclosed in job postings?</a>	3/1/2022
<a href="#">Pay Transparency: How Salary Secrecy Is Contributing To The Gender Pay Gap</a>	2/25
<a href="#">With NYC's Pay Transparency Law, a Sea Change Leaves Employers With Little Choice but</a>	2/25/2022
<a href="#">Show Them the Money: What New York City's Salary Transparency Law Will Mean for Employers</a>	2/24/2022
<a href="#">Negotiating In The Dark No More: NYC Employers Will Soon Be Required To Disclose Salaries In Job Postings</a>	2/16/2022
<a href="#">New York City Employers Must Provide Salary Ranges In All Job Postings Beginning May 15, 2022</a>	2/16/2022

<a href="#">Salary Transparency Is Good for Everybody</a>	2/15/2022
<a href="#">New laws will require employers to disclose salary range on job listings</a>	2/11/2022
<a href="#">Pay transparency is coming to NYC—here's what that means for marketers</a>	2/10/2022
<a href="#">Here's what happens when salary is actually included in job listings</a>	2/9/2022
<a href="#">NYC Job Salary Law Called 'Transformative' by Some, 'Unnecessary' by Others.</a>	2/3/2022
<a href="#">NYC Aims to Close Stubborn Gender Pay Gap With Salary Disclosure</a>	2/3/2022
<a href="#">Best practices to negotiate salary in the nonprofit sector</a>	2/2/2022
<a href="#">Pay Transparency At The Center Of New Law That Goes Into Effect In New York City On May 15</a>	2/2/2022
<a href="#">Businesses argue NYC's groundbreaking new law to require salaries in job postings will hurt the local economy</a>	2/1/2022
<a href="#">NYC Requires Employers to Disclose Salary Ranges In Job Advertisements</a>	2/1/2022
<a href="#">New York City Job Postings Must Disclose Wage Range</a>	1/31/2022
<a href="#">NYC Law Requires Private Companies to Post Salary Ranges on Job Listings</a>	1/31/2022
<a href="#">Employers in New York are required to indicate the salary in job postings</a>	1/31/2022
<a href="#">New York City to Require Disclosure of Salary Range in Job Advertisements</a>	1/31/2022
<a href="#">New York City Pay Transparency Law</a>	1/31/2022
<a href="#">New NYC law requires employers to disclose salary in job ads; here's what you need to know</a>	1/31/2022
<a href="#">Persistent Pay Inequity Drives Legal Mandates for Employers to Publicly Post Wages Being Offered</a>	1/30/2022
<a href="#">A pay transparency law that will force many NYC companies to share salary ranges in job ads is drawing criticism from some business groups</a>	1/30/2022
<a href="#">You'll Soon Get to See Pay on NYC Job Postings</a>	1/28/2022
<a href="#">NYC law will force businesses to reveal salary ranges on job postings</a>	1/28/2022
<a href="#">New York City pay transparency law will change job postings</a>	1/26/2022
<a href="#">New York City Salary Law</a>	1/25/2022
<a href="#">New Law Could Reduce Pay Inequity On Broadway</a>	1/24/2022
<a href="#">What People Are Paid Is About to Change</a>	1/24/2022
<a href="#">Pay Transparency, Pay Equity, Salary History—What's New for 2022</a>	1/24/2022
<a href="#">New York City Enacts Pay Transparency Law Requiring Salary Ranges in Job Postings</a>	1/21/2022
<a href="#">As pay transparency becomes law in New York, Colorado pubmedia has been a testing ground</a>	1/20/2022
<a href="#">NYC to Require Employers to Disclose Salary Ranges</a>	1/20/2022
<a href="#">How NYC's Pay Transparency Law Will Impact Women</a>	1/20/2022
<a href="#">NEW YORK CITY ENACTS LAW REQUIRING SALARY DISCLOSURES ON JOB POSTINGS</a>	1/19/2022
<a href="#">NYC wage transparency law to go into effect in May 2022</a>	1/18/2022

<a href="#">Pay Equity Update: New York City's New Salary Range Disclosure Law</a>	1/18/2022
<a href="#">New NYC wage transparency law aims to reduce pay inequities</a>	1/17/2022
<a href="#">New York City to require employers to post salary ranges in job postings to help close the pay gap</a>	1/15/2022
<a href="#">NYC is the latest city to push the salary transparency movement forward</a>	1/13/2022
<a href="#">How much do others make for the same job? Here's where employers are required by law to share salary ranges when hiring</a>	1/12/2022
<a href="#">NYC to Require Salary Range in Job Postings</a>	1/11/2022
<a href="#">A new NYC salary transparency law could help address journalism pay gaps, advocates say</a>	1/10/2022
<a href="#">If you have employees in NYC, you may need to boost your transparency</a>	1/10/2022
<a href="#">Pay Transparency to Current Employees – New Laws Require More Than Job Posting Disclosures</a>	1/10/2022
<a href="#">In NYC, employers will soon have to list salary ranges on job postings. It'd help close the wage gap, experts say.</a>	1/9/2022
<a href="#">Millions of Businesses Will Be Impacted by NYC's New Salary Law. Here's How to Benefit From It</a>	1/6/2022
<a href="#">A Big Win For Workers: New York City Will Make It Mandatory For Companies To Disclose Salaries On Job Advertisements</a>	1/6/2022
<a href="#">NYC law to mandate salary transparency. Will it bridge inequities?</a>	1/2/2022
<a href="#">New York City Employers Will Be Required to Post Salary Ranges in Job Advertisements as of April 2022</a>	12/27/2021
<a href="#">New York City Council Passes Bill Requiring Minimum and Maximum Salaries in Job Postings</a>	12/23/2021
<a href="#">New York City Council Approves Bill Requiring Including Salary Ranges in Job Postings</a>	12/16/2021
<a href="#">New York City Council Passes Bill That Requires Identifying the Minimum and Maximum Potential Salaries on Virtually All Job Advertisements</a>	12/16/2021
<a href="#">City Council passes bill to mandate salary transparency in job listings</a>	12/15/2021
<a href="#">City Council to mandate that job ads reveal minimum, maximum salaries</a>	12/14/2021
<a href="#">NYC Just Passed a Law Requiring Employers to Post Salary Ranges in Job Ads. There's Actually an Upside</a>	12/7/2021



## Group Letter against Int 134 which amends the NYC Salary Range Local Law 32

Submitted as testimony on April 7, 2022

**To: New York City Mayor Eric Adams, Speaker Adrienne Adams, and Council members**

We, the undersigned organizations and individuals, are writing because a major victory for workers' rights, passage of the NYC Salary Range law, is under assault. Even before its scheduled implementation on May 15, 2022, this transformative law is being undermined by a newly introduced bill Int 134, which would negate NYC's law.

**The NYC Salary Range law (Local Law 32) is simple: it requires employers to include the minimum and maximum salaries in all job postings.** Identifying the expected wage range for jobs will provide applicants with the information necessary to negotiate fairer salaries, and thus help to end the pernicious wage gap that continues to rob some workers, particularly women of color, of fair wages and economic well-being. This transparency will create a shift in practices and in culture that will put all jobseekers on more equal footing. Research reports that for businesses, it will make the hiring process more efficient and help to hire and retain the best talent to match their needs. Any ambiguity about the law is clarified in The NYC Human Rights Commission's (NYCHRC) "Salary Transparency in Job Advertisements" fact sheet.

**However Int. 134 undermines all of these achievements.** It creates loopholes that would allow a large number of employers to avoid compliance and introduces inequities that exempt employers – excluding large sectors of workers like women and people of color.

Int 134 proposes amendments that will **gut the Salary Range law**. Specifically, the amendments will:

- **Exempt employers with 15 or fewer employees, instead of the current 4 or fewer employees** which is the standard for the NYC Human Rights law and protects more workers across all industries. This unnecessary exemption cuts out an estimated 58,000 businesses. The NYCCHR routinely supports smaller businesses by: giving a 30 day "cure" or "grace" period, making fines proportionate to the size of the company, and using robust education campaigns, such as monthly trainings in every borough.
- **Exempt all jobs that could be done remotely, in whole or in part.** New York businesses can use this as a loophole to avoid salary posting for this segment of the workforce which has grown even larger because of the pandemic. Out-of-state businesses regularly hire NYC's talented workers and comply with NYC laws governing employment, i.e. income tax and paid sick days. All jobseekers, whether they work on the jobsite or virtually, should know the pay range before interviewing or negotiating salary.
- **Create a giant loophole for all employers to place a general "Help Wanted" job listing** without having to reveal salary information. This will create less transparency and can easily be used by employers to sidestep salary range disclosure. It is also a missed opportunity to stop the common practice of exploiting vulnerable workers paying below minimum wage.
- **Postpone the start date** for the law from May 15, 2022 to November 1, 2022. If the goal is to give more time for employers to adjust to this new requirement, the **enforcement date can be postponed** for larger employers and compliance for small businesses can be rolled out later.

**It is the duty of NYC leaders to fulfill the purpose and promise of the Salary Range Law** which passed with overwhelming support, has been touted by Council members as critical in the fight for economic equity and is anticipated by workers across New York City. Business pressure should not be allowed to determine who is exempt, what employees are protected or the timeline of this effective tool to end gender and racial wage disparities.

On Equal Pay Day less than a month ago, leaders and advocates across New York hailed the NYC Salary Range law as transformative and an important step in closing the wage gap. Now, the proposed amendments in Int. 134 threaten our progress and are out of step with national trends toward transparency. This is counter to New York City's commitment to fighting for and attaining gender and racial pay equity.

We thank you for your attention to this urgent matter and we appreciate your efforts to ensure equity and opportunity for all New Yorkers.

As of April 7, 2022

**PowHer New York  
CWA 1180  
Legal Momentum,  
The Women's Legal Defense and Education  
Fund  
NELA/NY  
A Better Balance  
AAUW-NYS  
AAUW-Rockland County  
AAUW-Westchester County  
AJ Kirkwood & Associates  
Asian American Federation  
BCN Consulting Group  
BJM Consulting  
Black Women's Blueprint  
College & Community Fellowship  
Crumiller P.C.  
Equal Rights Advocates  
FPWA  
Gender Equity in Hiring Project  
Girls for Gender Equity  
Hope's Door  
HR World  
Institute for Women's Policy Research  
League of Women Voters NYC  
League of Women Voters-St Lawrence County  
Legal Aid At Work  
McMaster-Carr  
MomsRising/MamásConPoder  
National Committee on Pay Equity  
National Employment Law Project  
National Federation of Business and Professional  
Women-NYC  
National Women's Law Center**

**New York State Nurses Association  
New York State Coalition Against Domestic  
Violence  
New York State Public Affairs Committee of the  
Junior Leagues  
Pay Equity Coalition  
PMH Strategies  
Queens Community Board 4  
ROC-NY  
Staten Island Women Who March  
The Fifth Trimester  
One Fair Wage  
United Auto Workers Region 9A  
UN Women USA NY  
Upper Edge Consulting  
Women Creating Change  
Women's Center for Education and Career  
Advancement  
Women's Law Project  
YWCA Brooklyn  
Zonta Club of Brooklyn  
Zonta Club of Greater Queens  
Zonta Club of Westchester**

Gloria Middleton  
Beverly Neufeld  
Miriam Clark  
Seher Khawaja  
Merble Reagon  
Saru Jayaraman  
Mary M. Luke  
Jo-Ann Yoo  
Sevonna Brown  
Paul Sonn  
Pat Kane  
Leslie Wright  
Francesca Burack

Ann Mulligan  
Sherry Rogers  
Blue Carreker  
Lisa Caswell  
Wendy W Wark  
Diane Burrows  
Linda C. Hartley  
Solange Charas, Ph.D.  
Dr Karen Lynne Siegel  
Hason Greene  
Ali Sahab  
Dennis Alvarado  
Andor Skotnes  
Joseph Levin-Manning  
Margaret Borgstede  
Celica Macias  
Brianna Russ  
Christina Birungi  
Pablo Aguirre  
Rochella Brown  
Marcela Gonzalez  
Yovanna Iniguez  
Carmen Fernandez  
Pamela Sah  
Emma Pliskin  
Siobhan Klassen  
Scot Maitland  
T. Martin  
Sally Pinto  
Sarah Bancone  
Rebecca Nathanson  
Caroline Day  
Celia Serotsky  
Michele Renaud  
Yvette Rivera  
Hannah August  
Carey Graeber  
Amaris Ayala  
Rebecca Steiger  
Martha Kamber  
Nan Scinta  
Kathleen Stein

Carol B. Moody  
Maria E. Kruspodin  
Marilyn B Rogers  
Tina Naser  
Rhonda F Joseph  
Vera A. Voges, MD  
Allison Heaps  
Whitney Watts  
Alana Hollander  
Elizabeth Stone  
Jihaan Mutasim  
Dianne Brown  
Donald B. Walker  
Maria V Gonzalez-Lee  
Kurell Julien  
Melissa Walters  
Mirian Oliveros  
Donna Schneiderman  
Kitty Crowley  
David Palughi  
Mytris Pollard-Henry  
Sarah Bruning  
Kathy Ruopp  
Sheila Dauer  
Samantha slater  
Sasha Stewart  
Elizabeth Ferguson  
Jacob Eidinger  
Janice Brown  
Pamela Haas  
Joan Mallary  
Clara M. Salas  
Katelyn Galbraith  
added  
added  
Anya Tudisco  
Stephanie Ward  
Lauren Smith Brody  
Alexandra Gomes  
Ellen Leuner  
Eve Buck

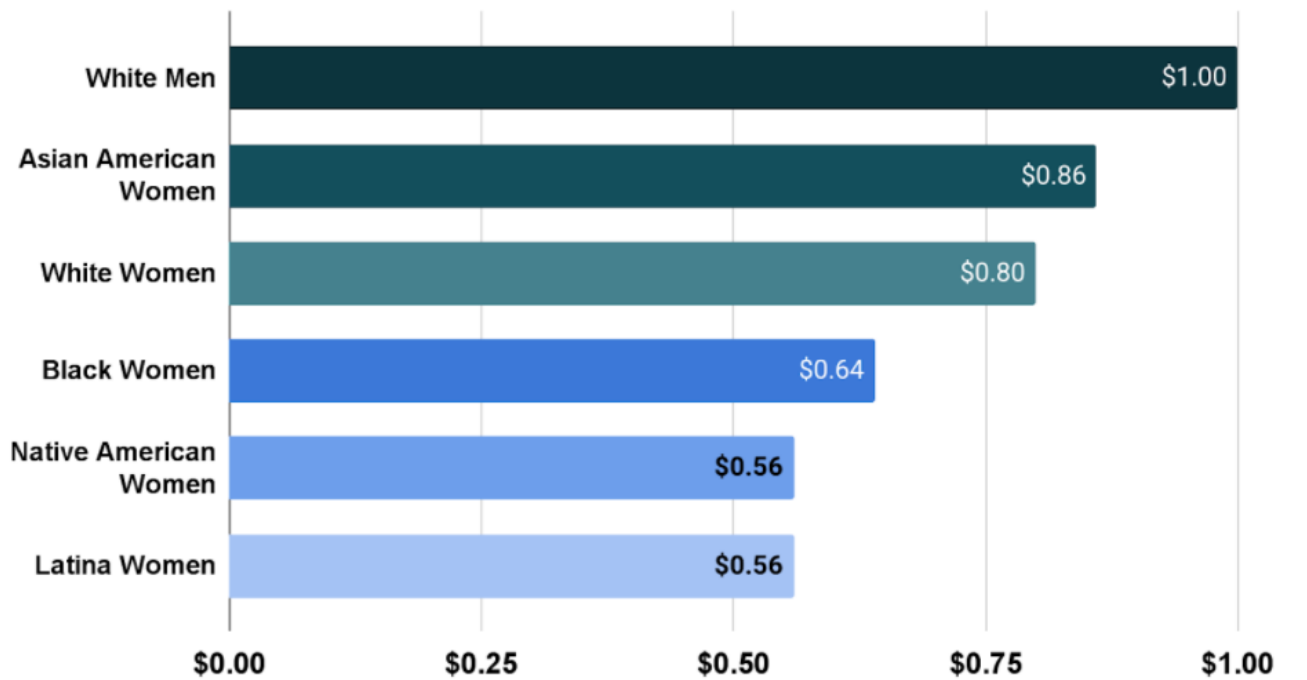


**New York City Council Hearing  
Committee on Civil and Human Rights  
Virtual Testimony  
April 5, 2022 Hearing**

My name is Merble Reagon and I am the Executive Director of the Women’s Center for Education and Career Advancement. Thank you to Committee Chair, Council Member Nantasha Williams and members of the Committee on Civil and Human Rights for this opportunity to speak today and to submit written testimony.

I have worked—along with many others—for 50 years to help more than 25,000 NYC women and working families to prepare for better jobs, college, and business ownership. Yet this chart is the reality in NY in the year 2022.

## NYS Wage Gaps for Women





Because of these and other similar statistics, I am here today, on behalf of women, people of color and all those who work hard everyday to make NYC a great place to live for all of us.

