Committee on Civil Service and Labor

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**THE COUNCIL OF THE CITY OF NEW YORK**

**Committee Report of the Human Services Division**

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**Committee on Civil Service and Labor**

Hon. Carmen De La Rosa, *Chair*

February 2, 2023

**Int. No. 527-A:** By Council Members De La Rosa, Louis, Hanif, Abreu, Gutiérrez, Hudson, Restler, Sanchez, Farías, Menin, Brannan, Cabán and Avilés

**Title:** A Local Law to amend the New York city charter and the administrative code of the city of New York, in relation to the evaluation and expansion of diverse recruitment and retention within the municipal government

**Charter:** Amends sections 814.1

**Administrative Code:** Adds a new section 12-213; amends section 21-991

**Int. No. 541-A:** By Council Members Louis, Gutiérrez, Hudson, De La Rosa, Sanchez, Farías, Hanif, Menin, Brannan, Cabán and Avilés

**Title:** A Local Law to amend the administrative code of the city of New York, in relation to amending the reporting of pay and employment equity data

**Administrative Code:** Amends Subchapter 7 of chapter 1 of title 3; section 12-208

# **INTRODUCTION**

On Thursday, February 2, 2023, the Committee on Civil Service and Labor, chaired by Council Member Carmen De La Rosa, held a vote on Proposed Introduction Number 527-A, sponsored by Council Member De La Rosa and Proposed Introduction Number 541-A, sponsored by Council Member Louis. The Committee previously heard testimony on these bills on September 22, 2022. At that hearing, the Committee received testimony from the New York City Department of Citywide Administrative Services (DCAS), the Equal Employment Practices Commission (EEPC), advocates, and other members of the public. On February 2, 2023, the Committee passed this legislation by a vote of 10 in the affirmative, 0 in the negative, with 0 abstensions.

# **BACKGROUND**

The call for pay equity, or to provide “equal pay for equal work” in the United States is a multi-faceted and evolving problem that has persisted for generations.[[1]](#footnote-1) Federal, state, and local governments have attempted to address inequality in employment opportunities and unequal pay through various forms of anti-discrimination policies and legislation since the 19th century.[[2]](#footnote-2) However, those efforts—which have made it unlawful to discriminate in hiring or pay based on protected classes and have allowed individuals the opportunity to file complaints and take legal action if they have been discriminated against– while helpful, have not eliminated these issues.[[3]](#footnote-3)

At the local level, the Council has performed data analysis that reveals small wage gaps within the same positions in City government.[[4]](#footnote-4) Additionally, among New York City municipal employees, the analysis found that inequity continues to exist in the form of occupational segregation.[[5]](#footnote-5) That is, certain races, ethnicities, and genders are concentrated in certain positions within City government, and those positions and careers are compensated differently than jobs filled by a different demographic of employees.[[6]](#footnote-6) This siloing of demographic groups in particular types of work may contribute to inequity in compensation and exacerbate the pay gap.

## *Local Law 18 of 2019*

Local Law 18, or the “Pay Equity Law,” was passed by the Council on December 20, 2018, returned unsigned by the Mayor and enacted on January 20, 2019.[[7]](#footnote-7) Local Law 18 requires reporting of pay and employment equity data within the City workforce.[[8]](#footnote-8) The purpose of the law is to find and eliminate any instances of pay disparity within the city workforce.[[9]](#footnote-9)

The law requires MODA to produce a public report, which aggregates data from City agencies to find pay disparities based on gender, race and ethnicity. However, Local Law 18 also requires City agencies to give the Council direct access to the underlying employment data to allow the Council to perform its own analysis and independently verify the report put forward by MODA. The Council’s data operations unit provides the Council with a robust ability to perform data analysis with the goal of discovering useful information, informing conclusions and helping to inform its decision-making processes as it relates to policy, legislation and committee oversight. In 2021, the Council released its first Pay Equity Report, setting forth its analysis based on the first year of data provided by the City.[[10]](#footnote-10)

## *The NYC Municipal Workforce[[11]](#footnote-11)*

The Council’s second annual Pay Equity Report shows that while there is a slight improvement in wage differences across the municipal workforce, inequities remain. Many of the same takeaways drawn from the 2018 dataset remain based on 2019 data. Although a clear positive trend cannot be confirmed with snapshots of 2018 and 2019 employee data alone, the data made available suggests that the pay gap has shrunk, though slightly.

