

# The Next Step in the Fight for Pay Equity

## EXPANDING PAY TRANSPARENCY



MARCH 2024

While New York State has one of the lowest gender pay gaps in the nation, progress in closing the gap has stalled and large disparities persist across race and ethnicity. The existence of comparatively strong equal pay laws in New York has undoubtedly helped, but there is an urgent need for additional action to fully eliminate pay inequities across the state.

Beyond equal pay for equal work laws, pay transparency is proving to be an essential tool for addressing the gender pay gap. The groundbreaking New York Salary Transparency Laws address pay secrecy which helps raise wages, particularly in lower-wage occupations disproportionately made up of women of color, and empowers historically marginalized workers to advocate for themselves. Businesses benefit from improved productivity, reduced worker turnover, and by attracting better qualified job candidates.

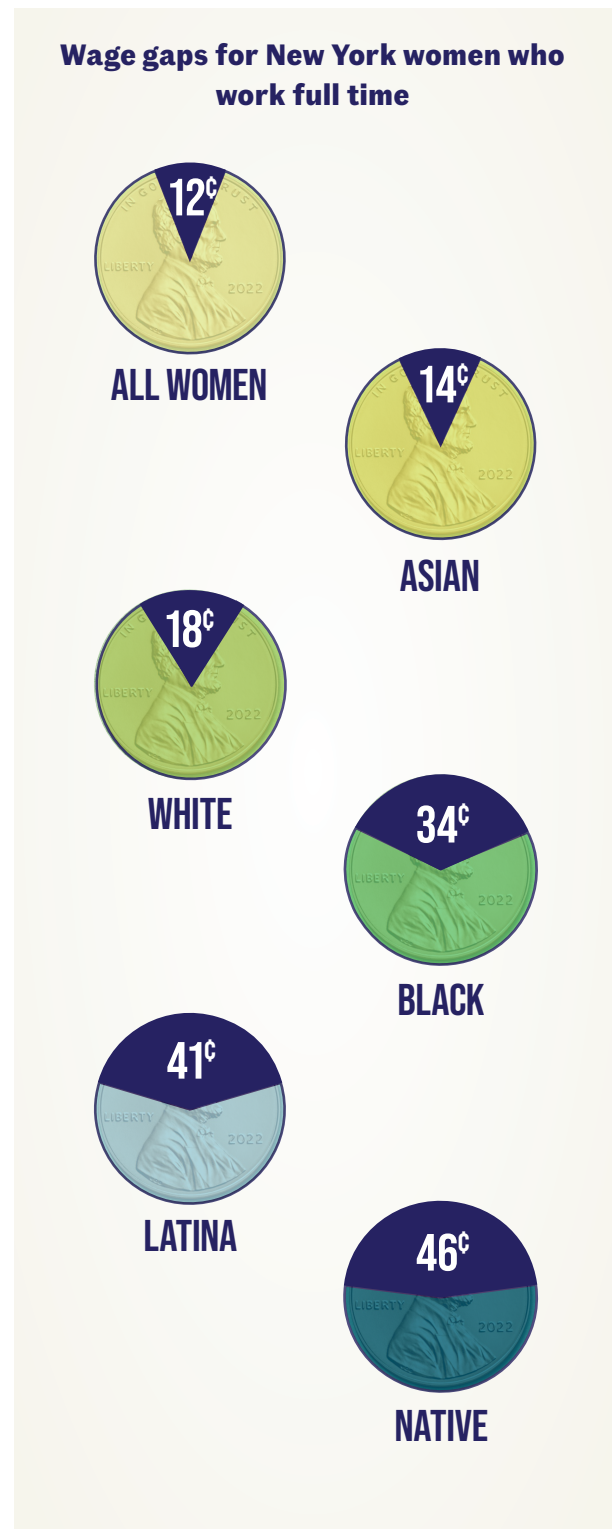
These laws are important steps forward, but additional pay transparency measures must build on this progress. We call on legislators to continue their commitment to gender and racial equity by taking bold action to expand pay transparency locally and statewide.

### HOW CAN NEW YORK ADVANCE PAY TRANSPARENCY?

- Strengthen New York's salary range disclosure laws
- Require New York City agencies to address pay and opportunity discrimination revealed by the mandated data analysis of municipal workers' wages
- Advance legislation requiring employers and government contractors to disclose mean and median pay gap data as well as pay data based on gender, race, and ethnicity, and to address inequities

