



Re: New York Salary History Legislation (A.2040C/S.6737A)

Dear Member of the New York State Legislature:

We urge you to support a key piece of legislation recently introduced (A.2040C/S.6737A) that would prohibit employers from relying on or inquiring about a job applicant's salary history. Employers often ask prospective employees to provide prior salary histories in order to set salary pay rates. This practice perpetuates discrimination against women who historically earn lower salaries than white men throughout their careers. As organizations dedicated to ensuring women are treated equally in the workplace, we write to urge you to co-sponsor and support the passage of this commonsense and modest, yet impactful, piece of legislation.

The wage gap in New York persists in 2018, particularly for women of color. In New York State, women working full-time still make only 89 cents for every dollar a man earns.¹ The gap for women of color is even wider. Black women in New York earn just 66 cents for every dollar a white man earns, and Latina women earn an astonishing 56 percent of what white men in New York earn.²

Wage disparity takes a significant economic toll on women, especially those living in poverty and those who are the primary supporters of their families. If the wage gap of nearly \$5,916 per year were eliminated in New York, women could use those funds to pay for approximately five months of rent, or three months of mortgage payments, or close to a year's supply of groceries for their families.³ This bill will not only place women on more equal footing; it will also boost New York's economy.

Disclosing salary history to employers contributes to wage inequality. Women begin earning less at the very outset of their careers. One study found that even in their very first job after college, women typically earn 6.6% less than men.⁴ Therefore, when an employer asks about salary history, women are immediately at a disadvantage when it comes to negotiating and setting salary rates. The practice of asking about salary history perpetuates and reinforces wage inequality.

Asking about salary history especially disadvantages those women that have left the job

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

² *Id.*

³ *Id.*

⁴ American Association of University Women, *Graduating to a Pay Gap: The Earnings of Women and Men One Year After College Graduation* 36 (2012), <http://www.aauw.org/files/2013/02/graduating-to-a-pay-gap-the-earnings-of-women-and-men-one-year-after-college-graduation.pdf>.



market, reduced their hours, or made changes in their careers to take on family responsibilities, effectively penalizing those caregivers that take time to raise children or care for an ill family member. Asking about salary history puts economic and family responsibilities at odds with one another.

A.2040C/S.6737A builds on New York’s equal pay policies and national trends. In August 2016, Massachusetts became the first state to pass a law banning employers from asking prospective employees about salary history.⁵ Since then, California, Delaware, Oregon, Puerto Rico, New York City, San Francisco, and Philadelphia have passed similar laws,⁶ and bills have been introduced in nearly 30 states, including Nebraska, North Carolina, Texas, and Virginia. This proposed legislation would also build upon the Executive Order Governor Cuomo signed in January 2017 requiring all New York State entities to adopt salary history blind hiring practices. It also expands on the equal pay laws passed in recent years by the Legislature. Moreover, this legislation will help provide clarity and consistency to those employers that must already adhere to a similar law in effect in New York City.

This legislation will codify a practice many employers have already adopted. As of 2018, companies including Bank of America, Citigroup, Wells Fargo, Cisco, Facebook, Amazon, and Google are no longer asking applicants to provide salary histories.⁷ These employers acknowledge an applicant’s salary should be based on their job qualifications and the value of the job they are being hired to do, not what they made in the past. The Greater Boston Chamber of Commerce, some of whose prominent members include Bloomberg, Citibank, Ernst & Young, Johnson & Johnson, and Verizon, publicly supported similar legislation in Massachusetts that passed in August 2016.⁸ This legislation will also help businesses avoid costly litigation and large settlements that result from claims alleging pay discrimination based on employers relying on salary history to set wages.⁹

A.2040C/S.6737A would prevent employers from relying on, or asking, job applicants or their previous employers about their salary history during the interview process. An applicant

⁵ Mass. Gen. Laws An. Ch. 159 § 105A(c)(2) (2017).

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

⁷ McGregor, Jena, *Bank of American is the latest company to ban this dreaded job-interview question*, Washington Post (Jan. 29, 2018), https://www.washingtonpost.com/news/on-leadership/wp/2018/01/29/bank-of-america-is-the-latest-company-to-ban-this-dreaded-job-interview-question/?utm_term=.dc43dba61a8c.

⁸ Michael Alison Chandler, *More state, city lawmakers say salary history requirements should be banned*, The Washington Post, Nov. 14, 2016, https://www.washingtonpost.com/local/social-issues/more-state-city-lawmakers-say-salary-history-requirements-should-be-bannedadvocates-for-women-argue-that-the-practice-contributes-to-the-nations-pay-gap/2016/11/14/26cb4366-90be-11e6-9c52-0b10449e33c4_story.html?utm_term=.5f2fd84bb830.

⁹ See, e.g. *Beck v. Boeing* (W.D. Wash. 2000) (\$72.5 million dollar settlement awarded in class action suit alleging pay discrimination based on Boeing’s setting salaries of new hires solely based on past salary plus hiring bonus leading to stark disparities in pay based on gender).



can still voluntarily disclose their salary history information and if, after the employer makes an offer of employment to the applicant, the applicant responds to the offer with their salary history to support a higher wage, the employer can confirm the disclosed salary history.

An applicant's salary should be based on their job qualifications and the value of the job they are being hired to do, not what they made in the past. There are so many ways to evaluate a job candidate, from assessing their qualifications to their experience and expertise. As one human resources professional stated in Forbes, the practice of asking for salary history is “intrusive and heavy-handed...it’s a Worst Practice...it hurts an employer’s brand and drives the best candidates away.”¹⁰ This legislation will help employers recruit and retain talent. Furthermore, employers will still be able to ask candidates about their salary requirements.