In the 2019 dataset, there remains a large non-adjusted pay gap[[12]](#footnote-12) between Black or African American, Hispanic or Latino, and white employees, and between male and female employees in the NYC municipal workforce. The civil service titles with the lowest median salaries have a larger proportion of female and non-white employees. The civil service titles with the highest median salaries have a smaller proportion of female and non-white employees.

Even after adjustments are made for job title and other variables that may affect salaries, the data indicates a small but significant difference in the salaries of non-white employees, particularly non-white female employees. For example, Black or African American female employees and Hispanic or Latina females are expected to make 1.4% and 1.3% less, respectively, than white male employees; Black or African American male employees are expected to earn 0.9% less than white male employees.

Based on its analysis of the 2019 data, the Council reaffirms the following recommendations: 1) The City should provide improved data so that the Council can conduct a more robust analysis and evaluation of pay gaps within and across agencies; 2) the City should assess and expand the civil service pipeline, and improve hiring and recruitment practices; and 3) the City should conduct a comparable worth analysis to better gauge the value of titles in the NYC municipal workforce.

In connection with these recommendations, the Council has introduced a legislative package to improve data transparency and address pay inequities across the municipal workforce.

# **BILL ANALYSIS**

## ***Int. No. 527-A***

## **A Local Law to amend the New York city charter, in relation to the evaluation and expansion of diverse recruitment and retention within the municipal government**

This bill would require each City agency/department that requires applicants to take a civil service exam report on a number of metrics related to those examinations in order to evaluate and expand diverse recruitment and retention within City government. The bill would also require reporting on agency/department training academies/programs to again evaluate recruitment efforts across City government. The Department for Citywide Administrative Services would coordinate the data collection and reporting to the Council. Finally, the bill would streamline existing requirements on the Department of Education’s responsibility as it pertains to the dissemination of information on civil service examinations to high school juniors and seniors. This bill would take effect 120 days after it becomes law.

**Update to A version:** The reporting deadline was changed from June 1 of each year to January 1 of each year. In addition, privacy protection language was included in the final version of the bill to ensure no personally identifiable information is disclosed.

## ***No. 541-A***

## **A Local Law to amend the administrative code of the city of New York, in relation to amending the reporting of pay and employment equity data**

This bill would amend the existing Pay Equity Law, Local Law 18 of 2019, by requiring the Department of Citywide Administrative Services to provide new categories of information to the Council for each City employee with respect to the reporting of employment data. This bill would also expand the definition of agency to capture more of the City workforce, including pedagogues of the Department of Education. Finally, this bill will also provide the Council to pay and employment data year-round so the Council can analyze the data at its discretion and provide more robust oversight over the Administration in attempting to identify and mitigate instances of pay disparities in the City workforce. This bill would take effect immediately.

**Update to A version:** The delivery time for i) any external data prepared by the Council to be sent to all of the accounts requested by the Council and for ii) requests by the Council of the Administration to install any new software for data analysis was amended from 3 days to 7 days.

Int. No. 527-A

By Council Members De La Rosa, Louis, Hanif, Abreu, Gutiérrez, Hudson, Restler, Sanchez, Farías, Menin, Brannan and Avilés

A LOCAL LAW

To amend the New York city charter and the administrative code of the city of New York, in relation to the evaluation and expansion of diverse recruitment and retention within the municipal government

Be it enacted by the Council as follows:

Section 1. Paragraph 9 of subdivision c of section 814.1 of the New York city charter is redesignated paragraph 10, and a new paragraph 9 is added to such subdivision to read as follows:

(9) Train city agencies on how to review and evaluate whether job postings and recruitment materials for civil service positions reflect unconscious bias that could discourage a diverse pool of applicants from applying, and how to amend such postings and materials accordingly, if applicable.

§ 2. Chapter 2 of title 12 of the administrative code of the city of New York is amended by adding a new section 12-213 to read as follows:

§ 12-213 Data on applicants for civil service examinations and admission and graduation statistics from agency training programs. a. No later than January 1, 2024, and each January 1 thereafter, the department of citywide administrative services shall submit to the mayor and the speaker of the council a report containing the following information for the prior fiscal year:

1. The total number of applicants for open-competitive civil service examinations, promotion civil service examinations, and qualified incumbent examinations, and the number of such applicants who:

(a) Took the computer-based multiple-choice portion of such examination;

(b) Achieved a passing score on the computer-based multiple-choice portion of such examination;

(c) Took the computer-based rated education and experience portion of such examination;

(d) Achieved a passing score on the computer-based rated education and experience portion of such examination;

(e) Were invited to take the physical portion of such examination, if applicable;