The proposed amendments may seem like small and innocuous “corrections” to Local Law 32. Please don’t believe it. Read carefully and you will see that they can be interpreted to water the original bill down to almost nothing. The proposed amendments provide gigantic loopholes that employers can use to completely circumvent the intent of NYC’s salary transparency bill.

Please stay on the side of NYC workers as—together—we take further steps toward pay equity and transparency. Please take the time to decide what amendments, if needed, might actually make the salary transparency bill better protect NYC low-wage workers. And, if you want to be better informed about these proposed amendments, please go to the PowHerNY website for more information: [powherny.org](http://powherny.org)

My written testimony provides information about our Women’s Center and our recent research defining exactly how much income working New Yorkers need to support their families. You are welcome to test out our NYC Self-Sufficiency Budget Worksheet to find your family’s “breakeven” budget or your typical constituent families’ “breakeven” budgets. You will see, also, how necessary the salary legislation is to help move NYC working families closer to earning the salaries they need to take care of their families.

Thank you to Committee Chair Nantasha Williams and the committee members for this opportunity to testify today.

If you have any questions, please feel free to reach out to Jennifer Panicali at [jpanicali@fcny.org](mailto:jpanicali@fcny.org) or at 212-590-9455.



**New York City Council Hearing  
Committee on Civil and Human Rights  
Written Testimony  
April 5, 2022 Hearing  
Oversight: CCHR: Complaint Processing Times and Resolutions**

**Full Written Testimony:**

Thank you to Council Member Nantasha Williams, Chair of the Committee on Civil and Human Rights, and the members of the committee for the opportunity to submit this written testimony.

I am Merble Reagon, Executive Director of the Women’s Center for Education and Career Advancement. We have worked for 52 years to help achieve economic justice and career opportunities for New York City working families and have been the lead sponsors for six NYC Self-Sufficiency Standard reports since 2000. The Standard offers a realistic look at the incomes families need to make ends meet, based on where they live in NYC and the ages of their children. It calculates self-sufficiency “breakeven” working family budgets, including the costs of housing, childcare, health care, groceries, transportation, and other miscellaneous expenses – at a minimally adequate level.

We recently released the sixth NYC Self-Sufficiency Standard, a report called [Overlooked & Undercounted 2021: Struggling to Make Ends Meet in New York City](#), in partnership with the Center for Women’s Welfare at the University of Washington, The United Way of New York City, The Fund for the City of New York, The New York Women’s Foundation, City Harvest, Food Bank For New York City, and Hunger Free New York City (a division of Hunger Free America). The findings unveil how precarious the lives of low-wage workers were before the pandemic, and it indicates just how vulnerable they will continue to be due to the COVID-19-triggered economic crisis.

Key findings of the report include the following:

- Since 2000, the costs of basic needs, on average, across NYC boroughs have increased 113%, while median earnings have increased by only 58%.



- More than one out of three (36%) NYC working-age households lacks sufficient income to meet the minimum cost of living in New York City.
- Before the Covid-19 pandemic, more than one in three – 2,378,730 New Yorkers – lacked enough income to cover food, shelter, health care and childcare and other bare necessities.
- For NYC families struggling to make ends meet, income inadequacy has been and continues to be an everyday ongoing struggle. And, it is largely low wages, not lack of work hours, that results in inadequate income.
- The majority of NYC households below the Standard had at least one employed adult.
- The 20 most common occupations below the Standard prior to the pandemic were essential worker positions largely held by women and/or BIPOC people, including home health aides, cashiers, child care workers, nursing assistants and cab drivers.

These and other critical findings of the report highlight the importance of ensuring that “New York City’s evolving workforce development plans in the wake of the pandemic” be laser-focused on addressing both the historic wage inequality for women and people of color and the economic realities of what NYC’s working families actually need to make ends meet. In addition, the report documents income inadequacy by a range of household characteristics, including gender, race and ethnicity, educational attainment, citizenship and presence of children.

*The evidence in the report supports initiatives already underway to address wage inequities, such as the “JustPay” campaign to support fair wages for human services workers under contract with NYC and NYS; and, **the NYC Salary Range Law**, for which we commend the NYC City Council for passing. On a related note, we advocate for comprehensive oversight and enforcement of that law.*

It is long past time to employ policy approaches that will best help NYC’s low-wage working families move beyond the pandemic and toward financial security. Their economic well-being is most assured when we generate policies based on the economic realities of a working family’s life. **Local Law 32 supports such policies.**

The lack of sufficient income for working families to meet basic needs is grossly undercounted largely because measures like the official poverty measure do not accurately document what it takes to afford just the basics, nor do they accurately pinpoint who lacks sufficient income. These



misapprehensions harm the ability of our society to respond to the changing realities facing families with insufficient income, especially during and as a result of the pandemic.

**As we move forward from the pandemic to combat wage insecurity and create a workforce development strategy that supports living wages for all NYC workers, we encourage you to reject the proposed amendments to Local Law 32.**

In his March 2022 [report](#), James Parrott, at the Center for New York City Affairs, finds that “New York’s recovery from an economy wracked by Covid-19 will hinge on how policy makers face two critical challenges: 1) returning to the full employment that prevailed in the two years before the onset of the of the pandemic; and 2) ensuring that wages steadily rise for workers in the bottom half of the wage distribution.”

Why not start planning our way out of the pandemic by acknowledging what it really costs for our NYC working families to pay for every basic necessity and embracing strategies, such as the **NYC Salary Range Law**.

**We invite you to review the full NYC Self-Sufficiency Standard report:**

**[Overlooked & Undercounted 2021: Struggling to Make Ends Meet in New York City](#)**

Also, please feel welcome to explore the NYC Self-Sufficiency Project [findings and tools](#).

We invite you to take 5 minutes to test the accuracy of the NYC Self-Sufficiency Standard for both yourself and a typical constituent family [using the NYC Self-Sufficiency Budget Worksheet](#):

1. Enter your borough (the Bronx; North Manhattan; South Manhattan; Staten Island; Northwest Brooklyn; Brooklyn excluding NW Brooklyn)
2. Enter the ages of the people in your family
3. In seconds, you will see your self-sufficiency family budget and the annual/monthly/hourly wage needed to support that budget

Also, you can [use the NYC Demographic Dashboard](#) to see the percentage of households without adequate income in your community districts.





We offer the 2021 NYC Self-Sufficiency Standard report and tools to inform New York City's Workforce Development Plans as we emerge from the pandemic and stand ready to assist all efforts to that effect.

Thank you for this opportunity. If you have any questions, please feel free to reach out to Jennifer Panicali at [jpanicali@fcny.org](mailto:jpanicali@fcny.org) or at 212-590-9455.

Best regards,  
Merble Reagon

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Women's Center for Education and Career Advancement  
c/o Fund for the City of New York  
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917.270.2221

April 4<sup>th</sup>, 2022

Re. Support for Int 0134-2022

To Members of the City Council:

Local Law 32 established a new mandate on employers that was enacted in the final session of the last City Council (December 2021) without any meaningful public input or consultation with employers. It requires that every internal and external job posting include the minimum and maximum salary for that position. The law is effective in mid-May, less than 60 days after guidance was issued by the Human Rights Commission and without any process in place for informing employers about a law that requires a major change in their hiring practices. It impacts approximately 200,000 businesses and 30,000 nonprofit organizations in the five boroughs, most of which have no knowledge of the legislation. It also comes in the middle of a local labor shortage, particularly in those sectors most impacted by the pandemic: health care, retail, and food services.

New York City is a highly competitive labor market, where most employers are committed to gender and racial pay parity. The inclusion of minimum and maximum salaries in job postings is one tool that advocates have embraced for achieving this objective but is not necessarily the most appropriate tool for the New York labor market and certainly has consequences that the City Council did not consider when framing this legislation. For example, to secure the skills needed in an industry like health care, employers may offer different compensation packages to attract licensed professionals from outside the city. In the corporate sector, employers are seeking to diversify their executive teams and may offer higher compensation for BIPOC job candidates. The city's MWBE firms are generally at a disadvantage in competing for scarce talent and are likely to be outbid if a majority competitor has access to their salary offering. In the tech sector, the promise of equity stakes in a startup venture is a major factor in recruitment; in the financial services industry, the potential for performance bonuses at the end of the year is a greater consideration than salary but cannot be calculated until business earnings are realized at the end of the year. When it comes to small businesses and nonprofits, salaries are typically determined on the basis of the particular skills and qualities that an individual candidate offers and the calculation of what they will contribute.

Although the employer has discretion with respect to minimum and maximum salaries that are posted, existing employees will be watching what range is offered to new employees and will inevitably question how that relates to their own compensation. During a labor shortage, or in the context of achieving diversity goals, the posted maximum may be significantly higher than the historical salary ranges, creating dissatisfaction in the workforce and demands to adjust existing pay scales that the employer may be unable to afford.

Intro 134 seeks to amend the law to address some, but not all, of these issues. First, it would push back the effective date to allow for notification and planning for how to implement a new policy that will impact all employees, not just new hires. Second, it would exempt the smallest businesses and nonprofits from the law, both to avoid imposing yet another city mandate on struggling small employers. Finally, it would clarify that the law applies only to jobs that are located at least partly in New York, recognizing that multi-national and multi-state employers

have different salary ranges depending on the cost of living and competitive standards in various locations and that they are obligated to follow the laws and regulations that are specific to each jurisdiction.

As representatives of a range of employers, we would also propose additional amendments that would exempt industries with severe labor shortages from the application of the law. We would also propose that only minimum salary postings are required for highly compensated jobs (the median compensation in New York City is about \$58,000) because these are often jobs where salary is not a fair indication of total compensation. The most qualified candidates may not apply for jobs where the maximum appears to be less than they are seeking and employers may use the information in job postings to outbid their competitors for top talent.

We thank Speaker Adams, Council Member Williams, and Council Member Brannan for their willingness to consider the views of employers in amendments to this law. We support the goal of the original legislation to maximize transparency and parity in the city's labor market and think it is in the public interest to ensure that New York has employment policies that work for both employers and employees.

Sincerely,

**Linda Baran**, President and CEO, Staten Island Chamber of Commerce

**Thomas Grech**, President and CEO, Queens Chamber of Commerce

**Randy Peers**, President and CEO, Brooklyn Chamber of Commerce

**Lisa Sorin**, President and CEO, Bronx Chamber of Commerce

**Jessica Walker**, President and CEO, Manhattan Chamber of Commerce

**Kathryn Wylde**, President and CEO, Partnership for New York City



92 31 Union Hall Street  
Jamaica NY 11434

227-12a Merrick Blvd  
Queens NY 10027

Memorandum on Int 134 Amendments to Salary Posting Bill  
To: Members of the New York City Council  
From: Kevin Livingston Founder, President, and CEO

I founded 100 Suits for 100 Men because I wanted to create a program to address the needs of underprivileged men and women in need of business attire in the New York City area. Our core service is to provide free business attire to men and women who are in the job search process. By being able to wear appropriate attire to their interviews, these men and women are better equipped to achieve gainful employment, which will ultimately help them to transition into mainstream society and live more productive lives. We also prepare individuals to become their best advocates as it relates to salary, wages, and benefits.

I also have the honor and privilege to be part of the Crisis Management System (CMS). I am part of a critical network of organizations that are working to cure violence and heal communities that have been historically neglected. My organization is a mission driven organization.

Local Law 32 of 2022 requiring disclosure of the salary range for all posted jobs is yet another example that puts small businesses and mission driven organizations like mine at a disadvantage. I struggle to find committed staff and this would discourage people from applying. My organization does not have defined salary ranges for employees. Compensation is based on the skills and experience that an individual applicant would bring to the job.

There should be energy put into support organizations like mine that receive funding to do critical work get that funding quicker. We are on very stretched budgets and adding burdens to smaller organizations is not the solution. It only stymies the good work.

I hope the New York City Council passes Council Member Williams' bill.

Thank you.

Yours Truly,

*Kevin Livingston*

Kevin Livingston  
Founder, President, and CEO  
100suitsnyc.org

**In a time when many are still crying “Defund the Police,” I say refund the [anti-] S.I.D.**

Ever since I first became homeless in 2006, I have repeatedly been robbed in THE very worst way imaginable. Not in the conventional sense - with regard to money or property [not to say that it has not happened] - but, worse still, of “the best years of my life”. It is not lost on me that had the New York City Commission on Human Rights Source of Income Discriminatioin (SID) Unit been funded appropriately, I could have saved at least a few.

When I first received my Special Exit and Prevention Supplement (SEPS) “voucher” in 2018, I thought things were finally beginning to look up for me. Even after being illegally evicted by relatives and being forced to re-enter the shelter system, I still had hope when I heard that transitioning to the City Family Homelessness & Eviction Prevention Supplement (City FHEPS) would net an increase in value. Unfortunately, I would come to find out the only thing lower than the level of the “increase” was that of what I actually knew about the market.

It was only by chance that a City Councilmember’s office referred me to the housing search training conducted by the [then Partnership for the Homeless](#) and Neighbors Together. Through them I learned how to find apartments with a voucher, what my rights were and how the SID unit could assist me. Little did I know even this knowledge in isolation would not be enough to get me housed.

In January of 2019, I documented and filed a complaint for my first SID experience before being introduced to the CCHR investigator assigned to my case. Previously, I had heard stories of ideal scenarios where an intervention took place and voucher holders were placed in the apartment they wanted or a comparable one. Unfortunately, I was not so lucky.

While the investigator was encouraging, by June she was no longer with the organization. This change, while seemingly innocuous, silently marked “the beginning of the end”. In the subsequent months, contact with each assigned investigator became less and less frequent until it stopped completely.

The last I heard, I may have some money coming to me as an outcome of the trial but who can say. It is unfortunate that this vital unit which gives hope to the hopeless has been worn down from a party of six to one sole member. I wish I had more answers, but instead all I have are questions.

What if I never was victimized and abused by the corrupt [, now infamous] [Core Services Group](#)? What if I never was exposed to COVID-19 and forced to subsidize my isolation shelter's woefully inadequate food offerings with my own stimulus funds? What if Section 8 was the norm, instead of "the Gold Standard " of vouchers, and I didn't have to actively advocate for City FHEPS to be raised to Fair Market Rate (FMR) to be able to finally move out of the shelter?

For far too long, the most vulnerable of your neighbors - together with myself - have gotten a raw deal. I hope you will take it upon yourselves to make it right by ensuring no less than \$1M is allocated to fund the New York City Commission on Human Rights' Source of Income Discrimination (SID) Unit. Thank you.



Memorandum on Int 134 Amendments to Salary Posting Bill  
To: New York City Council Members  
From: Amelia Adams, Founder and President Adams Advisors LLC

Adams Advisors is a boutique government affairs firm located in New York City. We are a firm that is also certified as a Minority & Woman Owned Business Enterprise by New York City with four employees. Our clients range from nonprofits to corporations that advocate on issues from re-entry to transportation.

Local Law 32 of 2022 requiring disclosure of the salary range for all posted jobs is yet another example that puts small businesses and Minority & Woman Owned Business Enterprises (MWBEs) in New York City as a disadvantage. Several fellow business owners, like me are often overlooked for grants, contracts, and funding. Even before the labor shortages, small businesses had to compete with larger firms to recruit and retain employees. To publicly put salaries of small MWBE businesses gives a stigma that we are not competitive or gives the impression that our businesses are less desirable places to work due to a "lower salary range". Further, small MWBEs may not have the same staffing resources as other firms, especially struggle to implement all the new rules that govern our relationship with our employees.

Requiring us to disclose a range in every job posting would not move the city closer to gender pay parity, an admirable goal, but would be a substantial new burden.

I urge the New York City Council to pass Int. 134 and support the changes as proposed by Council Member Nantasha Williams.

Thank you.



Testimony on Int. 0134-2022: Amending the New York City Salary Range Law

Presented by Debipriya Chatterjee, Ph.D.

Hearing of the Committee on Civil and Human Rights

April 5, 2022

Thank you, Chair Williams, and committee members, for the opportunity to testify today. My name is Debipriya Chatterjee, and I am a Senior Economist at the Community Service Society of New York (CSS), a nonprofit organization that works to promote economic opportunity for New Yorkers. We use research, advocacy, and direct services to champion a more equitable city and state, including addressing racial and gender-based inequities in compensation.

We have championed workers' rights and poverty alleviation, for 175 years. Most recently, we worked to [pass paid sick leave](#) laws- statewide and in New York City, secured [half-price transit fares](#) for New Yorkers in poverty and made rent-relief available through the [Emergency Rental Assistance Program](#), or ERAP. We also advocated, [alongside our partners](#), for the passage of the package of bills that strengthened financial stability and improved workplace protections for [food delivery workers](#).

My testimony today will focus on [Int. 0134-2022](#)—a bill that purports to amend [Local Law 32](#), the Salary Range Transparency law that was passed last year. Int. 0134-2022 would effectively render the legislation toothless and thus undo years of work by policymakers and advocates towards achieving pay parity along racial, ethnic and gender lines.