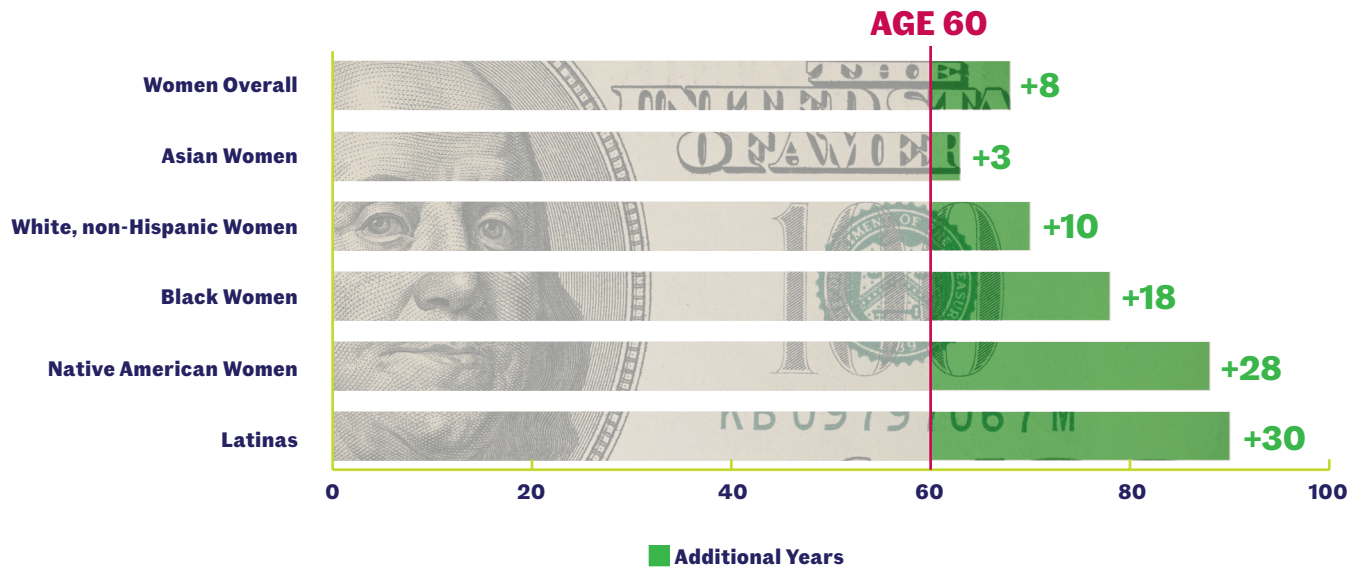
# The pay gap persists despite strong equal pay laws

- Women in New York who work full-time, year-round earn **88 cents** to every dollar earned by their male counterparts compared to the national figure of **84 cents**.<sup>1</sup> However, when part-time workers are taken into account, women only make **78 cents** for every dollar earned by men. The gap for New York's women of color is even more stark and persistent. In 2022, Black women in New York earned **66 cents** and Latina/x women only **59 cents** for every dollar earned by non-Hispanic white men, larger gaps than the national figures of **69 cents** and **57 cents** respectively.
- These gender and racial pay gaps have implications for women's longer term economic security and wealth-building. Women in New York lose an average of \$11,555 annually due to the gender wage gap, money that they could have used in paying off debt, securing better childcare, saving for retirement or contributing towards building assets.<sup>2</sup> Over her 40-year working career, a Latina woman working in New York would lose over \$1.3 million and a Black woman over \$1.1 million compared to her non-Hispanic white male counterpart.<sup>3</sup>
- Nationally, in order to earn what white, non-Hispanic men earn by age 60, women overall would have to work an additional 8 years, with women of color having to work as many as 30 additional years (Figure 1).<sup>4</sup>



Source: PowHer New York Equal Pay Campaign

**FIGURE 1: ADDITIONAL YEARS OF WORK NECESSARY TO EQUAL WHAT A WHITE, NON-HISPANIC MAN WOULD MAKE BY AGE 60**



**Drivers of the gender and racial pay gaps include:**



**Discrimination:** When controlling for level of education, experience, and hours worked, women still earn less than men, suggesting that direct discrimination still plays a notable role in employer pay practices.<sup>5</sup>

**Occupational segregation and valuing women’s work:**

Women, particularly women of color, are disproportionately employed in lower-wage industries (e.g., childcare, home healthcare, personal services, and retail trade) and under-represented in higher-paying, male-dominated fields (e.g., finance, information, and management) (see Table 1). This is the result not only of employers’ discriminatory hiring practices, but also of norms and expectations about what constitutes women’s work and about the value of that work. To remedy this, many countries are instituting *equal pay for work of equal value*, which compares different jobs that can be shown to be of equal value, when based on “objective” criteria such as skills, levels of responsibility, effort, working conditions and qualifications. This approach can address the historic undervaluation of female-dominated labor.