(f) Took or began to take the physical portion of such examination, if applicable;

(g) Passed the physical portion of such examination, if applicable;

(h) Were certified on an eligible list, if applicable;

(i) Accepted any appointment to a position that was offered; and

(j) For promotion lists, were on an existing eligible candidate list;

2. For each agency training program that is required for, or relevant to, an applicant’s appointment to a position based on an open-competitive civil service examination or a promotion civil service examination, the name of the agency training program, the total number of applicants enrolled in such program, and the number of applicants who:

(a) Completed the program;

(b) Passed and graduated from the program, if applicable;

(c) Passed but did not graduate from the program, if applicable;

(d) Did not pass or graduate from the program, if applicable;

(e) Accepted any appointment offered based on graduation from the program, if applicable;

3. All information received by the department of citywide administrative services pursuant to subdivision c of this section; and

4. A written analysis based upon the information required by paragraphs 1, 2, and 3 of this subdivision that evaluates the department’s efforts to provide equal opportunity for a diverse universe of municipal employees and applicants for employment.

b. All data reported pursuant to subdivision a of this section shall be aggregated by borough, and disaggregated by gender and by race or ethnicity.

c. Each agency shall collect and submit to the department of citywide administrative services by August 31, 2023, and annually thereafter, the following information for the prior fiscal year:

1. Expenditures related to recruiting candidates for open-competitive civil service examinations and promotion civil service examinations. Such expenditures shall be aggregated citywide and disaggregated by borough;

2. A list of recruiting events, including location, held by the agency to promote open-competitive civil service examinations; and

3. A list of any preparatory materials developed for applicants or potential applicants for open-competitive civil service examinations or promotion civil service examinations.

d. No report required pursuant to this section shall contain personally identifiable information. If any category requested contains between 1 and 5 individuals, the number of such individuals shall be replaced with a symbol. A category that contains 0 individuals shall be reported as 0.

§ 3. Subdivision b of section 21-991 of the administrative code of the city of New York, as added by local law number 173 for the year 2018, is amended to read as follows:

b. No later than November 1, 2019, and annually thereafter no later than November 1 of each year, the department of citywide administrative services shall provide and the department shall distribute to each high school, to be shared with every student of such school who will be graduating from high school in the current or following school year, the following information in writing, in hard copy or electronically if availability of similar documents occurs electronically, using plain and simple language:

1. General information about the city’s civil service process, including the related application process, hiring system, descriptions of what such tests will include and the scoring process for such examinations;

2. [The title of each upcoming civil service examination that is open to high school graduates, along with the relevant job descriptions and the relevant salaries;

3. The testing period for each such civil service examination and the related application and scheduling period, with a note that exact dates and times for both periods are usually released online each month;

4. Applicable fees for each such civil service examination, including information on fee waivers;

5. A link to the online application system for civil service examinations;

6.] A link to the civil service examination information page of the department of citywide administrative services website, with a note that this online page contains additional and up-to-date information about examination locations and timing and job eligibility requirements and a link to the exam schedules; and

[7] 3. Any other information that the department deems relevant.

§ 4. This local law takes effect 120 days after it becomes law.

Session 12

MMB/NC/JG

LS #6237, 6238, 6239, 6240 and 8334

1/25/23; 3:59 p.m.

Session 11

NJC

LS #18031, 18033, 18034 and 18035

9/1/21

Int. No. 541-A

By Council Members Louis, Gutiérrez, Hudson, De La Rosa, Sanchez, Farías, Hanif, Menin, Brannan and Avilés

..Title

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to amending the reporting of pay and employment equity data

..Body

Be it enacted by the Council as follows:

Section 1. Subchapter 7 of chapter 1 of title 3 of the administrative code of the city of New York, as added by local law number 18 for the year 2019, is amended to read as follows:

SUBCHAPTER 7

OFFICE OF DATA ANALYTICS

§ 3-170 General. a. Definitions. As used in this subchapter, the following terms have the following meanings:

Agency. The term “agency” means any agency, office, department, division, or bureau, the head of which holds office upon appointment of the mayor and those units within the executive office of the mayor designated by the mayor to be covered by the provisions of chapter 16 of the charter. Such term does not include agencies headed by boards, commissions, or other multi-member bodies, whether appointed by the mayor or otherwise, nor to elected officials, nor to other agencies the heads of which are appointed by officials other than the mayor or by multi-member bodies.

Director. The term “director” means the director of the office of data analytics.

Machine-readable format.The term “machine-readable format” means a non-proprietary format that permits automated processing.