Before we delve into the issues with Intro. 0134, let us remind ourselves of the broader context in which this discussion is situated. Gender and racial pay gap continues to persist—women in New York still make [86 cents on the dollar](#) relative to men, women of color make even less—making their path to economic security even harder. Even before the pandemic, in 2019, the median Latina/x woman in New York City earned \$28,284, almost a third of the wages earned by a median white male (\$75,760).<sup>1</sup> The pandemic and the recession have worsened these inequities as women have borne the brunt of job and income losses and hardship. CSS's annual survey of low-income New Yorkers, [The Unheard Third](#), shows that even among those women who continued working since the onset of the pandemic, a third reported that their households experienced loss in employment income.

In this context of ever-present and ever-widening gaps, the passage of the City's salary range transparency law symbolized a transformative step in the right direction. A rich body of multi-disciplinary literature backs up the claim that establishing clear and transparent compensation guidelines that reduce room for discretion overwhelmingly help women as well as all employees from other marginalized groups (Black, Latino/a/x, LGBTQIA+, immigrants, non-native English language speakers etc.). Ensuring that remuneration falls within a pre-announced interval significantly reduces the major deleterious effects of implicit bias in hiring. This is not an alien concept—most corporations, non-profits, and most importantly, the City of New York almost always provide salary range information. Studies have also shown that greater transparency in salary ranges reduces pay inequities- typically by empowering women, especially women of color, to negotiate better wages.



Intr. 0134 seeks to exclude employers with 5 to 15 employees from declaring the salary range when they post jobs. In the name of helping struggling businesses, the current bill is impeding progress towards pay parity. There are about 58,000 of these businesses, per data from the New York State’s Department of Labor. Table 1 provides a detailed decomposition of these businesses across industrial sectors. These businesses employ around half a million workers and have an average annual payroll of \$550,000. Although a majority (45 percent) of these businesses are in Manhattan, both Queens and Brooklyn have approximately 12,000 and 14,000 establishments that would now be exempt.<sup>ii</sup> By excluding these businesses, the city would imperil over 222,000 women workers, who would, once again have to apply for jobs without any idea about salary. This bill takes us several steps back from leveling the playing field for women and other marginalized workers.

Table 1: Employment, annual wages, and women workers in establishments employing 5-15 employees in New York City (2021).

NAICS2	NAICS Title	Number of Establishments	Annual Average Employment	Total Wages	Share of women <sup>1</sup>	Estimated number of women employees <sup>2</sup>
11	Agriculture, forestry, fishing and hunting	15	129	\$7,754,651	2.8%	4
21	Mining, quarrying, and oil and gas extraction	3	36	\$2,094,074	0.0%	-
22	Utilities	20	174	\$48,938,717	0.0%	-
23	Construction	3,422	28,359	\$1,815,533,766	10.3%	2,921
31-33	Manufacturing	1,571	13,156	593,251,048	40.9%	5,381
42	Wholesale trade	3,345	27,046	\$2,016,291,323	34.9%	9,439
44-45	Retail Trade	7,859	63,158	2,647,582,745	46.6%	29,432
48-49	Transportation and warehousing	1,011	8,670	450,056,047	22.8%	1,977
51	Information	1,426	12,105	\$1,361,870,086	46.8%	5,665
52	Finance and insurance	3,794	32,063	\$5,294,297,349	45.0%	14,428
53	Real estate and rental and leasing	4,594	38,166	\$2,693,902,086	32.3%	12,328
54	Professional and technical services	5,953	48,491	\$5,203,798,393	45.9%	22,257
55	Management of companies and enterprises	326	2,835	\$779,740,923	50.6%	1,435
56	Administrative and waste services	2,091	17,321	\$1,220,857,712	44.1%	7,639
61	Educational services	996	8,823	\$380,639,810	64.9%	5,726

62	Health care and social assistance	6,945	58,194	\$3,149,285,521	77.0%	44,809
71	Arts, entertainment, and recreation	1,017	8,711	\$578,504,525	46.2%	4,024
72	Accommodation and food services	7,963	67,777	\$1,916,150,797	40.1%	27,179
81	Other services, except public administration	5,443	42,490	\$1,882,928,160	60.3%	25,621
92	Public administration	388	3,453	\$298,327,741	49.2%	1,699
99	Unclassified	51	382	\$16,377,029	49.5%	189
	<b>TOTAL</b>	<b>58,233</b>	<b>481,539</b>	<b>\$32,358,182,503</b>		<b>222,152</b>

Source: Quarterly Census of Employment and Wages (2019) and the 1-year American Community Survey data (2019).

1: Share of women in industries is from the American Community Survey data available from the Census Bureau.

2: Estimated number of women employees is derived by multiplying the share of women in each industrial sector with the total employment.

Opponents of the salary range transparency law say that requiring businesses to post ranges and thereby tie themselves to a defined range would be anti-competitive and might hurt employers' changes of attracting talent. However, the bill requires employers to post only salary ranges, leaving enough room for adding perks, stock options, and bonuses to attract suitable employees. Additionally, an employer can simply provide a wide enough range of salary and, as is typical of most job postings, add a caveat that says 'exact compensation would be commensurate with experience and qualifications' to ensure that they are able to provide an overall remuneration package that is appropriate given the candidates' profile.

Small business owners are suggesting that in the current 'tight' labor market, it would be harder to attract talented employees if a rigid salary range is declared in the job posting, even though most of them typically already advertise salary ranges in their job postings. These apprehensions are unfounded for two reasons: First, most employees seek out information regarding compensation before accepting an offer, and thus all employers run the risk of losing their preferred hire if the initial offer is low enough. Second, a tight labor market is when workers have true bargaining power and even if the salary ranges are not declared in the job posting, workers will almost surely negotiate to improve their pay rates. The law only makes it easier for historically disadvantaged and marginalized people to find a stronger footing on which to base their negotiations.

Critics of the law say it would make it harder for multinational corporations to hire and operate in New York, especially since a large share of the workforce is now working remotely. But the truth is that corporations have long offered compensation packages tethered to location of work and have adhered to local labor laws, including paid family leave law in the state of New York. The law is also quite clear on the provision that it only applies to job postings intended for employees who would be based in New York.

It is more important than ever to address pay parity, as the city embarks on a trajectory of economic recovery. And a tight labor market, is precisely when workers can hope to make gains and thus, we recommend that the Committee and the City Council, therefore, reject Int. 0134 and allow NYC to be a pioneer in addressing gender wage gap.

Thank you and please feel free to reach out to me at [dchatterjee@cssny.org](mailto:dchatterjee@cssny.org) for more information or if you have questions.

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<sup>i</sup> Source: American Community Survey Public Use Microdata Sample, 2015-2019.

<sup>ii</sup> Source: County Business Patterns, 2019 data, available from the Census Bureau. The County Business Patterns data provides data on establishments employing- less than 5, 5 to 9, 10 to 19, 20-49, 50-99 and so on.

**Memo re. Int. 0134-2022, in relation to the employers required to post minimum and maximum salary information**

**Committee on Civil and Human Rights**

As a woman of color and the owner of an MWBE business, I am an advocate for gender and racial pay parity. I started my own company out of frustration with the discriminatory treatment of Black women in the workforce. So I applaud the City Council's concern with addressing this issue and seeking to achieve racial and gender equity in compensation practices.

At the same time, I do not believe that a law that requires employers to list minimum and maximum salaries in job postings is a solution to the pay parity issue. In fact, for an MWBE company in an industry like mine - construction management - the current law would make my situation worse. I already have to pay more than majority-owned firms for qualified job candidates because competition for talent is very tight. If I publish a maximum salary for an engineer, my large majority-owned competitors can easily outbid my offer. This will push salaries up, which may be good for job candidates, but not for business owners like me.

I think there are far better ways to encourage pay parity without hurting small and mid-sized employers like myself. When I bid for a contract in New Jersey, for example, they require that I comply with the #AA302 reporting statute, where I provide information on the race and gender of my employees. A similar form for the City of New York can be modified to add salary by race and gender to such a reporting form that companies could file annually or whenever a City contract is awarded. This is the approach that President Obama took in his Executive Order that required companies with more than 100 employees to submit to the EEOC.

If the Council had consulted with employers before enacting this law, I think we would have proposed better solutions. I support the amendments recommended today, but they do not go far enough to protect people in my situation. I have more than 15 employees, so I will be forced to comply. Publishing a maximum salary will make it more difficult for me to compete fairly for scarce talent. This law will not change my pay scale, which is already as much or more than I can easily afford. I would urge you to consider raising the threshold to at least 100 employees or exempting MWBE employers who are already at a disadvantage in many respects -- including being able to compete with global firms for talent.

Sincerely,

Barbara Arman Kushner  
President & CEO  
Armand Corporation

**Int. 0134-2022, in relation to the employers required to post minimum and maximum salary information**

**Committee on Civil and Human Rights  
April 5, 2022**

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Sincerely,

Barbara Armand Kushner  
President & CEO Armand Corporation

**To:** New York City Mayor Eric Adams, Speaker Adrienne Adams, and Council members  
**Subject:** Letter in Opposition to Int 134, Which Amends Salary Range law LL32  
**Date:** April 1, 2022

We are writing because **a major victory for workers' rights, passage of the NYC Salary Range law, is under assault.** Even before its scheduled implementation on May 15, 2022, this transformative law is being undermined by a newly introduced bill Int 134, which would negate NYC's law.

**The NYC Salary Range law (LL32) is simple: it requires employers to include the minimum and maximum salaries in all job postings.** Identifying the expected wage range for jobs will provide applicants with the information necessary to negotiate fairer salaries, and thus help to end the pernicious wage gap that continues to rob some workers, particularly women of color, of fair wages and economic well-being. This transparency will create a shift in practices and in culture that will put all jobseekers on more equal footing. Research reports that for businesses, it will make the hiring process more efficient and help to hire and retain the best talent to match their needs. Any ambiguity about the law is clarified in The NYC Human Rights Commission's (NYCCHR) "Salary Transparency in Job Advertisements" fact sheet.

However **Int. 134 undermines all of these achievements.** It creates loopholes that would allow a large number of employers to avoid compliance and introduces inequities that exempt employers – excluding large sectors of workers like women and people of color.

**Int 134 proposes amendments that will gut the Salary Range law.** Specifically, the amendments will:

- **Exempt employers with 15 or fewer employees, instead of the current 4 or fewer employees** which is the standard for the NYC Human Rights law and protects more workers across all industries. This unnecessary exemption cuts out an estimated 50,000 businesses. The NYCCHRL routinely supports smaller businesses by: giving a 30 day "cure" or "grace" period, making fines proportionate to the size of the company, and using robust education campaigns, such as monthly trainings in every borough.
- **Exempt all jobs that could be done remotely, in whole or in part.** New York businesses can use this as a loophole to avoid salary posting for this segment of the workforce which has grown even larger because of the pandemic. Out-of-state businesses regularly hire NYC's talented workers and comply with NYC laws governing employment, i.e. income tax and paid sick days. All jobseekers, whether they work on the jobsite or virtually, should know the pay range before interviewing or negotiating salary.
- **Create a giant loophole for employers to place a general "Help Wanted" job listing** without having to reveal salary information. This will create less transparency and can easily be used by employers, large and small, to sidestep salary range disclosure. It is also a missed opportunity to stop the common practice of exploiting vulnerable workers paying below minimum wage.
- **Postpone the start date for the law from May 15, 2022 to November 1, 2022.** If the goal is to give more time for employers to adjust to this new requirement, the enforcement date can be postponed for larger employers and compliance for small businesses can be rolled later.

**It is the duty of NYC leaders to fulfill the purpose and promise of the Salary Range Law** which passed with overwhelming support, has been touted by Council members as critical in the fight for economic equity and is anticipated by workers across New York City. Business pressure should not be allowed to determine who is exempt, what employees are protected or the timeline of this effective tool to end gender and racial wage disparities.

On Equal Pay Day less than a month ago, leaders and advocates across New York hailed the NYC Salary Range law as transformative and an important step in closing the wage gap. Now, the proposed amendments in Int. 134 threaten our progress and are out of step with national trends toward transparency. This is counter to New York City's commitment to fighting for and attaining gender and racial pay equity.

We thank you for your attention to this urgent matter and we appreciate your efforts to ensure equity and opportunity for all New Yorkers.

**List as of April 1, 2022**

<p><b>PowHer New York</b>  <b>CWA 1180</b>  <b>Legal Momentum,</b>  <b>The Women's Legal Defense and Education</b>  <b>Fund NELA/NY</b>  <b>AAUW-NYS</b>  <b>Asian American Federation</b>  <b>AJ Kirkwood &amp; Associates</b>  <b>BJM Consulting</b>  <b>Black Women's Blueprint</b>  <b>Equal Rights Advocates</b>  <b>FPWA</b>  <b>Hope's Door</b>  <b>Institute for Women's Policy Research</b>  <b>League of Women Voters NYC</b>  <b>Mc-Master Carr</b>  <b>MomsRising/MamásConPoder</b>  <b>National Employment Law Center</b>  <b>National Women's Law Center</b>  <b>New York State Coalition Against Domestic</b>  <b>Violence New York Women's Foundation</b>  <b>NFBPWC-NYC</b>  <b>One Fair Wage</b>  <b>UN Women USA NY</b>  <b>Women's Center for Education and Career</b>  <b>Advancement Zonta Club of Brooklyn</b>  <b>Zonta Club of Greater Queens</b></p>	<p>Beverly Neufeld  Gloria Middleton  Seher Khawaja  Miriam Clark  Saru Jayaraman  Jo-Ann Yoo  Mary M. Luke  Merble Reagon  Sevonna Brown  Linda C. Hartley  Solange Charas, Ph.D.  Carol B. Moody  Diane Burrows  Hason Greene  Blue Carreker  Dr Karen Lynne Siegel  Ali Sahab  Andor Skotnes  Joseph Levin-Manning  Wendy W Wark</p>
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Hello, my name is Charisma White, I'm an advocate for homeless New Yorkers throughout the five boroughs. It took me around three years to get a lawyer from CCHR to process source of income discrimination against me and help me get the apartment that I'm in now. During those three years- I was homeless. My landlord is currently trying to evict me with a family of three. I'm in the process of looking for a new place to live and it's taken me over a year to find a new apartment. I'm working with CCHR but they are not responding fast enough for me to find a new home for my family and me. When the commission does not respond in a timely manner, it leaves people like me homeless. The only lawyer in the SID unit that I have been working with to try and help me get housed is leaving Friday. If I don't have a mediator from CCHR to help me get a viewing landlords don't respond to me and I'm left with nothing. It is crucial that the Source of Income Discrimination Unit at CCHR gets the funding it needs. In the fiscal year 2023, CCHR should be funded at a baseline of \$1 million dollars to meet this critical need. Thank you for your time.



Good morning, my name is Julia Elmaleh-Sachs and I am a plaintiff's side employment attorney at Crumiller P.C. In December 2021, I sat before the New York City Council to testify in support of the latest salary transparency bill, which was later signed into law with broad support from plaintiffs' attorneys and other workers' advocates. It requires employers in New York City with four or more employees to post the minimum and maximum salary when advertising a job, promotion or transfer opportunity. Its purpose is crystal clear: to close the wage gap for women and people of color by promoting transparency around hiring and compensation.

Today, I sit before this City Council once again to testify on behalf of NELA-NY, the New York affiliate of the National Employment Lawyers Association, working with PowHer NY. And to be frank, I am disturbed. Disturbed that this City Council is considering walking back the city's salary transparency law, a law that represents a historic win for workers in the fight against workplace discrimination, before it has even taken effect. The amendments proposed today not only undermine the purpose of the law by creating exemptions for wide swaths of employers across the five boroughs; it perpetuates systemic inequities against the very people who were meant to benefit from this law: women and people of color.

As attorneys for employees, we frequently represent workers who are subjected to all kinds of discriminatory abuse by their supervisors. This misconduct sometimes includes wage discrimination. Too often, women and people of color are paid less than their colleagues who are performing substantially similar work. This is nothing new—for years, workers' rights activists have used the hashtag #EqualPayDay to call attention to the wage gap. In 2022, women in the U.S. earn just 83 cents on the dollar compared to men on average, according to the National Committee on Pay Equity. The figures are even more bleak for women of color: 75 cents for

Asian American, Native Hawaiian and Pacific Islander women, 58 cents for Black women, 50 cents for indigenous women and just 49 cents for Latina women.

NYC's salary transparency law aims to shrink these wage gaps by requiring employers to be more transparent around compensation. But Int. 134 threatens to set a dangerous precedent for those seeking to chip away at the anti-discrimination protections afforded by the city's Human Rights Law.

First, the bill limits the definition of "employer" to only include those with fifteen or more employees—a significant departure from the original threshold of four or more employees. As many today will explain in greater detail, this carve-out for certain small businesses risks opening Pandora's box for corporate interests to create additional loopholes that would help companies avoid compliance with the city's anti-discrimination law.

In addition, this bill creates an exception for "general notices that an employer is hiring without reference to any particular position." This amendment enables employers to conceal their discriminatory pay practices by posting vague hiring notices with no clear reference to specific roles or salary requirements. It revitalizes the old whisper networks of generations past, where access to employment opportunities is dictated not by your skills and experience but by who you know. Moreover, this amendment creates so much ambiguity in the law that it will significantly hamper enforcement efforts by the Commission.