New York has an opportunity to lead in the fight to close the persistent wage gap. We urge you to co-sponsor A.6707/S.5233 and would welcome the opportunity to speak with you further or provide more detailed information about this crucial piece of legislation. For more information or questions, please contact Sarah Brafman at A Better Balance (sbrafman@abetterbalance.org) or Beverly Neufeld at PowHer New York (bev@powherny.org).

A Better Balance: The Work & Family Legal Center
PowHer New York
1199/UHWE/SEIU
2020 Women on Boards/NYC
32BJ SEIU
9-5, National Association of Working Women
A1 Works-in-Progress Associates, LLC
American Association of University Women (AAUW)
AAUW New York State
AAUW St. Lawrence County
AAUW Jefferson County
AAUW of Rochester
AAUW of Rockland County
AAUW Westchester County
American Civil Liberties Union
Asian Women in Business
Atlas DIY
Bella Abzug Leadership Institute
Catalyst

National Council of Jewish Women New York
National Domestic Workers Alliance
National Employment Law Project
National Federation of Business and Professional Women's Clubs - NYC (NFBPWC-NYC)
National Institute for Reproductive Health
National Organization of Italian Women
National Partnership for Women & Families
National Women's Law Center
New Shelves Books
New York City Collaboration of Women in Construction
New York Civil Liberties Union
New York Coalition of 100 Black Women
New York Immigration Coalition
New York Paid Leave Coalition
New York State Coalition Against Domestic Violence

¹⁰ Liz Ryan, *When Someone Demands Your Salary History, Give Your Salary Requirements Instead*, Forbes (Jan. 16, 2017), <https://www.forbes.com/sites/lizryan/2017/01/16/when-they-demand-your-salary-history-give-your-salary-requirement-instead/#944ba255a8bb>.



CCI-Center for Children's Initiatives
Center for Law and Social Policy (CLASP)
Center for Popular Democracy
Center for the Women of New York
Centro Civico Cultural Dominicano
Change Create Transform
Chhaya CDC
Child Care Resource Network
Citizen Action of New York
Citizen's Committee for Children of NY
Coalition for Economic Justice
Communications Workers of America
Community Service Society of New York
CWA Local 1180
Demos
Disabled in Action of Greater Syracuse Inc.
DRUM - Desis Rising Up & Moving
El Centro del Inmigrante
Equal Pay Today!
Equal Rights Advocates
Family Values @ Work
FPWA
Gender Equality Law Center
Gender Justice
Girls for Gender Equity
Greater New York Labor Religion Coalition
Hollaback!
Human Rights Project/Urban Justice Center
Inclusion Strategies
Institute For The Puerto Rican/Hispanic Elderly, Inc.
International Association of Women in Radio and
Television (IAWRT USA)
International Code Council
Intersections International
Jewish Women's Foundation of New York
Labor-Religion Coalition of NYS
LatinoJustice PRLDEF
League of Women Voters - New York State
League of Women Voters - Buffalo
League of Women Voters - Huntington
League of Women Voters - Nassau County ILO
League of Women Voters - North Country
League of Women Voters - NYC
League of Women Voters - Putnam County

New York State Coalition Against Sexual Assault
New York State Immigrant Action Fund
New York State Nurse's Association
New York State Public Affairs Committee of the
Junior League
New York Women in Communications
New York Women in Film & Television
New York Women's Agenda
New York Women's Chamber of Commerce
New York Women's Foundation
Nontraditional Employment for Women (NEW)
NOW Brooklyn-Queens
NOW New York City
NOW New York State
NOW Westchester
NY Union Child Care Coalition
NYC Veterans Alliance
NYC4CEDAW
NYS Women, Inc.
OPEIU Local 153
Partnership for the Public Good
Physicians for Reproductive Health
Pilgrim-St. Luke's Church
Planned Parenthood Empire State Acts
Planned Parenthood of New York City
Public Health Association of New York City
ROC New York
ROC United
The Junior League of New York City
The Transition Network
Tompkins County Workers' Center, Inc.
UAW Local 2110, Technical, Office and
Professional Union
UN Women Metro NYC Chapter
Upper Hudson Planned Parenthood
Westchester Women's Agenda
WNY Women's Foundation
Women in Development, New York
Women in Health Management
Women in the Arts & Media Coalition, Inc.
Women Chefs and Restaurateurs
Women's Center for Career Education and
Advancement
Women's City Club of New York



League of Women Voters - Rochester
League of Women Voters - Saratoga County
League of Women Voters - St. Lawrence MAL Unit
League of Women Voters - SW Nassau County
League of Women Voters – Syracuse Metro Area
League of Professional Theatre Women
Lean In New York
Legal Momentum
Levo
Make it Work
Millennial Ambition
MomsRising.org
Ms. Foundation for Women
Nation to Nation Networking
National Asian Pacific American Women's Forum
National Association for Female Executives
National Center for Law and Economic Justice
National Council of Jewish Women New York
Lakeville

Women's March Alliance
Women's Media Center
Women's Organizing Network
YWCA's of NYS, Inc.
YWCA Binghamton
YWCA Brooklyn
YWCA Capital Region
YWCA Cortland
YWCA Elmira
YWCA Jamestown
YWCA Niagara Frontier
YWCA Northeastern NY
YWCA Queens
YWCA Orange County
YWCA Rochester
YWCA Syracuse
YWCA Ulster County
YWCA Western New York
YWCA White Plains & Central Westchester
YWCA Yonkers
Zonta Club of Greater Queens
Zonta Club of Long Island
Zonta Club of New York