Office. The term “office” means the office of data analytics.

Censored data. The term “censored data” means any data which is subject to redaction or withholding due to concerns that it may reveal personally identifying information, or any other legal concerns that may prohibit its distribution.

Sanitized data. The term “sanitized data” means any data generated with or without the use of censored data that does not reveal personally identifying information and is not legally prohibited from publication for any other reason.

Open source analytics library. The term “open source analytics library” means the website, and any other platform, where the source code for data analytics projects are shared and maintained by the mayor’s office of data analytics.

b. All agencies shall cooperate with the office as may be necessary and proper to ensure compliance with this subchapter. The office may request information from any agency it deems necessary to enable it to properly carry out its functions.

c. The director may promulgate such rules as are necessary to carry out the provisions of this subchapter.

§ 3-171 Pay and employment equity data. a. Within 60 days following the annual receipt of the data from the department of citywide administrative services pursuant to section 12-208, the office, in consultation with the department of information technology and telecommunications, shall permanently make such data available to the council [for 90 days] through an application programming interface (API) in a machine-readable format as either comma separated value (CSV) or JavaScript Object Notation (json) for which the office shall provide a key to the council;or a secure virtual machine interface to which authorized users, designated by the council, will be provided access.

b. 1. The office, in consultation with the department of information technology and telecommunications, shall:

(a) Provide data requested by the council and make such data available to the council in a machine-readable format within 7 business days of such request;

(b) Provide an account with access to such data for each individual identified by the council;

(c) Enable data sharing capabilities between all access accounts provided to the council;

(d) Deliver any external data prepared by the council to all of the accounts requested by the council in the format that such data was prepared in, within 7 business days of such request; and

(e) Install software requested by the council within 7 business days of such request, provided that, if the office determines, in consultation with the department of information technology and telecommunications, that such software presents a security risk, the office shall notify the council and identify in writing the details of such risk and propose alternative software within 7 business days.

2. If data is not provided or delivered pursuant to subparagraphs (a) or (d) within 7 business days, the office shall provide a detailed explanation to the council and a timeframe when such data will be provided or delivered, as applicable.

3. Code written and stored by the council shall be saved for 7 years for retrieval and usage by the council in its discretion.

[b.] c. 1. The office shall issue a report to the mayor and speaker of the council no later than May 31, 2020, and no later than May 31 annually thereafter, and shall post such report on the open source analytics library. Such report shall include aggregated data from each agency showing the frequency of full-time, part-time and seasonal employees by agency, EEO-4 job group, pay band, racial group, ethnicity and gender in a format that prevents the disclosure of the racial group, ethnicity and gender of any employee, while maximizing the level of detail at which such data is reported.

2. Pay bands for such report as required by paragraph 1 of this subdivision shall be for $2,500, $5,000 and $10,000; however, the department of citywide administrative services, in conjunction with the office, may determine by rule other appropriate pay bands, if any, that will maximize the level of detail at which data is reported.

[c.] d. Ninety days after the second annual report is issued pursuant to subdivision [b] c of this section, the office, in conjunction with the department of citywide administrative services, shall conduct an annual analysis of the data collected pursuant to section 12-208, including comparisons with data from previous years, in order to identify potential disparities based on gender, race or other protected classes as identified in section 8-101, in the following areas:

1. Pay;

2. Employment rates; and

3. Retention rates.

[d.] e. The office shall conduct further analysis with relevant agencies where instances of disparities exist. Such analysis shall be included in the annual report as required pursuant to subdivision [b] c of this section.

[e.] f. The department of citywide administrative services shall be required to make recommendations on the development and implementation of pay, employment, and retention equity action plans to the mayor and speaker of the council based on disparities identified in subdivision [d] e of this section. Such recommendations shall be included in the annual report as required pursuant to subdivision [b] c of this section.

§ 2. Section 12-208 of the administrative code of the city of New York, as added by local law number 18 for the year 2019, is amended to read as follows:

§ 12-208 Pay and employment equity data. a. Definitions. As used in this section, the term “agency” means any agency, office, department, division, or bureau, the head of which holds office upon appointment of the mayor and those units within the executive office of the mayor designated by the mayor to be covered by the provisions of chapter 16 of the charter. Such term does not include agencies headed by boards, commissions, or other multi-member bodies, whether appointed by the mayor or otherwise, nor to elected officials, nor to other agencies the heads of which are appointed by officials other than the mayor or by multi-member bodies.

b. No later than November 30, 2019, and on or before November 30 annually thereafter, each agency, to the extent the department of citywide administrative services does not already have such information, shall provide to the department of citywide administrative services information relevant to pay and employment equity. Such information for each current and former employee within such agency, shall be as of the date of hire and shall, to the extent such information is available, include[:] the data set forth in paragraphs 1 through 30 of this subdivision. Such data shall include a unique identifier for each employee, other than with respect to employee benefits. Each such identifier shall be identical for each such employee across all data sets starting with the first data set provided to the council in 2024.