Finally, perhaps the most egregious amendment being proposed is an exception for "positions that are not required to be performed, at least in part, in the city of New York." This City Council need not be reminded that we are still in the middle of a global pandemic. A recent Harris Survey poll of professional workers across the U.S. found that 52% of women and Black workers surveyed said that remote work gives them greater opportunities to advance their

careers, compared to just 42% of men. The bill we are discussing today allows employers to evade compliance with the law by simply advertising positions where performance in the City is preferred, but not a requirement, such as employers with multiple office locations or hybrid work arrangements.

When I testified in support of the salary transparency law in December, I spoke about my female client who only found out she was earning less than her male counterparts when, in the course of regular business, she gained access to a spreadsheet that contained the company's salary information for all its employees. Had local law 32 been in effect at the time, the wage discrimination she experienced—and the costly litigation that followed—could have been avoided. However, the bill being discussed today would essentially give the same employer a free pass to continue keeping salary information for her job a secret. Because this particular client worked in HR, many parts of her job could be done remotely. Intro 134 allows all employers in New York City whose workers could even conceivably perform work remotely to claim an exception to the salary range requirements of the law.

NELA-NY and PowHer previously supported laws that help working New Yorkers fight for equal pay, including the salary transparency law and the salary history ban. Int. 134 threatens to fatally damage the progress toward equal opportunity for which so many workers' advocates have fought. I urge this City Council to reject this legislation.

#### Sources

<https://www.aauw.org/resources/article/equal-pay-day-calendar/>

<https://www.axios.com/unequal-return-office-hybrid-women-people-of-color-b0d16891-60fc-4b09-a699-0a620dca6c6b.html>



My name is Miriam Clark. I am a partner in the law firm of Ritz Clark & Ben-Asher LLP, where I represent employees. I am also a former president of NELA/NY and current Chair of NELA/NY's Legislative Committee. The National Employment Lawyers Association (NELA) is a national organization of attorneys dedicated to the vindication of employees' rights. NELA/NY, incorporated as a bar association under the laws of New York State, is NELA's New York State affiliate.

In this testimony, I will explain why Intro134 has the potential to gut LL32 and why it sets a dangerous precedent with regard to the New York City Human Rights Law. I will also rebut the claims made by the Partnership for New York City in support of Intro134 and provide evidence for the link between pay transparency and pay equity.

**1. Intro134 contains provisions which easily allow all employers to evade the law.**

Intro134 excludes from the salary range transparency requirement: "General notices that an employer is hiring without reference to any particular position."

This exclusion, while seemingly innocuous, would encourage employers of all sizes to avoid salary transparency altogether by replacing their usual postings with advertisements saying "We are hiring in the investment research space" or "We are hiring in the executive human resources area."

Intro134 also excludes: "Positions that are not required to be performed, at least in part, in the city of New York."

This exclusion would also allow all New York City employers of all sizes to evade the law by simply adding to their job postings: "Remote work may be an option" - thus demonstrating that the job is not required to be performed in the City but could possibly be performed at an employee's home in Westchester or Long Island. Thus, LL32 would be applicable only to those jobs for which remote work is never an option.

**2. By excluding business with 4-15 employees from coverage, Intro134 promotes compensation secrecy for millions of employees and sets a dangerous precedent with regard to the City Human Rights Law in general.**

LL32, like most of the other provisions of the Human Rights Law, applies to businesses with four or more employees. Over the past decade, all changes in the Human Rights Law have trended toward including more employers, not fewer, including, for example, protection for domestic workers, and protection for all employees, regardless of their employers' size, from gender-based harassment. Regrettably, Intro134, which exempts workers who are employed by businesses of 15 or fewer, is a giant step backward when it comes to the scope of the Human Rights Law, one of the country's most robust anti-discrimination laws. In fact, to our knowledge, Intro 134 is the first bill that would exclude private businesses with greater than 4 employees from any provision of that law since the law was enacted in 1965.

Ironically, LL32's burden on small businesses, whom this bill is ostensibly protecting, is much lighter than that posed by other provisions of the Human Rights Law. It simply requires posting of salary ranges when jobs are posted.

**3. Rebutting the claims made in the press release issued by The Partnership for the City of New York and the borough Chambers of Commerce.**

On April 4, 2022, The Partnership for New York City and the borough Chambers of Commerce issued a press statement opposing LL32 and in support of Intro 134, allegedly because of LL 32's deleterious effects on small and minority and women owned businesses.<sup>1</sup> Of course, these organizations have raised similar alarms, on similar grounds, concerning many anti-discrimination and pro-worker initiatives such as good cause termination for fast food workers, paid leave and the Paycheck Fairness Act.<sup>2</sup>

The Partnership argues:

“New York City is a highly competitive labor market, where most employers are committed to gender and racial pay parity.”

In fact, the wage gap in New York City is enormous, indicating that employer “commitment” to gender and racial pay parity, to the extent that it exists, has little effect on the gaping wage gap. A recent comprehensive study performed by the New York City Comptroller revealed stunning

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<sup>1</sup> *Employers Call on City Council to Amend Salary Posting Law*. Partnership for New York City. (2022, April 4). <https://pfnyc.org/news/employers-call-on-city-council-to-amend-salary-posting-law/>

<sup>2</sup> *U.S. Chamber Letter Opposing H.R. 7, the "Paycheck Fairness Act."* U.S. Chamber of Commerce. (2019, March 26). <https://www.uschamber.com/workforce/https-www-uschamber-com-letter-us-chamber-letter-opposing-hr-7-the-paycheck-fairness-act>; *Testimony*. Brooklyn Chamber of Commerce. (2020, May 5). <https://www.brooklynchamber.com/wp-content/uploads/2020/05/BCC-Testimony-for-NYCC-Hearing-May-5-2020.pdf>; Kauzlarich, Mark. *NYC Fast-Food Worker Law Shines Light on 'Just Cause' Policies*. Bloomberg Law. (2021, Feb. 1). <https://news.bloomberglaw.com/daily-labor-report/nyc-fast-food-worker-law-shines-light-on-just-cause-policies>

race and gender pay gaps in every pay classification in the city. For example, the study showed that

“Hispanic, AAPI, and Black women financial managers make 45 cents, 40 cents, and 39 cents, respectively, for every dollar paid to white male financial managers. The gender wage gap is smaller but still stark for white women, who make 60 cents to the dollar.”

The pattern holds true in all wage classifications, including but not limited to retail store supervisors, secretaries and registered nurses.<sup>3</sup>

The Partnership further argues:

“For example, to secure the skills needed in an industry like health care, employers may offer different compensation packages to attract licensed professionals from outside the city.”

This argument implies that New York City based employers are justified in paying prospective employees who live outside the City, and would have to move to the City, a higher salary than those who are already City residents. In other words, such a policy would disadvantage New York City residents. It is hard to understand why the City Council would want to promote such a policy as a justification for compensation secrecy.

The Partnership states:

“In the corporate sector, employers are seeking to diversify their executive teams and may offer higher compensation for BIPOC job candidates.”

As demonstrated by the Comptroller’s survey, for example, it is manifest that the compensation secrecy of the past has in fact benefited white male workers. There is no evidence that compensation secrecy has ever benefited BIPOC job candidates.<sup>4</sup>

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<sup>3</sup> *On Equal Pay Day, Comptroller Stringer Releases First-of-its-kind Analysis Spotlighting Massive Gender and Racial Wage Gaps by Occupation in New York City*. New York City Comptroller. (2018, Apr. 10).

<https://comptroller.nyc.gov/newsroom/on-equal-pay-day-comptroller-stringer-releases-first-of-its-kind-analysis-spotlighting-massive-gender-and-racial-wage-gaps-by-occupation-in-new-york-city/>; *Inside the Gender Wage Gap, Part I: Earnings of Black Women in New York City*. New York City Comptroller. (2018, Aug. 3).

<https://comptroller.nyc.gov/reports/gender-wage-gap/inside-the-gender-wage-gap/inside-the-gender-wage-gap-part-i-earnings-of-black-women-in-new-york-city/>

<sup>4</sup> To further rebut the Partnership’s hypothetical, it is generally unlawful under federal, state and city law to discriminate in the terms and conditions of employment based on race, including making terms and conditions of employment more favorable to non-white employees. See, e.g., McDonald v. Santa Fe Trail Transp. Co., 427 U.S. 273 (1976); Aulicino v. N.Y.C. Dep’t of Homeless Servs., 580 F.3d 73 (2d Cir. 2009); *Race/Color Discrimination – FAQs*. U.S. Equal Employment Opportunity Commission. <https://www.eeoc.gov/youth/racecolor-discrimination-faqs#Q6>

The Partnership argues:

“The city’s MWBE firms are generally at a disadvantage in competing for scarce talent and are likely to be outbid if a majority competitor has access to their salary offering.”

This cynical argument assumes that Minority and Women Owned Business Enterprises (MWBE) firms, unlike majority firms, are unwilling or unable to pay fairly for talent, and that these firms somehow benefit from hiding their true salary ranges from prospective employees. It ignores the resilience and attractiveness of MWBE firms and the sophistication of their prospective employees. Most important, this is an argument in favor of compensation secrecy altogether -- and the statistics prove that decades of compensation secrecy have hurt women and employees of color, not helped them. Finally, when taken to its logical extreme, this is a dangerous argument for exempting MWBE firms from the City’s Human Rights Law altogether.

Finally, the Partnership alleges:

“Although the employer has discretion with respect to minimum and maximum salaries that are posted, existing employees will be watching what range is offered to new employees and will inevitably question how that relates to their own compensation. During a labor shortage, or in the context of achieving diversity goals, the posted maximum may be significantly higher than the historical salary ranges, creating dissatisfaction in the workforce and demands to adjust existing pay scales that the employer may be unable to afford.”

It is true that when women and people of color learn that they are being paid less than their white male counterparts, dissatisfaction in the workforce often results. Of course, an employer always has the choice to raise the compensation of its current workers at the same time it sets higher salary ranges for prospective employees.

#### **4. The link between wage transparency and pay equity.**

Finally, I want to address the surprising skepticism that emerged at the hearing on Int 134 regarding the connection between salary transparency and pay equity. There is no question that study after study has shown that salary transparency is the first step toward pay equity, and that compensation secrecy never leads to pay equity.<sup>5</sup>

It might help to give individual scenarios that demonstrate the inextricable link between the two:

Scenario 1:

A Black female employee is hired and receives no raises. She is told by her boss that this is because she is “at the top of her salary range.” This is in fact, true. Had the salary range been

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<sup>5</sup> See e.g., Baker et al. (Dec. 2021). *Pay Transparency and the Gender Gap*. National Bureau of Economic Research. [https://www.nber.org/system/files/working\\_papers/w25834/w25834.pdf](https://www.nber.org/system/files/working_papers/w25834/w25834.pdf); Bennedsen et.al. (Oct. 2018) *Do firms respond to gender pay gap disclosure?\**. FAMBUSS. [https://www.econometrics.ku.dk/fambuss/publications/gender\\_pay\\_oct25pm.pdf](https://www.econometrics.ku.dk/fambuss/publications/gender_pay_oct25pm.pdf)

posted when she applied for the job, she might not have taken it, because it would have been clear to her that her opportunities for raises might be limited.

Scenario 2:

A Black female employee is hired and receives no raises. She is told this is because she is “at the top of her salary range.” This is in fact, not true. In fact, white men who were hired at the same time were offered significantly higher starting salaries. Had she known the salary range when she applied for the position, she would have been more likely to take the risk of negotiating for a higher salary.<sup>6</sup>

Scenario 3:

A position is posted internally and externally. A currently-employed Black female employee applies and is told the salary is less than that at her current job, so she doesn’t pursue the opportunity. A less qualified college fraternity brother of the hiring manager applies and is offered a higher salary than the Black female for the same position. Had the actual offering salary been posted, the Black female employee would have pursued the opportunity.

Salary transparency laws reduce the need for individuals to enter a bargaining scenario with a prospective employer -- scenarios that disadvantage women and people of color, who are on the one hand less likely to negotiate and on the other hand, viewed negatively when they do.<sup>7</sup>

Finally, and critically, salary transparency laws make it easier for employers to comply with laws that require equal pay for equal work. Employers can use the tools mandated by LL32 to discover whether there are pay inequities among their current workforces, and take action to alleviate those inequities before they confront administrative action or litigation.

In conclusion, NELA/NY strongly urges that the City Council leave LL32 in its current form and reject Intro134.

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<sup>6</sup> “... (W)omen have been found to be less willing than men to negotiate and compete and to be more risk averse.” Blau, Francine & Kahn, Lawrence. (Sept. 2017). *The Gender Wage Gap: Extent, Trends, and Explanations*. Journal of Economic Literature. 55(3), 836. <https://pubs.aeaweb.org/doi/pdfplus/10.1257/jel.20160995>

<sup>7</sup>*Ibid.*; Hernandez et. al. (2019) *Bargaining While Black, The Role of Race in Salary Negotiations*. American Psychological Association. 104(4), 581-592. <https://www.apa.org/pubs/journals/releases/apl-apl0000363.pdf>



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05 April 2022

**New York City Council**

*Attention: Committee on Civil and Human Rights*

City Hall Park, New York, NY 10007

**Subject: Testimony for Committee on Civil and Human Rights Hearing of Tuesday April 5th 2022**

Dear Chairwoman Williams and Committee Members,

I am writing this letter to urge the committee to reject the proposed amendments to the local law requiring employers to list salaries on job postings.

As a remote worker **of color**, the notion that a company would be able to have a carve out and say that because my job can be done anywhere they shouldn't be required to post the salary, means that they will be able to perpetuate the constant underpay of workers of color.

These are unnecessary exemptions to a law that has not even gone into effect. Why would these business interest groups request relief in the form of law 'tweaks' when the law has not even gone into effect? How can they claim that this is inconvenient when there is not yet any proof of that inconvenience?

This is a blatant attempt to defang the spirit of the law. It is appalling that the council would consider going back on this law when we stand to make great gains for underpaid workers across the city.

After the law goes into effect, if amendments are required, it is perfectly reasonable to consider what needs to be worked out—but to change it before it even goes into effect is preposterous.

I urge all of the members to reject this set of amendments.

Sincerely,

Miguel A. Rayos-Velazquez

# New York City Council

## Committee on Civil and Human Rights

Hearing Testimony:  
Amendments to Local Law 32 for 2022

Tim Johnson, Senior Vice President  
**GREATER NEW YORK HOSPITAL ASSOCIATION**

## **Introduction**

Chair Williams and members of the New York City Council Committee on Civil and Human Rights, my name is Tim Johnson, Senior Vice President at the Greater New York Hospital Association (GNYHA). GNYHA proudly represents all hospitals in New York City, both not-for-profit and public, as well as hospitals throughout New York State and in New Jersey, Connecticut, and Rhode Island. I work on health workforce issues at GNYHA and have spent the last two years partnering with GNYHA's hospitals, government officials, and other organizations to try to address the short-term and longer-term hospital staffing challenges that have been highlighted by the COVID-19 pandemic. Thank you for the opportunity to testify today about Local Law 32.

GNYHA has concerns that the current version of Local Law 32 will harm New York City's health care industry, especially hospitals, other health care organizations, and community-based organizations (CBOs) that form our city's health care safety net. As hospitals prepare for the future, they face grave threats from the pandemic's toll on the health care workforce, the severe financial costs of multiple COVID-19 surges, reduced patient volume, and Medicaid reimbursement rates that don't come close to covering the cost of care. While GNYHA supports the goal of combatting pay discrimination, we fear that without further amendments, Local Law 32 will weaken already fragile hospitals and the organizations with which they work and rely on to care for the people of New York City. GNYHA believes that a further amendment, as described below, would reduce the risk of negative ancillary effects on New York City's hospitals while also combatting pay discrimination.

## **New York's Current Health Care Staffing Crisis**

Although it predates the pandemic for most safety net organizations, the COVID-19 public health emergency significantly worsened the staffing crisis New York City's hospitals face. Staffing flexibilities, including the authorization for out-of-state licensed staff to practice in New York, have been a key tool in helping New York's hospitals and other health care organizations meet the succession of COVID-19 waves since March 2020. Recognizing that the pandemic has worsened the staffing crisis, which will persist well into the future, on September 28, 2021, New York Governor Kathy Hochul issued a declaration of disaster emergency specifically for health care staffing (separate and apart from the COVID-19 declaration) and has extended it numerous times.

The Governor's Executive Order (EO) provides hospitals and nursing homes with the necessary flexibility to maintain safe, high-quality patient care despite the statewide health care staffing challenges. The EO authorizes certain out-of-state health care workers to practice in New York, expands scope of practice for certain health care workers, and allows out-of-state, retired, and recent or nearly graduated health care workers to practice when organizations need them to address immediate staffing challenges. These changes were put into place because health care staffing is in crisis in New York and policymakers must do whatever they can to eliminate barriers for hospitals and other health care organizations to recruit and retain staff.

Governor Hochul’s proposed State budget includes a package of GNYHA-supported health workforce policies that begin to address this crisis. These proposals include funding for hospitals and other health care employers to provide bonuses of up to \$3,000 to frontline, hands-on health and mental hygiene workers, structured to be paid out over time, for the express purpose of retaining existing staff members. The Executive budget proposal also includes investments in loan repayment and clinical education support that will attract more people into this rewarding field. The New York State Assembly and Senate included support for many of these proposals in their respective one-house budget resolutions. In addition to these State budget proposals, GNYHA understands that New York State is planning to ask, as part of its application to the Federal government for investment in New York’s health care delivery system through a Medicaid “waiver” proposal, for an unprecedented level of funding to further develop and retain New York’s health care workforce.

### **GNYHA Concerns**

GNYHA is concerned that, without further amendment, Local Law 32 may adversely impact the ability of hospitals and other health care organizations to hire and retain staff for a variety of positions. Safety net hospitals and other organizations provide significant care for uninsured individuals and rely heavily on Medicaid reimbursement, which doesn’t come close to covering the cost of care. This financing structure leaves all hospitals at a disadvantage relative to other companies when it comes to attracting and retaining talent, but it especially impacts health care organizations that disproportionately care for the neediest New Yorkers.

Notwithstanding these financial challenges, hospitals and their workers take great pride in working for at-risk communities and directly addressing health inequity and disparate outcomes. Every person working at a hospital contributes to this mission, including those in non-clinical areas such as administration, custodial services, information technology services, and others in which hospitals compete with non-health care organizations. All of these workers play an important role in delivering patient care to their communities. Despite not always being able to provide the highest pay to an individual seeking a job, these organizations provide personally rewarding and fulfilling non-financial rewards precisely because they serve New York City’s most underserved populations. If New York City mandates that hospital and other health care employers post salary ranges without the ability to first explain the great benefits of working in these mission-driven organizations, it may dissuade potential applicants from even applying for the positions, further exacerbating staffing challenges and complicating policymakers’ efforts to stabilize the health workforce.

GNYHA also notes that most hospital workers across New York City are covered by collective bargaining agreements, negotiated in good faith by unions and hospital management, that provide certain terms and conditions for employment, including wages, hours, and benefits. Requiring

hospitals and other organizations to post salary information is unnecessary since the collective bargaining process significantly reduces the possibility of pay discrimination.

GNYHA also worries that, without further amendment, Local Law 32 may produce harmful effects in other components of the city's safety net that are seeking to improve health outcomes. In addition to nursing homes and home health agencies, smaller safety net organizations such as community health centers, social service agencies, and other CBOs now work hand-in-hand with hospitals on whole-person care. These organizations often compete for the same talent pool as hospitals and other larger employers. Some of these CBOs are not classically defined as "health care" organizations, but they play a critical role in community health by addressing social determinants of health so that community members' social conditions and risk factors (e.g., housing insecurity, food insecurity) do not lead to negative health outcomes. As with hospitals, requiring these community-based, mission-oriented organizations to post salary ranges on job listings before they can demonstrate to applicants the non-financial rewards they offer may threaten their ability to operate at all. Local Law 32 may chase potential workers away from critical safety net hospitals and CBOs, ultimately worsening the health inequity and disparate outcomes that we are working tirelessly to correct. This would be an unfortunate unintended consequence of this well-intentioned law.

### **GNYHA Request**

GNYHA supports the amendments in Introduction 0134-2022, including delaying the law's implementation date, exempting positions that are not required to be performed at least partly in New York City, and exempting very small employers. However, to protect and support access to high-quality patient care and promote community health, GNYHA requests that the New York City Council also amend the law to require disclosure of salary ranges at the time of conditional offer rather than with the initial posting. GNYHA believes this amendment will balance the principal goal of combatting pay discrimination while also ensuring that hospitals, other health care providers, and health care-related CBOs are provided with the largest applicant pool for these critically important jobs and can demonstrate the value of working for a mission-driven organization that serves to keep the people of New York City healthy.

### **Conclusion**

GNYHA and its member hospitals are committed to New York's heroic health care workers and the need to encourage more people to enter the industry so that every New Yorker receives the quality care they deserve. That is why GNYHA strongly supports the aforementioned major provisions in the Governor's proposed State budget to provide bonuses to New York's health care workers to retain staff, as well as training and pipeline initiatives to rebuild and strengthen New York's health care workforce. GNYHA looks forward to working with the New York City Council to promote policies that will strengthen the City's health care delivery system and workforce while also ensuring that employees are not subject to pay discrimination.

Thank you for the opportunity to testify today. I am happy to answer any questions.

Hello, my name is Hyacinth Charles. I don't know where I would be without CCHR. CCHR was able to break down all the barriers of source of income discrimination. I am in safe and stable housing, thanks to them. Through CCHR's advocacy on my behalf, a landlord held an apartment for months until I could move in. I had no issues with CCHR's correspondence. They were able to respond while processing my claims promptly. When CCHR is advocating for you, they are miracle workers. I know that not everyone has my experience with CCHR due to a lack of resources. It pains me to think of individuals languishing in shelters waiting months for a call from CCHR. This is why we must properly fund CCHR. In the fiscal year 2023, CCHR should be funded at a baseline of \$1 million so there are more stories like mine. Thank you for your time.



## Testimony of the Partnership for New York City

### New York City Council Committee on Civil and Human Rights

#### Int. 134-2022 - minimum and maximum salaries in job postings

April 5, 2022

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Thank you, Chair Williams and members of the committee, for the opportunity to testify on Int. 134, concerning the inclusion of minimum and maximum salary information in job postings. The Partnership for New York City represents private sector employers of more than one million New Yorkers. We work together with government, labor and the nonprofit sector to maintain the city's position as the preeminent global center of commerce, innovation, and economic opportunity.

Local Law 32 of 2022 made it an unlawful discriminatory practice for an employer to post a job opening without indicating an intended minimum and maximum salary for the position. The law's supporters argue that publishing a salary range will increase gender pay equity and transparency. The Partnership fully supports these goals but believes that a discussion with employers before this law was passed could have been more effective in achieving them without placing an undue burden on employers and, in some cases, job applicants.

The labor market in New York City is highly competitive. On any given day, there are more than 200,000 job postings and no candidates qualified to fill many of them, irrespective of salary. This has been especially true as immigration policies have become more restrictive and work visas more difficult to obtain. In this environment, employers are prepared to negotiate compensation instead of creating fixed salary ranges. Posting minimum and maximum salaries may be an effective way to increase employee leverage in other markets, but it is not nearly as relevant here.

Employers have also embraced the value of diversity in their workforces, creating unprecedented competition for Black, female and multilingual job candidates. Employers may wish to pay a premium for these employees, but Local Law 32 could make that more difficult.

Int. 134 amends Local Law 32 to deal with some of the challenges associated with compliance. First, it increases the minimum number of employees for exemption from four to fifteen. Small businesses and nonprofits are already overburdened by state and local laws and regulations. Most small organizations do not have redundant job functions where pay parity can be easily defined. Compensation tends to be determined by the range of functions that an individual applicant can perform and the experience they bring to the job. We do not believe that the costs of imposing this mandate on small employers are justified by any benefit that would be achieved.

The bill would also exempt positions that are not performed at least partly in New York City. Employers adjust salaries to cost of living differences in various locations, so a single range is not practical for firms that operate in multiple jurisdictions. New York is a global commercial capital



because we have many headquarters of companies that operate around the world, with compensation requirements that vary widely. The original legislation did not clarify that the law only applies to postings for jobs that are performed in New York City.

Finally, Int. 134 would extend the time for employers to implement the salary disclosure requirements until November 1, 2022. Local Law 32 is scheduled to take effect in May 2022, only four months after it became law. The Commission on Human Rights has been working to provide guidance on the many questions employers have about the law but will only be able to release such guidance a month before the law takes effect. This is not sufficient time. Outreach is needed to ensure that employers are aware of the law. Large employers need time to review the guidance, conduct analyses of their existing titles and salaries, develop salary ranges that account for education, experience and other factors, adjust technology systems and human resource processes to accommodate the new requirements, and communicate with their existing employees to explain salary ranges and deal with any discrepancies from current pay structure. Small and mid-sized businesses need time to prepare their approach to compliance.

The Partnership appreciates the Council's willingness to address these issues. Since Local Law 32 is scheduled to be implemented in May, we urge you to pass Int. 134 as soon as possible.

Thank you.



## Testimony of the Partnership for New York City

### New York City Council Committee on Civil and Human Rights

#### Int. 134-2022 - minimum and maximum salaries in job postings

April 5, 2022

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Thank you, Chair Williams and members of the committee, for the opportunity to testify on Int. 134, concerning the inclusion of minimum and maximum salary information in job postings. The Partnership for New York City represents private sector employers of more than one million New Yorkers. We work together with government, labor, and the nonprofit sector to maintain the city's position as the preeminent global center of commerce, innovation, and economic opportunity.

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conduct analyses of their existing titles and salaries, develop salary ranges that account for education, experience, and other factors, adjust technology systems and human resource processes to accommodate the new requirements and communicate with their existing employees to explain salary ranges and deal with any discrepancies from current pay structure. Small and mid-sized businesses need time to prepare their approach to compliance.

The Partnership appreciates the Council's willingness to address these issues. Since Local Law 32 is scheduled to be implemented in May, we urge you to pass Int. 134 as soon as possible.

Thank you.

Dear Councilmember Abreu and Speaker Adams,

I am a resident of District 7, and also a lawyer who represents workers in NYC. I write to urge you to oppose City Council Bill No. 134.

This bill would essentially overturn the salary range transparency bill ([Int. No. 1208-2018](#), now LL 2022/032)) that was passed by an overwhelming majority in December.

LL 2022/032, which was signed into law by Mayor Adams, ensures that all NYC employers post salary ranges when they post a new job (regardless of the employer's size). This creates a more level playing field for job applicants, and makes an important contribution to reversing historical and ongoing compensation bias against women and workers of color. LL 2022/032 creates much needed transparency around an often-taboo topic. Similar to the state wage notification law, where employees are made aware of their hourly and overtime rates.

This new bill, Int. 134, would effectively eviscerate that law and sets a dangerous precedent for the NYC Human Rights Law in general by stating that employers with less than 15 employees need not comply with this requirement AND the law would not apply to any job posting that does not specify a position (an exception that could easily swallow the whole law).

The bill also excludes any job that is not required to be performed in New York City, essentially excluding all jobs that have even the potential for remote work by employees who live outside the city.

This bill seeks to undo important protections for NYC workers, and I hope you will vote to oppose it. Please let me know if you'd like to discuss this in more detail, and we can set up a time to talk.

With thanks for your service to NYC and for considering these comments,

Deborah H. Karparkin

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Hello, my name is Kecia Kemp. I was in possession of citypheps voucher while I was in a NICHA apartment. Landlords were not accepting my voucher. I reached out to CCHR, and I heard back from them roughly ninety days later. This is unacceptable. In my experience- this city agency completely dropped the ball. I'm currently in a shelter and need the advocacy of CCHR to help me get into stable and safe housing. How is it possible that I have to wait for months for a callback from CCHR? With CCHR's help, I could get out of the shelter system. I need CCHR to respond to my calls promptly to get out of the shelter system. We have to do what is right and get more funding for CCHR. In the fiscal year 2023, CCHR should be funded at a baseline of \$1 million.



I am Mary Luke, Vice President of UN Women USA and PowHer NY.

I am here today to speak for the Salary Range Law, a law which was just passed in January, 2022 and to speak AGAINST INT134. The law was intended to benefit all women- those working at all levels in corporations, small business, and front line workers, many whom are WOC and immigrants,

It is ironic that just one month ago on Equal Pay Day, we rallied on the steps of City Hall which featured the Speaker and many City Council members who spoke on the importance of the Salary Range Law (LL32) and committed to gender pay equity.

NYC plays a unique role on the international stage because it is the home of the United Nations. It has historically played an important role as a model Sister City and for Safe Cities and is- **one of the first cities to pass a Salary History law** which bans employers from asking an applicant about prior salary. It would be an embarrassment if LL 32 was diminished even before it was implemented.

**At the United Nations, EQUAL PAY IS A RECOGNIZED HUMAN RIGHT, TO WHICH ALL WOMEN AND MEN ARE ENTITLED.** The Equal Remuneration Convention, 1951 was the first international instrument on this issue.

**Target 8.5 of the Sustainable Development Goals calls for equal pay for work of equal value by 2030.**

**EPIC is the Equal Pay International Coalition**, led by the ILO, UN Women and OECD. The Coalition's goal is to achieve equal pay for women and men everywhere. EPIC supports governments, employers, workers and their organizations to make coordinated progress toward the goal of equal pay.

**Through EPIC**, we have learned there are a few critical steps to get to the goal of gender pay equity. These include salary transparency laws, objective gender-neutral job evaluations, creating a fair reward system, teaching negotiation skills, collective bargaining, raising the minimum wage.<sup>i</sup>

According to the Workplace Gender Equality Agency (Australia), the pay gap is almost non-existent when pay is set transparently as compared to 20.6 percent when pay information is withheld.<sup>ii</sup>

The Lilly Ledbetter Fair Pay Act 2009 and the UK Equality Act 2010 were introduced to promote salary transparency. As you know, Lilly Ledbetter worked as a successful manager at Goodyear for 19 years, unaware that her fellow supervisors were earning a lot more money in a similar position until a colleague slipped her a note. That began her decade long fight for equal pay and eventually a settlement of over \$ 3 million.

**LL32 promotes salary transparency in hiring and promotions,** However, **INT 134** and **specifically the amendment on exempting employers with 15 or fewer** employees would exempt 50,000 businesses, many whom employ low income women of color and immigrants.

Additionally, **general “Help Wanted” ads are often the way immigrant workers learn about job openings.** Removing them from the Salary Range Law would adversely affect the opportunities of WOC and immigrants to be paid equitably.

The 2022 NY State wage gap is lowest for Latinas at 56.1 cents, Native Americans at 56.3 cents, and Blacks at 64.3 cents compared to White women at 80.4 cents and Asian Women at 85.5 cents. However, the data for Asians is misleading unless it is broken down into sub Asian population groups. Asian American, Native Hawaiian and Pacific Islander (NHPI) are the fastest growing racial groups in this country and **are now 14% of NYC population.** Unless the data is disaggregated, it is not possible to recognize the diversity and needs of these sub populations.

According to the National Asian Pacific American Womens’ Forum (NAPAWF) and the Center for American Progress, women from Burma, Nepal, Tonga, Samoa, Lao and Cambodia earned under .61 cents.<sup>iii</sup> Many have limited English, little education and often start out and continue in low wage jobs in salons, restaurants, small factories, and are employed as careworkers. They are vulnerable and at risk for exploitation and wage theft.

I am a first generation Asian American, raised in a Chinese speaking household with parents who worked in a restaurant. When I started my professional life as a nurse and researcher, I was totally ignorant about wages, worker rights and **furthermore did even think it appropriate to ask about such things.** I just appreciated having a professional job. The world of work may have changed for some, but for immigrants, cultural, language and educational barriers still exist, rendering them silent and powerless.

***Transparency is so important because if you know what your salary is and what your colleagues are making that gives women the information they need to negotiate and to ask and be paid fairly and equally to men. Deborah Gillis Catalyst President and CEO<sup>iv</sup>***

**The salary range for a job should not be a secret-** Knowing the salary range give women a ballpark figure to negotiate a salary and to not waste time pursuing a position that is not a real opportunity. It is more important than ever that all workers, including WOC and immigrants, have access to salary range information so they can start their work life and advance in their jobs knowing they will be paid fairly and equally for work of equal value. **Equal opportunity is part of the American dream!**

**Please vote NO on INT 134** and implement LL 32 without amendments so NYC can serve as a model in gender pay equity for other cities and countries around the world.

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<sup>i</sup> ILO “Pay equity a Key Drive of Gender Equity”

[https://www.ilo.org/wcmsp5/groups/public/@dgreports/@gender/documents/briefingnote/wcms\\_410196.pdf](https://www.ilo.org/wcmsp5/groups/public/@dgreports/@gender/documents/briefingnote/wcms_410196.pdf).

<sup>ii</sup> Ibid, p. 6

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iii NAPAWF report “AAPI Women Economic Security” fact sheet.

<https://static1.squarespace.com/static/5ad64e52ec4eb7f94e7bd82d/t/6047c1bc0ebcba009f43648c/1615315388940/aapi+womens+economic+security.pdf>.

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Catalyst, (n.d.). The Pay Gap: Equal Pay for Equal Work. [online] Available at: <http://www.catalyst.org/issues/pay-gap> [Accessed 17 Apr. 2015].



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April 8, 2022

## TESTIMONY ON INTRO 134 BEFORE THE NEW YORK CITY COUNCIL'S COMMITTEE ON CIVIL AND HUMAN RIGHTS

### Submitted by Seher Khawaja, Senior Attorney, Economic Empowerment on behalf of Legal Momentum, The Women's Legal Defense and Education Fund

For over five decades, Legal Momentum has been at the forefront of using the law to advance gender equality for women in the workplace, and it is based on this expertise that we submit this testimony to oppose Intro 134.

Last year, New York City enacted Local Law 32, a landmark pay transparency law that promises to have a transformative impact in advancing more equitable pay practices and tackling exploitation of women in some of the lowest paid industries in New York City. We previously testified in support of this law, and we now testify to oppose Intro 134 because the bill's amendments to Local Law 32 are alarming carve-outs that would effectively dismantle the newly enacted law before it has a chance to demonstrate its impact.