1. Agency;

2. Start date;

3. Start date in current civil service title;

4. Civil service title;

5. Whether the civil service title is a promotional title;

6. Union status per civil service title, including, where applicable, name of the union and job or title category of the bargaining unit;

7. Whether the civil service title is a uniformed position;

[4.] 8. Salary range for such title;

[5.] 9. Business title;

[6.] 10. Title classification (title description);

[7.] 11. Job category;

[8.] 12. Career level;

[9.] 13. Base salary;

[10.] 14. The department of citywide administrative services occupational group code and group name;

[11.] 15. Whether such employee is a managerial or supervisory employee;

[12.] 16. Minimum number of years of work experience required for such position;

[13.] 17. Number of years of work experience of such employee;

[14.] 18. Highest level of education attained by such employee;

[15.] 19. Gender;

[16.] 20. Racial group;

[17.] 21. Ethnicity;

[18.] 22. Date of birth;

[19.] 23. Whether such employee is a provisional employee;

[20.] 24. Whether such employee is full-time, part-time or seasonal;

[21.] 25. Change in personnel status, including but not limited to, appointed, deceased, decrease, demoted, dismissed, increase, promoted, resigned, retired, terminated and transfer; [and;]

[22.] 26. Whether such employee was previously employed by the city of New York [.] ;

27. Total amount of leave taken;

28. Total amount of overtime pay per employee, where applicable;

29. Estimated amount of annual employee benefits paid per civil service titles; and

30. All data sets made available in all prior years pursuant to this section, except that the unique identifier requireed by subdivision b shall only be required for data sets provided for 2024 and thereafter.

c. The data collected pursuant to subdivision b shall include pedagogues of the department of education. Such data may be provided in the format in which it is retained by the department of education.

[c.] d. No later than 90 days following receipt of the data collected pursuant to subdivision b of this section, the department of citywide administrative services shall provide such data to the office of data analytics.

[d.] e. All agencies shall cooperate with the department as may be necessary and proper to ensure compliance with this subdivision. The department may request from any agency, including the office of payroll administration and financial information services agency, information it deems necessary to enable it to properly carry out its functions.

[e.] f. The commissioner may promulgate such rules as are necessary to carry out the provisions of this section.

§ 3. This local law takes effect immediately.

Session 12

MMB/NC/JG

LS #6171, 6174, 6236

1/25/23; 1:25 p.m.

Session 11

NJC

LS #17915, 17918, 18030

9/7/21

1. *Supra* note 2. [↑](#footnote-ref-1)
2. *Id.* [↑](#footnote-ref-2)
3. *Id.* [↑](#footnote-ref-3)
4. *Id.* A female employee with the same civil service title, who is in the same agency and has the same demographic characteristics as a male employee, would expect to make 99.6% the salary of a male employee. A Black or African American employee with the same civil service title, who is in the same agency and has the same demographic characteristics as a white employee, would expect to make 98.6% the salary of a white employee and a Hispanic or Latino employee with the same civil service title, who is in the same agency and has the same demographic characteristics as a non-Hispanic or Latino white employee would expect to make 98.9% the salary of a non-Hispanic or Latino white employee. [↑](#footnote-ref-4)
5. *Id.* [↑](#footnote-ref-5)
6. *Id.* [↑](#footnote-ref-6)
7. *See* <https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=3371662&GUID=5FCAFC03-035E-45D9-BE1A-4EBE7D6DF43C&Options=ID|Text|&Search=633>. [↑](#footnote-ref-7)
8. *Id.* [↑](#footnote-ref-8)
9. *Id.* [↑](#footnote-ref-9)
10. *Supra* note 2. [↑](#footnote-ref-10)
11. *See* City Council second annual pay equity report. On file with committee staff. [↑](#footnote-ref-11)
12. The non-adjusted pay gap is the median pay difference between two demographic groups when not accounting for other demographic categories or variables that may affect salary. Variables that may affect salaries include the following factors: length of service, civil service title code, civil service title level, civil service title suffix, agency, date of birth and managerial status [↑](#footnote-ref-12)