While the purported goals of the amendments—to provide clarity and protect small businesses—are worthwhile, in reality they would (1) exclude a large proportion of New York City's workforce from critical protections; (2) unfairly exempt a large number of employers, big and small; (3) encourage employers to be *less* transparent in their hiring practices; and (4) roll back our progressive worker-centered human rights law.

In response to this bill and to questions raised at the hearing on April 5, 2022, our written testimony below provides background on why pay disclosure is critical to pay equity, how the carve-outs in the bill substantially undermine Local Law 32, and why opposition raised by the business community fails to justify the proposed carve-outs.

### Local Law 32 is Critical to Achieving Greater Pay Equity

While New York City has made progress towards achieving greater pay equity, it has failed miserably in addressing the wage gap for non-white women workers.<sup>1</sup> According to the City Council, when compared, on average, to each dollar earned by white men, Latina women earn 46 cents, African American women earn 55 cents, and Asian women earn 63 cents.<sup>2</sup>

<sup>1</sup> New York City Council, *Pay Equity in New York City: Analysis of Pay Differences in the New York City Municipal Workforces* 13(Aug. 2021), [http://council.nyc.gov/data/wp-content/uploads/sites/73/2021/08/080221.OC03.PAY-EQUITY-IN-NYC\\_v8.pdf](http://council.nyc.gov/data/wp-content/uploads/sites/73/2021/08/080221.OC03.PAY-EQUITY-IN-NYC_v8.pdf).

<sup>2</sup> New York City Council, Committee on Civil and Human Rights, *Committee Report of the Governmental Affairs Division 2-3*(Dec. 2, 2021), <https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=3713951&GUID=E7B03ABA-8F42-4341-A0D2-50E2F95320CD&Options=&Search=>.

Under our existing equal pay laws, which require an aggrieved party to initiate an equal pay complaint against their employers, it is these women who bear the burden, risk, and heavy cost of identifying, challenging, and correcting gender-based pay discrimination. Adding insult to injury, they are expected to do so in the dark, with little to no information on what new and existing workers are paid or what a particular job is worth. Pay disparities persist as a result of pay secrecy because women have little to no way of knowing if inequities exist.<sup>3</sup>

While pay transparency advanced by pay disclosure laws like Local Law 32 do not address all aspects of pay inequity, they are an indispensable component of a multipronged strategy to tackle pay inequity, particularly for women of color. Having access to wage or salary ranges in job postings is a first step towards giving both applicants and employees some guidance on how an employer values a particular position. Research amply demonstrates that this type of pay transparency forces employers to rely less on unconscious biases that disproportionately hurt women of color; gives women of color much needed leverage in the hiring process; and drives employers to set salary in a way that is more fair, efficient, and accountable.<sup>4</sup>

- **Reducing Overt and Unconscious Bias:** Employers continue to insist that they need flexibility to set pay after seeing the candidate pool in order to attract talent; however, research shows that this approach is precisely what leads to discrimination in compensation and hiring. A number of studies have shown that employers offer larger monetary awards to white male candidates based on unconscious bias and that pay transparency can be effective in tackling this problem.<sup>5</sup> Pay transparency laws that require employers to disclose pay ranges in job postings force employers to contemplate a pay range at the front-end of their process that centers around objective factors, including budget, value assigned to the position, skills and experience required, and job responsibilities, instead of relying primarily on

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<sup>3</sup> See Shengwui Sun, Jake Rosenfeld, Patrick Denice, On the Books, *Off the Record: Examining the Effectiveness of Pay Secrecy Laws in the U.S.*, Institute for Women's Policy Research Policy Brief (Jan. 2021) ("But the gender pay gap remains substantial: fulltime, year-round women workers earn 18 percent less than their male counterparts (Hegewisch and Mariano 2020). A lack of knowledge about who makes what within organizations contributes to this continuing disparity."), <https://iwpr.org/wp-content/uploads/2021/01/Pay-Secrecy-Policy-Brief-v4.pdf>; National Women's Law Center, Promoting Pay Transparency to Fight the Gender Wage Gap: Creative International Models (March 2020), <https://nwlc.org/wp-content/uploads/2020/03/International-Pay-Transparency-Models-v2.pdf>.

<sup>4</sup> Emilio J. Castilla & Stephen Bernard, *The Paradox of Meritocracy in Organizations*, 55 Admin. Sci. Quarterly 543 (2010), <https://dspace.mit.edu/bitstream/handle/1721.1/65884/Paradox%20of%20Meritocracy.pdf?sequence=4&isAllowed=y>; *Breaking barriers: Unconscious gender bias in the workplace*, Int'l Labour Org. (Aug. 2017), [https://www.ilo.org/wcmsp5/groups/public/---ed\\_dialogue/---act\\_emp/documents/publication/wcms\\_601276.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---act_emp/documents/publication/wcms_601276.pdf); Michael Baker et al., *Pay Transparency and the Gender Gap* (Nat'l Bureau of Econ. Research Working Paper No. 25834), [https://www.nber.org/system/files/working\\_papers/w25834/w25834.pdf](https://www.nber.org/system/files/working_papers/w25834/w25834.pdf); Michael Baker et al., *Can Transparency Laws Fix the Gender Wage Gap?*, Harv. Bus. Rev. (Feb. 26, 2020), <https://hbr.org/2020/02/can-transparency-laws-fix-the-gender-wage-gap>; Maria Recalde & Lise Verterlund, *Gender Differences in Negotiation and Policy* (Nat'l Bureau of Econ. Research Working Paper No. 28183), [https://www.nber.org/system/files/working\\_papers/w28183/w28183.pdf](https://www.nber.org/system/files/working_papers/w28183/w28183.pdf); *Does Pay Transparency Close the Gender Wage Gap?*, PayScale, <https://www.payscale.com/content/whitepaper/Pay-Transparency-Closing-Gender-Wage-Gap.pdf> (last visited Mar. 8, 2022) ("The high-level results of this research show that when respondents agree that pay is transparent in their organization, the gender wage gap vanishes for women doing similar jobs to men when all compensable factors are adjusted.").

<sup>5</sup> Emilio J. Castilla & Stephen Bernard, *The Paradox of Meritocracy in Organizations*, 55 Admin. Sci. Quarterly 543 (2010), <https://dspace.mit.edu/bitstream/handle/1721.1/65884/Paradox%20of%20Meritocracy.pdf?sequence=4&isAllowed=y>; *Breaking barriers: Unconscious gender bias in the workplace*, Int'l Labour Org. (Aug. 2017), [https://www.ilo.org/wcmsp5/groups/public/---ed\\_dialogue/---act\\_emp/documents/publication/wcms\\_601276.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---act_emp/documents/publication/wcms_601276.pdf); Michael Baker et al.,

subjective candidate-specific factors which tend to incorporate unconscious biases that devalue work done by women and minorities.<sup>6</sup>

- **Creating Leverage for Women of Color:** As the most underpaid and undervalued category of workers in New York City, women of color come to the negotiating table with lower salaries, less leverage, and little to no information to help them push for higher compensation.<sup>7</sup> The prevalence of pay secrecy in hiring therefore results in women of color regularly selling themselves short when they apply for jobs and try to negotiate their salaries.<sup>8</sup> Providing wage rates or base salary in job advertisements gives women of color much needed information about what particular jobs are worth in our market so that they are in a better position to seek out higher paying jobs, advocate for higher pay during the hiring process, and advocate for higher pay in their existing position. Pay transparency helps “equalize opportunities at the bargaining table”<sup>9</sup> and research shows that women and people of color are in a better position when they have information regarding compensation.<sup>10</sup>
- **Curtailing Wage Exploitation:** Women of color remain overrepresented in the lowest paid industries in New York City,<sup>11</sup> and employers continue to get away with abusive wage practices in part because they are able to set pay behind closed doors. Because of their economic insecurity, low-wage workers are often subject to informal compensation schemes, have little to no information about pay rates, and are more likely to be paid less than the minimum wage or subjected to various forms of wage theft.<sup>12</sup> Forcing employers in these industries to disclose wages, whether in their store window or online, gives workers critical information about wages that serves as an important check on employers to comply with minimum wage requirements.
- **Driving Better Pay Practices:** Based on our client experiences, we have seen first-hand how employers are able to get away with touting pay equity on their company websites and blogs, while engaging in pay discrimination behind closed doors. Forcing employers to disclose pay ranges for new positions provides an incentive for employers to review their internal pay practices and be more thoughtful about setting pay going forward, all of which is likely to pay off and reduce costs for employers in the long-run. Pay transparency also creates efficiencies for employers. Salary is one of the most important factors

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<sup>6</sup> *Id.*

<sup>7</sup> See Robin Bleiweiss, Jocelyn Frye, Rose Khattar, *Women of Color and the Wage Gap*, Center for American Progress (Nov. 17, 2021), <https://www.americanprogress.org/article/women-of-color-and-the-wage-gap/>; Michelle Holder, The “Double Gap” and the Bottom Line: African American Women’s Wage Gap and Corporate Profits (March 31, 2020), [https://rooseveltinstitute.org/wp-content/uploads/2020/07/RI\\_DoubleGap\\_Report\\_202003.pdf](https://rooseveltinstitute.org/wp-content/uploads/2020/07/RI_DoubleGap_Report_202003.pdf).

<sup>8</sup> See National Women’s Law Center, Salary Range Transparency Reduces the Wage Gap (Jan. 2020), <https://nwlc.org/wp-content/uploads/2018/06/Salary-Range-and-Transparency-FS-2020-1.17.2020-v2.pdf>.

<sup>9</sup> Maria Recalde & Lise Verterlund, *Gender Differences in Negotiation and Policy* (Nat’l Bureau of Econ. Research Working Paper No. 28183).

<sup>10</sup> National Women’s Law Center, Salary Range Transparency Reduces the Wage Gap (Jan. 2020), <https://nwlc.org/wp-content/uploads/2018/06/Salary-Range-and-Transparency-FS-2020-1.17.2020-v2.pdf>.

<sup>11</sup> New York City Council, *Pay Equity in New York City: Analysis of Pay Differences in the New York City Municipal Workforces* 13 (Aug. 2021), [http://council.nyc.gov/data/wp-content/uploads/sites/73/2021/08/080221.OC03.PAY-EQUITY-IN-NYC\\_v8.pdf](http://council.nyc.gov/data/wp-content/uploads/sites/73/2021/08/080221.OC03.PAY-EQUITY-IN-NYC_v8.pdf).

<sup>12</sup> See Alexia Fernandez Campbell & Joe Yerardi, *Cheated at Work: Ripping off Workers Without Consequences*, Center for Public Integrity (May 4, 2021), <https://publicintegrity.org/inequality-poverty-opportunity/workers-rights/cheated-at-work/ripping-off-workers-with-no-consequences/>.

candidates consider when looking for employment.<sup>13</sup> By requiring employers to disclose salary up front, this law eliminates inefficient hiring practices, allowing candidates to apply for jobs that actually meet their salary requirements instead of going through a full recruitment process in order to assess whether they can accept a position. Moreover, the bill would allow employers to attract a more qualified applicant pool; increase employee trust and retention; eliminate unfair pay schemes, which are known to breed resentment and result in high turnover; and improve job satisfaction, employee engagement, and productivity.<sup>14</sup>

In addition to these specific benefits, research conducted in jurisdictions that have enacted pay transparency provisions and among employers who have adopted transparent pay practices shows that pay transparency laws do in fact help reduce the gender pay gap.<sup>15</sup>

### **Carve-Outs in Intro 134 Undermine the Purpose and Impact of Local Law 32**

The three carve-outs in Intro 134 would undermine the core protections of Local Law 32 and risk rolling back our progressive worker-centered human rights law.

#### ***Carve-Out for Employers with Fewer Than Fifteen Employees***

First, Intro 134 seeks to exempt employers with fewer than 15 employees, which is an unwarranted departure from the existing four-person threshold that applies to the other provisions in this section. This amendment would take us backwards. Recent successes to extend protections to domestic workers and to all victims of workplace sexual harassment have brought us closer to a critical truth: every worker in New York City deserves the protection of our Human Rights Law. Each time we exempt more employers in this way, we tell more workers that they are not entitled to anti-discrimination protections simply because of the size of their employer.

Excluded businesses would include smaller entities with high revenues, including real estate firms, law firms, and hedge funds. Excluded businesses would also include hair salons, nail salons, daycare providers, restaurants, and retail stores, where women of color are overrepresented, typically make lower wages, and would benefit significantly from knowing rates of pay when applying for jobs.<sup>16</sup> Thus, a significant number of workers who

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<sup>13</sup> Greg Lewis, *This Job Description Heatmap Shows You What Candidates Really Care About (and What They Ignore)*, LinkedIn Talent Blog (June 19, 2018), <https://www.linkedin.com/business/talent/blog/talent-acquisition/job-description-heatmap>.

<sup>14</sup> *Does Pay Transparency Close the Gender Wage Gap?*, PayScale, <https://www.payscale.com/research-and-insights/pay-transparency/#:~:text=Fortunately%2C%20when%20analyzed%20against%20pay,every%20%241%20a%20man%20earns> (last visited Mar. 8, 2022); Samantha Cooney, *Should You Share Your Salary With Co-Workers? Here's What Experts Say*, Time (Aug. 14, 2018), <https://time.com/5353848/salary-pay-transparency-work/>.

<sup>15</sup> Michael Baker et al., *Pay Transparency and the Gender Gap* (Nat'l Bureau of Econ. Research Working Paper No. 25834), [https://www.nber.org/system/files/working\\_papers/w25834/w25834.pdf](https://www.nber.org/system/files/working_papers/w25834/w25834.pdf); Michael Baker et al., *Can Transparency Laws Fix the Gender Wage Gap?*, Harv. Bus. Rev. (Feb. 26, 2020), <https://hbr.org/2020/02/can-transparency-laws-fix-the-gender-wage-gap>; Maria Recalde & Lise Verterlund, *Gender Differences in Negotiation and Policy* (Nat'l Bureau of Econ. Research Working Paper No. 28183), [https://www.nber.org/system/files/working\\_papers/w28183/w28183.pdf](https://www.nber.org/system/files/working_papers/w28183/w28183.pdf); *Does Pay Transparency Close the Gender Wage Gap?*, PayScale, <https://www.payscale.com/content/whitepaper/Pay-Transparency-Closing-Gender-Wage-Gap.pdf> (last visited Mar. 8, 2022) (“The high-level results of this research show that when respondents agree that pay is transparent in their organization, the gender wage gap vanishes for women doing similar jobs to men when all compensable factors are adjusted.”).

<sup>16</sup> See Michael Sainato, *Long hours, dangerous chemicals: nail salon workers fight for industry change*, The Guardian (March 15, 2022), <https://www.theguardian.com/us-news/2022/mar/15/new-york-nail-salon-industry-council-workers>; Sarah Maslin Nir, *The Price of Nice Nails*, N.Y. Times (May 7, 2015), <https://www.nytimes.com/2015/05/10/nyregion/at-nail->

work for these businesses and who will be excluded from its protections are exactly the people this bill was meant to support and who the Council has vowed to advocate for: women of color in low-wage work. Too often, women of color stand at the intersection of overlapping barriers, forced to overcome entrenched disparities compounded by negative gender and racial stereotypes, all of which impacts the pay they are offered when applying for jobs.<sup>17</sup>

### ***Carve-Out for General Notices***

Second, Intro 134 seeks to exempt “general notices” from salary posting requirements. This provision provides an opportunity and incentive for employers to avoid compliance altogether by replacing notices about specific opportunities with general hiring notices that solicit workers to inquire further for details using a hotline or other means. To the extent this provision seeks to exempt small businesses that post “help wanted” signs in their windows, any such exemption would improperly shield businesses that typically recruit low-wage women and immigrant workers who need and deserve this information just as much, if not more, than workers for larger businesses. Moreover, businesses that use these general signs should be just as well equipped to know and list the range they intend to pay their workers and our laws should not be creating loopholes that encourage small businesses to utilize informal schemes that leave workers unprotected.

### ***Carve-Out for Remote Work***

Third, Intro 134 seeks to exempt job postings that do not require work be conducted in New York City. Under this provision, not only would employers recruiting remote workers be exempt from compliance, any employer who simply notes that work in New York City is preferred but not required could thwart law. At a time when so many employers are moving to remote work models, this provision would exempt a large swath of employers (big and small) and build huge inequities into the law, setting an arbitrary line that would require some medium and large employers to comply with the law but not others. Moreover, this provision would serve as another unwarranted departure from the Commission’s established jurisdiction, which, for all other sections, covers discriminatory conduct that has an impact in New York City.<sup>18</sup>

In Colorado, where a similar provision has already been enacted, attempts by employers to avoid compliance by excluding applicants from the state were addressed and corrected by the Colorado Department of Labor. The Department has reported that “the majority of employers are in compliance with the new law.”<sup>19</sup>

To the extent clarity is needed, the Council can incorporate language recently issued by the New York City Commission on Human Rights, which expressly states that the law applies to covered employers “when advertising for positions that can or will be performed, in whole or in part, in New York City, whether from an office, in the field, or remotely from the employee’s home.”<sup>20</sup>

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[salons-in-nyc-manicurists-are-underpaid-and-unprotected.html](#); Erica Schwiegershausen, *Hair Salons’ Labor Practices Are Pretty Bad, Too*, New York Magazine (June 4, 2015), <https://www.thecut.com/2015/06/hair-salons-labor-practices-are-pretty-bad-too.html>.

<sup>17</sup> See Jocelyn Frye, *On the Frontlines at Work and at Home: The Disproportionate Economic Effects of the Coronavirus Pandemic on Women of Color* (Apr. 23, 2020), <https://www.americanprogress.org/article/frontlines-work-home/>.

<sup>18</sup> See New York City Commission on Human Rights, <https://www1.nyc.gov/site/cchr/law/the-law.page> (“The alleged act of discrimination must have taken place within, or have sufficient connection to, New York City for a complaint to be filed with the Commission.”).

<sup>19</sup> Colorado Dep’t of Labor and Employment, *Equal Pay For Equal Work Fact Sheet* (2022), [https://cdle.colorado.gov/sites/cdle/files/documents/Equal\\_Pay\\_for\\_Equal\\_Work\\_Fact\\_Sheet\\_Web\\_0.pdf](https://cdle.colorado.gov/sites/cdle/files/documents/Equal_Pay_for_Equal_Work_Fact_Sheet_Web_0.pdf).

<sup>20</sup> New York City Commission on Human Rights, *Salary Transparency in Job Advertisements* (March 2022), <https://www1.nyc.gov/assets/cchr/downloads/pdf/publications/Salary-Transparency-Factsheet.pdf>.

## Opposition From the Business Community Does Not Justify the Proposed Carve-Outs

Many of the claims asserted by the business community on behalf of small businesses demonstrate exactly why this law is so important and why it should apply to all employers.

- The claim that small businesses should not be covered because they do not have established pay bands and instead set salary based on assessing the candidate pool ignores the fact that one of the main goals of this law is to get all businesses, big and small, to move away from this approach to hiring because it is precisely how unconscious bias has come to thrive in salary setting.
- The claim that small businesses will be burdened by transparency because it will reveal inequities to existing employees misses the point since a main purpose of the law is to force employers to address illegitimate inequities.
- The claim that employers need pay secrecy in order to pay talented women of color more is counterfactual. Our existing culture of pay secrecy has resulted in an economy where Latina women earn 46 cents for every dollar a White man makes and Black women earn 55 cents for every dollar a White man makes in New York City.
- The claim that small businesses will be at a competitive disadvantage if they can no longer conceal pay rates suggests that small businesses can only succeed based on underselling workers, which cannot be the case as we know of thriving MWBEs that already disclose pay rates and view it as a best practice.<sup>21</sup>

Attempts to shield small businesses from compliance are also likely to backfire. As other employers start to disclose pay rates, small businesses that do not disclose this information will be left at a competitive disadvantage as they will likely be less attractive to applicants who will come to expect that information on job postings. Human Resources Agencies and Employment Law Firms across the country are increasingly advising employers to get on board.<sup>22</sup> The move towards greater pay transparency is inevitable, as more states enact similar laws,<sup>23</sup> more businesses move towards disclosing salary ranges (whether required to or not), and more employees exercise their right to share compensation information that companies have long sought to keep secret.<sup>24</sup> According to Payscale, “[p]ay transparency will be a part of any modern compensation plan, as the future is trending in this direction.”<sup>25</sup>

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<sup>21</sup> See, e.g., Testimony of Yolanda F. Johnson, City Council Hearing on Int. 1208, Committee on Civil and Human Rights (Dec. 2, 2021).

<sup>22</sup> See, e.g., Social Talent, Seven Reasons Why You Should Include Salary Range in Your Job Postings, <https://www.socialtalent.com/blog/recruitment/7-reasons-why-you-should-include-salary-range-in-your-job-postings>. Ryan Deffenbaugh, *What to Know About the City’s Pay Transparency Law and How it Could Change*, Crains NY (Apr. 6, 2022) (“Employers should be prepared for the law to take effect May 15, said Kelly Cardin, an attorney and shareholder with employment law firm Ogletree Deakins. ‘This is going to change—it is just a matter of when,’ Cardin said.”) <https://www.crainsnewyork.com/politics/what-know-about-new-york-citys-pay-transparency-law>.

<sup>23</sup> California, Colorado, Connecticut, Maryland, Rhode Island, Nevada, Washington, and Cincinnati and Toledo, Ohio have all enacted some version of a pay disclosure law. Bills are pending in Massachusetts, Pennsylvania, and New York.

<sup>24</sup> Roy Maurer, *More Employers Post Salary Ranges to Attract Workers*, SHRM (Aug. 16, 2021), <https://www.shrm.org/resourcesandtools/hr-topics/talent-acquisition/pages/salary-ranges-.aspx>; *Does Pay Transparency Close the Gender Wage Gap?*, PayScale, <https://www.payscale.com/research-and-insights/pay-transparency/#:~:text=Fortunately%2C%20when%20analyzed%20against%20pay,every%20%241%20a%20man%20earns> (last visited Mar. 8, 2022) (“With the advent of the internet, advances in technology, and the sharing of all kinds of personal information via social media, compensation is no longer the mystery that it once was. People today are sharing salary information openly and anonymously, both online and off, with the result that employees are finding out what they are being paid compared to others in similar positions — and quitting their jobs because of it.”).

<sup>25</sup> *Does Pay Transparency Close the Gender Wage Gap?*, PayScale, <https://www.payscale.com/research-and-insights/pay-transparency/#:~:text=Fortunately%2C%20when%20analyzed%20against%20pay,every%20%241%20a%20man%20earns>.

## Recommendations

If we are going to protect women of color in our workforce, we must recognize that strategies to protect small businesses can no longer be at the expense of the large number of women who work for these small employers, many of whom endure some of the worst forms of exploitation.

In lieu of these problematic carve-outs, we recommend extending the enforcement date for small businesses and empowering the Commission to issue trainings, outreach, and guidance to assist small businesses comply. While the Commission has noted that it already employs a spectrum of enforcement actions that take into account the size of a business, outstanding concerns can also be addressed by reducing the cap on penalties for small businesses.

And instead of weakening this law, we believe the Council should be considering ways to strengthen it, by expanding it to apply to existing employees, to include broader forms of compensation and benefits, and to reconsider its exemption for temp agencies.

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In enacting Local Law 32, New York City once again established itself as a leader in shaping progressive worker-centered legislation. Intro 134 would take us backwards, setting a bad precedent as more states and localities look to enact similar provisions and look to New York City as a guidepost. On Equal Pay Day of this year, we stood on the steps of City Hall with the Women's Caucus to celebrate the passage of Local Law 32. We now call upon our first majority-woman City Council to safeguard this important victory. Legal Momentum is happy to serve as a resource, and we thank you for this opportunity to speak to this important issue.

NYC Council Committee on Civil and Human Rights  
Hearing – April 5, 2022, 10:30AM

**Statement by Linda C. Hartley, MBA**

Principal, H2Growth Strategies LLC

Board Vice President, PowHer NY

Former Board President, Women In Development, NY

Co-Author, Big Impact: Insights & Stories From America's Non-Profit Leaders



*President John F. Kennedy signed the Equal Pay Act into law on June 10, 1963. He said the new legislation would end the "**unconscionable practice** of paying female employees less wages than male employees for the same job." (Credit: Abbie Rowe, White House Photographs. Courtesy of John F. Kennedy Presidential Library and Museum, Boston)*

I am Linda C. Hartley, principal and business owner of H2Growth Strategies. With a team of 8 consultants, we have partnered with over 100 nonprofit organizations to raise more than \$1.5 billion. I serve as a member of the PowHer NY board, helped organize the first Equal Pay rally on the steps of City Hall in 2007, and with Beverly Neufeld co-founded the Equal Pay NYC coalition. PowHer and its network of 100 organizations have helped to advance several pay equity laws in NYC and NYS.

In 1963, women were paid 59 cents for every dollar men were paid. Today, that figure is 83 cents. In nearly 60 years, we have made 24 cents worth of progress nation-wide. For black women the number has reached 63 cents. For Hispanic women the number is 55 cents, 2 cents over what the total gap was in 1963. At this rate, none of us will be alive when Black women (2369) and Hispanic women (2451) reach pay equity. (Whites: 2069, Asians: 2041, from <https://www.aauw.org/resources/research/simple-truth/>)

While the numbers are better in New York, it is still not enough, and we cannot afford to wait another 400 years to close the wage gap for all women.

We are talking about millions of dollars lost to women in their careers every year. I have a personal story to share as an example:



Early in my career, I joined a major New York university as a staff member in the development office, where I performed well, was promoted several times, and given a nice office, while completing work on an MBA at night.

I heard many times from my boss and the dean with whom I worked how my performance was far superior to the person, an older man, who held the job before me. Then a female colleague, risking her own job in sharing wage information, told me that I was being paid 20% less than my male counterpart. I was stunned and outraged. It took the better part of the next year convincing my boss that I deserved to be paid based on my performance. Finally, I received a 10% increase, only halfway toward the 20% difference. From the perspective of the university, this was a huge almost unheard-of increase.

*Let's look at these numbers:*

*If you take the initial \$7500 "lost" due to the pay disparity, and assume it was invested and earned 7% over 40 years, the total lost is over \$112,000.*

<https://www.dollartimes.com/savings/7500>

A wage transparency law back then would have enabled me to negotiate for a higher starting salary, as well as higher raises based on my performance. Knowledge is power. The NYC Salary Range Law is a model law for the state and the country, empowering workers and leveling the "paying field". The Salary Range Law a crucial step toward pay equity for all workers.

Ellen Bravo, author of Taking on the Big Boys, says that we pay women less because we pay women less, simply because we can. We pay women who take care of our young children less than we pay the men who take *care of our lawns, our pets, and our cars*. Far too many small businesses, including mine/H2Growth, would be excluded from the Salary Range Law if those employing less than 15 employees are excluded as proposed by the Int. 134 amendments.

The NYC Salary Range Law may also help in a normative way to close the extraordinary gap between the highest and lowest paid in NYC, simply by shining a light on salary and known benefits. This may be what business lobbyists fear most, and why they are proposing amendments to gut the law.

I thank the Council Members that sponsored the NYC Salary Range Law and urge the Committee on Civil and Human Rights to reject the damaging loopholes proposed as amendments in bill/Int. 134. It is 60 years past time to end the **unconscionable practice of paying women less because we can.**

Linda C. Hartley  
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www.h2growthstrategies.com

According to the [BLS](#), we have about 4.4M workers in NYC, and according to the [NY Times](#), 98% of NYC workforce work at small businesses, which constitutes about 3M workers. I am employed in NYC, and while some of my job can be done in NYC, some must be done outside of NYC. I am among the 4.4M workers who are subject to, and benefit from the provisions established by this body.

I am writing today to express my opposition to [Intro 0134-2022](#). My opinion is mine, and mine alone. It does not reflect the opinion of my employer.

There is a large, open-sourced body of evidence suggesting that wage transparency helps employees by leveling the field and allowing them to make decisions about where to work, or where to keep working. This same body of work also suggests that maintaining wage rates opaquely helps employers by allowing secrecy, creating suspicion, and placing employees in more competition with each other, which tends to keep wages lower. These opaque policies, if they are allowed to thrive, tend to adversely affect protected classes, such as women and people of color, more than the general population of employees.

Intro 0134-2022, and its predecessor do not address wage transparency in general, nor do they require employers to provide specific details about individual employees' salary to other employees. Rather, they require that the employer reveal to a prospective employee what the range is for the position. This is basic information that is contemplated at every level. Advising a teenager to seek employment often includes statements about the rewards of the wage range; "You can make \$x.xx in that industry!" or perhaps, "Don't enter that field, because the money is no good." The ability to know the range of certain jobs, industries or fields will often have a foundational effect on one's choice of education, or even relocating residency. But even without planning or forethought, when an adult is seeking new employment there is the obvious interest in what the job pays. If this is unknown, or the job applicant is unsure, then where does she start? More importantly, will she be able to successfully negotiate for her maximum worth? In most cases, it is difficult, if not impossible, for a potential employee to know what others get paid for a certain function. Nor would she necessarily know which additional skills could provide a higher spot within the range. But the employer knows what range they expect to pay right from the beginning. The employer either knows what they pay others for the same functions, or they know what other employers pay other workers for similar functions, or they may only know what they can afford to pay. But in any case, the employer has an idea of the range, even before they write up the advertisement. And their primary function is to get the best employee at the cheapest cost. That is the entire purpose of running a business. Small businesses' purpose is not to provide a service or a charity to their employees; it is to maximize profit. So there is constant pressure on potential employees to accept less than they are worth, and this affects protected classes more than others.

This constitutes an unfair advantage for the employer, and it has been labeled as employment discrimination by the NYC Council and the NYC Human Rights Commission to keep that information secret. This unfair employment discrimination is most prominent when it is withheld from the job advertisement, even if it is revealed after candidates have been interviewed. This technique allows the employer to adjust the range, based not upon the job requirements or industry standards, but on the employer's perception of the applicant. Often, this results in unconscious bias and sometimes also results in deliberate bias. Since you have already made it illegal to adjust the wage range based on an applicant's salary history, this is the next logical step in fighting systemic discrimination. This will not, exclusively, fix the problem; but it is one more step in the right direction, as was mentioned by many Council Members at the hearing.

Over recent years, many other states, cities, and local governments have also been developing their labor standards to try to eliminate as much of these inequities as possible. The legislative record shows that NYC has been heading in that direction too. On this particular issue, last year the council passed [Intro 1208-2018](#), addressing this very problem by making it a requirement to post the salary range when advertising a job, promotion or transfer. This is required for all employers who fit the definition in the NYC HRL; those with 4 or more employees. I do not have the data to know how many employees are excluded as a result. But overall, this is a great law that would probably help over 4 million workers to achieve greater fairness in their employment.

However, before it even had the chance to take effect, Intro 0134-2022 was introduced and scheduled for a hearing. This new law seeks to change five parts of the previously passed law, before it even takes effect and has a chance to help those 4 million workers. These are the proposed changes, not in order:

1. Change the effective date by moving it forward six months, to November of 2022.
2. Clarify that the law covers not just "salaried" employees, but also "hourly."
3. Excluding three groups of employers from the requirements of this law, which would exclude just about every worker in NYC:
  - a. Employers with fewer than 15 employees,
  - b. Employers who post a general notice of hiring without reference to a particular position, and,
  - c. Employers who employ positions in which can be performed outside of NYC, whether it actually is or not.

I am going to provide my objections to the above list, but in reverse order.

### **Excluding workers**

Generally, I don't understand the purpose of excluding any more workers at all. Discrimination is discrimination. Why allow it for some, but not others? And why allow it for the vast majority of workers? It seems like Intro 0134-2022 is designed to help 230,000 small businesses by allowing them to discriminate against 3M workers. This makes no sense. There must be some good reason for excluding the three groups that this law seeks to exclude. How exactly, this helps small businesses (or any businesses) is a mystery. But let's at least examine the groups, so we know who they are:

- a) Employers with 15 or more employees. This is an easy one; we want to help "small businesses." That's sort of a visceral, catch phrase, but one that I'm sure many of us agree with. According to a recent report by the [Partnership](#), there are 230,000 small businesses in NYC, and according to the [NYC1](#), of the over 200,000 businesses, 98% are "small businesses" (fewer than 100 employees) and 89% are "very small" (fewer than 20 employees.) But I could not find any data to capture how many have less than 15 employees. That makes me curious about the arbitrary nature of the number 15. However, if I extrapolate those figures, then we are talking about excluding about 85% of businesses, or more! How can anyone say that we should allow 85% of businesses to discriminate?
- b) Employers who post a general notice of hiring without reference to a particular position. Well, this is pretty confounding. I have tried to imagine under what circumstances this might occur.

Starting with the premise that (if a, above in enacted) all of the businesses with 14 or fewer employees would *already* be excluded, who else would this exclude? Perhaps a grocery store that has more than 15 employees... what would they do? Put a sign in the window, saying, "Help Wanted?" If so, a potential employee would have to enter the store and ask for details. Undoubtedly, the details would include reference to the particular position for which the employer is hiring. Does Intro 134 suggest that this employer would then have to disclose the wage range? No. It would still exclude them, just because they started the process by putting a nondescript sign in the door, rather than the typical way of displaying that they are hiring for "the produce department" for example. Why we would want to provide an exclusion for such a technicality is a mystery. How does it help small businesses to have to contort themselves through that loophole just to avoid posting salary ranges? And how many workers will benefit or suffer from being excluded from it?

- c) Employers who employ positions that are not required to be performed (at least in part) in NYC. Again, if a) and b) above are already carved out, who does this also carve out? It could be a non-profit, or a job that allows for remote working. Basically any job that could be performed 100% outside the city; but not necessarily a job that is performed 100% outside the city. Under what conditions during the hiring process would the employer say, "you could do this work all from outside the city, but we want you to come to the office several times per month... therefore we don't have to tell you the salary range for the job..." Or, what if the employer changes their mind, and requires attendance in the office after recently hiring someone? Is that a violation? How would that be enforced? What would the guidance from NYC HRCC be for that? Would the employer have to pledge not to require the work be done within the city border, if they chose not to disclose? Or would they have to disclose afterwards, and then go back and provide the wage range for that employee afterwards? It is preposterous.

Generally, for all of a, b, and c, above, there is a lingering question; If we agree that withholding wage ranges are an act of employment discrimination, then we need compelling reasons to exclude anyone. Obviously, with the three excluded groups listed above, Intro 0134 would, in effect, exclude almost all of the workers in NYC. It would be more expedient if the council simply repealed Intro 1208-2018, because it would have almost the same effect. But I am not advocating for that; the opposite, to be sure.

However, there is one argument that has been made against this law, and regarding "small businesses" that requires some consideration. Here is another regulation, or another rule, and making the atmosphere more difficult, rather than grease the skids for small businesses and help them thrive by removing obstacles. I'm sure there is widespread agreement that we want to support small businesses. So... how hard is it to reveal the wage range of a position? Here's a statement of truth for you: "There are NO employers who are hiring employees, and also DO NOT know how much they are willing to pay." I don't care if you are a single attorney, who has your husband working as your office secretary – you know how much you are willing to pay him. And if you hire your nephew to help out between years of college, you also know how much you can spend on him. If you are running a deli, or a bar, or another service oriented business, you know when you need another bartender, waitress, dishwasher, and you know how much you can spend (or how much you want to spend.) There exists a range, in your mind, of a minimum and a maximum. If you are a larger firm, like a warehouse, or a big office building, you also have a range; it might be controlled by your budget director, or a market study, but a range exists. And if

you are even bigger, you probably have constant market research available and probably know the range of those types of jobs in your area. In all of these cases, a range already exists.

So Intro 1208-2018 did not require anyone to go out and do research, or pay for a market study. The law says that the range must be provided "in good faith" of the employers' beliefs at the time. There is no burden to disclosing the range that already exists.

But employers may not want to disclose *at the point in time when the job, promotion or transfer is advertised*, because that's how they leverage their unfair advantage. Let's examine the process. Before Intro 1208-2018 was passed, some employers already posted the wage ranges. This included public employers, private employers where a union contract exists, and many other employers who determine that it is best practice to advertise at least the minimum pay, to attract appropriate applicants. For employers who do not advertise the range, or even the minimum, they are only keeping the information secret because it gives them leverage in negotiating the wage rate. An employee eventually finds out how much they are going to make, it's just a question of when. At the far end, the employee certainly knows how much they will make once they receive their first paycheck. The employee probably knows what she will make when she starts on her first day, but there are some circumstances in which it might not be clear. But even during the negotiations over wages (if there are any) the employee might know the minimum of what the employer wants to pay, but almost never the maximum. If the range is not advertised on the job posting, then at the interview, the employee might be told what the employer wants to pay, but she is probably not told the range – just the employer's opening offer. This allows the employer to keep the cards close to their chest, and make adjustments after they meet the applicant and make conscious and subconscious determinations about them. Keep in mind, according to the Deputy Commissioner at the hearing, there is nothing preventing an employer from making an employment offer in excess of the advertised range, if they determine that an applicant possesses the talent and skill required. This assumes that the employer acted with good will.

Under the **old scenario**, the job applicant will find out the RATE at some point along the way, but may never know the RANGE. It can be represented like this:

Posting	Employee Sometimes Knows	Employer Knows
Application	Employee Might Know	Employer Knows
Interview	Employee Might Know	Employer Knows
Negotiations	Employee Might Know	Employer Knows
First Day	Employee Might Know	Employer Knows

Under LL 32 (Intro [1208-2018B](#)), the job applicant will find out the range on the job advertisement. It can be represented like this:

Posting	Employee Knows	Employer Knows
Application	Employee Knows	Employer Knows
Interview	Employee Knows	Employer Knows
Negotiations	Employee Knows	Employer Knows
First Day	Employee Knows	Employer Knows

Under this **Intro 0134-2022**, the job applicant will go back to the old rules and find out the RATE at some point along the way, but probably never know the RANGE. It can be represented like this:

Posting	Employee Sometimes Knows	Employer Knows
Application	Employee Might Know	Employer Knows
Interview	Employee Might Know	Employer Knows
Negotiations	Employee Might Know	Employer Knows
First Day	Employee Might Know	Employer Knows

The tables above show that the employee might know the range on the posting, but more often, they know the minimum, but not the maximum. Even at the interview, or even after negotiations, the employee may never know the maximum that the employer was willing to pay. So requiring it to be disclosed in the job posting provides three advantages that allows the potential employee a fair chance and to be free from discrimination. First, it allows the employee to compare job postings from different employers, and more accurately choose where to apply in the first place. Small businesses may think it's better to get more applicants, but not if the applicants will reject the offer once they find out the range. That's like catching more lobster, just to throw more back in because they are too small. Avoiding this saves time and effort for both parties. Secondly, it makes clear that the employer has a range, both top and bottom, and the employee knows what they are negotiating for, rather than the unknown. Both parties have equal information. Thirdly, it prevents the employer from having a range in mind, and then undercutting some employees, and overcutting others by leveraging the applicant; in other words, it prevents discrimination. While we support small businesses, we dont support discrimination.

**Including Hourly and Salary**

This makes sense to me, but I think it doesn't go far enough. Not only should it include salary, and hourly, but should also include tips, bonuses, stock options, benefits, or any other compensation. In fact, perhaps just using the all-inclusive word "compensation" would be the best choice.

### **Moving the effective date 6 months later.**

This doesn't make any sense. First of all, there are no preparations that need to be undertaken. Employers don't need to take a special class, or have their HR department conduct corporate-wide training. In fact, it has already been accomplished. NYC HRCC issued its guidance on March 22, 2022, and made the changes very clear and assumedly distributed it in the same way that all other guidance is communicated.

And the enforcement is not onerous. This law is enforced using the same process as every other part of the HRL. According to NYC HRCC at the hearing, the fines are commensurate with the offense, and often there is no fine at all. Usually, a violation results in education to the employer and compliance going forward. It sounds like a collaborative and effective process. This will not even require any lengthy investigations or hearings and testimony, so the burden of enforcement will be very low. A statement from someone saying the advertisement didn't have the range will suffice, along with a copy of the advertisement. Then making contact with the employer to request correction. It seems pretty simple. LL32 does not specify any particular penalties beyond what employers are already subject to. Nothing new. So there isn't any reason to push off the effective date.

### **Summary**

There is no doubt that withholding the wage range of jobs unfairly advantages the employer. This depresses wages, and also makes employees more suspicious of each other and their employer. In addition, withholding the range until negotiating provides the employer with additional leverage over employees. Lastly, only providing a specific rate, rather than a range (when one exists) provides a third example of employer coercion over the process of negotiating wages. All of these advantages allow the employer to discriminate when negotiating wage rates, either intentionally, or in effect.

Many employers of all sizes already post the minimum on their advertisements so posting the maximum isn't a big deal. And some even already post the ranges. So this is a small tweak to what some of them already do. For those who don't currently post it on the advertisement, they will be able to draw from a more focused pool of applicants. It will be a benefit. There is no research to be done, no need to create any new documents or do a field study, or pay for information or to FOIL anything.

And the benefits to the workers will be monumental. Imagine those days when consumers didn't know what the MSRP of a car costs. And what about after they were sold a "Lemon?" The trend has been toward consumer protection and worker protection through the use of fairness. LL32 provides fairness, and fights discrimination. There are no advantages to employers to avoid doing this, other than taking unfair advantage of the workforce, and depressing wages. It is no burden, and will probably make the hiring process more streamlined.

John T O'Malley  
2022

Employee of Employer based in NYC

April 5,

For all of these reasons, I think you should reject the premises of Intro 0134-2022, in it's entirety. As an alternative, you can accept the amendments to include all kinds of compensation (not in the current proposal) and perhaps you could move the effective date (although there is no reason for that.) However, you should reject all attempts to exclude any employers from this provision. Discrimination is discrimination. We should not be excluding anyone from the protections from discrimination.





April 1, 2022

**Memorandum on Int 134 Amendments to Salary Posting Bill**

To: Members of the New York City Council

From: Bishop Mitchell Taylor, Co-Founder and CEO of Urban Upbound

Members of the New York City Council,

Urban Upbound is a nonprofit dedicated to breaking cycles of poverty in New York City public housing and other low-income neighborhoods. We provide underserved youth and adults with the tools and resources needed to achieve economic prosperity and self-sufficiency through six comprehensive, integrated programs: Employment Services, College Access and Youth Development, Financial Fitness and Affordable Housing, Tax Prep and Income Support Services, Worker Cooperative Development and Business Innovation and Financial Inclusion service anchored by the Urban Upbound Federal Credit Union.

Local Law 32 of 2022 requiring disclosure of the salary range for all posted jobs puts mission driven organizations, like Urban Upbound at a disadvantage. Nonprofit organizations, like Urban Upbound, seek candidates that are committed and passionate about the work they do, rather than those attracted by the listed salary. My organization does not have defined salary ranges for employees. Compensation is based on the skills and experience that an individual applicant would bring to the job. Nonprofit organizations are often on very stretched budgets while doing critical work in the community. Local Law 32 of 2022 will only burden nonprofits organizations who seek to maximize impact and attract mission driven candidates.

I urge the New York City Council to pass Int. 134 and support the changes as proposed by Council Member Nantasha Williams. Thank you.

Sincerely yours,

Bishop Mitchell G. Taylor  
Co-Founder & CEO

Memorandum on Int Int. 0134-2022 Amendments to Salary Posting Bill

To: Council Members

From: Elizabeth Velez, Chairman & CEO, The Velez Organization

The Velez Organization is a 50-year old, second generation, New York City based family company that is certified as a Minority & Woman Owned Business Enterprise by New York State, New York City, and major agencies throughout our region. We provide construction management and development as well as general contracting services. Relevant to this proposed legislation, Velez spearheads the NYC School Construction Authority's successful and notable Mentor Program which assists in capacity building of approximately 175 minority/women-owned and small businesses. In this capacity over the past three years, we have determined that workforce building and staffing is a primary concern for NYC MWBE contractors. In addition, given the significant impacts of the COVID pandemic, our NYC small businesses have had to do more with less resources, which includes the flexibility to hire individuals that can provide the most relevant and likely expanded services to those businesses.

Local Law 32 of 2022 requiring disclosure of the salary range for all posted jobs is yet another example of the continual imposition of new laws and regulations that burden New York City businesses. Minority- and women-owned businesses as well as small businesses, who may not have the same staffing resources as other firms, especially struggle to implement all the new rules that govern our relationship with our employees.

Small employers do not have defined salary ranges for their employees, but instead determine compensation based on the skills and experience that an individual applicant would bring to the job. Requiring us to disclose a range in every job posting would not move the city closer to gender pay parity, an admirable goal, but would be a substantial new burden.

I hope you will pass Int. 0134-2022 but increase the exempt businesses to include those with less than 20 employees from the requirement to disclose salary ranges in their job postings.

Thank you.

**Testimony of Elizabeth Velez, President and Chief Contract Officer, The Velez Organization**  
**New York City Council Committee on Civil and Human Rights**  
**Int. 134-2022 - A Local Law to amend the administrative code of the city of New York, in relation to**  
**the employers required to post minimum and maximum salary information**  
**April 5, 2022**

The Velez Organization is a 50-year-old, second generation, New York City based family company that is certified as a Minority & Woman Owned Business Enterprise by New York State, New York City, and major agencies throughout our region. We provide construction management and development as well as general contracting services. Relevant to this proposed legislation, Velez spearheads the NYC School Construction Authority's successful and notable Mentor Program which assists in capacity building of approximately 175 minority/women-owned and small businesses. In this capacity over the past three years, we have determined that workforce building and staffing is a primary concern for NYC MWBE contractors. In addition, given the significant impacts of the COVID pandemic, our NYC small businesses have had to do more with less resources, which includes the flexibility to hire individuals that can provide the most relevant and likely expanded services to those businesses.

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I hope you will pass Int. 134 to exempt businesses with less than 15 employees from the requirement to disclose salary ranges in their job postings.

Thank you.

April 8, 2022

To: The New York City Council Committee on Civil and Human Rights; Council Member Nantasha Williams, Chair

From: Yolanda F. Johnson, Founder, Women of Color in Fundraising and Philanthropy; President, Women In Development, NY; Founder, Allies in Action Membership Network

Dear Council Members:

I am Yolanda F Johnson, the first Black President of Women In Development, New York in its more than 40-year history and I'm also the founder of Women of Color in Fundraising and Philanthropy that is a global organization based in New York. I'm here to speak today on Int 143, the proposed amendments to the NYC Salary Range Law. I'd like to ask Speaker Adrienne Adams, Chair Nantasha Williams and members of the NYC Council to reject Int 134.

By creating exemptions, loopholes and delays, you would essentially be gutting this law that is the key to closing the wage gap and making the workforce a more equitable place for women, and especially women of color. In the organizations I lead, we are constantly researching and discussing wage gaps, Zoom ceilings for women who work remote, and inequity in the workplace.

I know firsthand of the excuses and pushback about pay transparency that you must be receiving, because the organizations I lead run two of the most popular job posting boards for women in the nonprofit sector. We've been mandating pay transparency since last summer, and I have had to stand strong against all manner of excuses from those who don't want to list their salary ranges. Allowing employers to simply post general "help wanted" ads is giving them an "out" from being open about compensation.

I've had potential employers say, "My client can't list salary range because we are underpaying other people too much and we don't want the other team members to know and become disgruntled." This perpetuates the problem and creates a scarcity and deficit mindset, that nonprofits and minority and women owned businesses cannot excel and thrive. Why would we set the bar lower when we should be championing these organizations?

I would also like to address the notion that remote workers don't deserve to know the salary ranges of the jobs they are applying for. Remote work, or some hybrid of it, has become the norm in many industries, and especially the nonprofit world. People stayed home, first because they were asked to stay home. In my industry, many of them were women who need to stay home to care for children who couldn't go to school. And then it was discovered that measuring success in terms of project completion and driving revenue could be measurements of success for workers who don't show up in person to the office every day. So why should they have less need for pay transparency? If you don't clock in from 9 to 5 and fill those hours with useless tasks, but instead get your job done and meet your goals from outside the office, are you less deserving of pay transparency? This seems like an outdated, offensive and non-inclusive idea.

In the world of fundraising, we have both large nonprofits, and those with 15 or fewer employees who do a lot of good for the greater community. The employees at smaller companies are no less worthy of pay transparency than the people applying to jobs at big corporations. This perpetuates dated stereotypes. In the nonprofit sector we often suffer from guilt and imposter syndrome because we're trying to get the 'good work' done and therefore sacrifice our own well-

being and our own needs. Some in our sector, especially women, are just a few paychecks away from being in the same situation as many of the constituents they serve.

In creating the NYC Salary Range Law, you were seeking to promote equity and transparency in the workforce. Your original law was simple and complete. I would ask that you not walk it back, allowing employees loopholes that let them offer vague ads for jobs, or leave out remote workers and people looking to work for small companies. Because as I've said before, those endeavoring to do the good work and make the world a better place, cannot do so on the backs of underpaid employees.



**Statement by Leslie Wright, President of the Zonta Club of Brooklyn, April 11, 2022  
in support of the Salary Range Transparency Law**

Mr. Mayor, Eric Adams; Speaker Adrienne Adams, Members of the City Council:

My name is **Leslie Wright, the Charter President of the Zonta Club of Brooklyn**, which is the newest of the three Clubs of Zonta International in New York City. Zonta International, through its clubs and members, works to empower women and girls through service and advocacy. We are part of a network of 1200 Clubs in 61 countries. We are also part of the PowHer coalition and have participated in its Equal Pay rallies for the past 16 years. Each year we have seen progress, even though it has been slow.

**We join the Zonta Clubs of New York and Greater Queens to request that you vote against Int134, which would have the impact of undermining the New York City Salary Range Law (LL32) even before its implementation on May 15, 2022.**

While I could go on to express our concern over the inequalities of women's pay equity. Let me just say that we have been making strides towards equal pay in the City, and this bill would be a step backwards. With a majority of women on the City Council now is not the time to step away from moving forward, but rather, to show strong intent by keeping the new law in place to see later if there is any needed change.

Under the leadership of the PowHer coalition, to which the Zonta Club of Brooklyn is a member, this matter has been researched extensively and has been shown to be another step in making pay equity a reality. In fact, the new law helps women, who have faced decades of discrimination and manipulation by employers, and MEN by offering information that assists in the job search. It would provide needed information to both employers and potential employees, saving time and resources in the job search by showing in advance that a position can offer the income needed by the applicant, and the match needed by the employer.

Brooklyn is the home to many SMEs and this information will assist them in finding the right applicant for the position offered.

Please do not gut the bill before it has a chance to prove its worth. Int 134 would do just that. I know that the PowHer coalition has provided you with explicit information as to what the risks are. I do not wish to repeat them, but I do call on you to use your good judgement to defeat this proposal and to support the progress we have made to date to close the loopholes that prevent us from reaching equal pay.

Thank you for your time. I look forward to hearing your decision.