**TABLE 1: MEDIAN ANNUAL WAGES AND SHARE OF WOMEN EMPLOYED IN SELECT INDUSTRIAL SECTORS, NYC (2022)**

	Share of women	Median Wage
Child and daycare services	91%	\$20,000
Home healthcare aides	91%	\$23,000
Healthcare services	73%	\$42,000
Beauty and nail salons	76%	\$14,000
Department and convenience stores	68%	\$31,200
Education services	67%	\$55,000
Professional services	46%	\$70,000
Information	45%	\$80,000
Administration	45%	\$70,000
Hospitality	40%	\$28,000
Finance, insurance and real estate	40%	\$88,000
Wholesale trade	37%	\$49,300
Management	38%	\$140,000
Transportation and utilities	22%	\$40,000
Construction	9%	\$40,000

Source: CSS analysis of American Community Survey Public Use Microdata Sample (2022)



**The “Motherhood Penalty”:** Many women with young children are forced to pay what is known as a “Motherhood Penalty” by taking on a disproportionate share of unpaid caregiving responsibilities. The penalty shows up as reduced lifetime earnings for women – estimated to up to \$300,000 – because of time spent out of the workforce and subsequent barriers to promotion and advancement in the workplace.<sup>6</sup> This penalty is compounded by the fact that employers offer lower salaries to mothers (estimated to be 26% less than that of fathers) and fail to promote them based on the discriminatory assumption that they will be less productive or reliable.<sup>7</sup>

**Pay Secrecy:** Most workers, whether on the job market or currently employed, simply do not know how much other workers earn



or what employers are willing to pay. And despite the passage of so-called “right of workers to talk” laws in the U.S., many workers still don’t feel comfortable discussing pay with their coworkers.<sup>8</sup> Most people thus anchor their expectations for future pay on what they currently earn, which means that low-wage workers are particularly prone to becoming trapped in a vicious cycle of low pay.<sup>9</sup>

At the same time, many of our existing equal pay laws put the burden on individual workers to unearth and address problematic disparities, an incredibly difficult task in the absence of easily accessible information on pay. Pay equity cases are difficult to win, take years to resolve, and place undue costs on those least able to bear those costs.<sup>10</sup> As a result, enforcement of long-standing equal pay laws has remained piecemeal, allowing unfair pay inequities to go undetected.

## Pay transparency is necessary to achieve pay equity

### What is Pay Transparency?

Some of the ways pay transparency efforts prevent employers from perpetuating secrecy around pay include:

- Requiring employers to disclose reasonable compensation ranges and information about benefits in job advertisements and to existing employees
- Prohibiting employers from preventing workers from discussing pay
- Requiring employers to assess, identify, and report internal pay gaps based on gender, race, and ethnicity

### Why is Pay Transparency Essential?

- **Pay transparency works.** Gender and racial disparities in pay are smaller when pay transparency is required, such as in the public sector and in unionized jobs.<sup>11</sup> Countries and U.S. states that have passed pay transparency laws have also seen reductions in gender pay gaps as well as wage gains among certain workers, including those in low-skilled jobs.<sup>12</sup> This is in part because transparency and collective bargaining force employers to use fair and objective criteria in setting wages, rather than subjective or candidate-specific assessments, which are known to incorporate implicit gender and racial biases.

- **Pay transparency helps businesses:** Research shows that applicants are more likely to apply for jobs that disclose salary ranges.<sup>13</sup> Transparency eliminates inefficient hiring practices, helping bring in candidates best suited to a position. By encouraging fairer pay-setting practices, pay transparency can also increase employee trust, job satisfaction, engagement, worker productivity, retention, and even profitability.<sup>14</sup>
- **Pay transparency gives workers much needed leverage.** When workers have access to information about pay and pay gaps, they are in a better position to advocate for themselves, to negotiate fair pay as both applicants and employees, and to seek out employers that pay better. Empowering workers to have access to critical information on pay disrupts occupational segregation and disproportionately benefits those in low-wage jobs that have historically been undervalued.
- **Pay transparency has broad public benefits.** As pay reporting practices become the norm, they will help reduce the gender pay gap, thus improving incomes for women across the board. Higher earnings will increase tax revenue collections, improve the economy through increased spending, and reduce demand on public dollars.<sup>15</sup>

## How is New York doing on pay transparency?

New York has already made significant progress towards enacting pay equity protections and securing critical forms of pay transparency. Over the last decade, New York has strengthened its equal pay law by requiring equal pay for “substantially similar work” and narrowing the affirmative defenses that employers can raise to justify problematic pay disparities.<sup>16</sup> It also banned the use of salary history in the hiring process, a significant step towards limiting the influence of bias and discrimination in pay setting.

Legislation aimed at increasing pay transparency has strengthened the effectiveness of these laws, bringing

us closer to addressing the root causes of the gender and racial pay gaps. In 2015, New York outlawed employers from prohibiting workers from discussing pay with their coworkers and in 2023, New York began requiring all employers with four or more employees in the state to post salary ranges and job descriptions in all advertisements for job, promotion, and transfer opportunities. New York City has gone even further to increase transparency by passing Local Law 18, which requires the City to collect data on, report, and offer solutions to problematic gender and racial pay gaps among the municipal workforce.

# Recent Pay Equity Legislation and Executive Orders

*In the mid-1980s, a one-time comparable worth evaluation and correction of pay was made for New York State workers. Ongoing efforts since 2002 to study and codify “equal pay for work of equal value” have stalled, though this is a recognized pay equity goal globally.<sup>17</sup>*

**2015**

New York State  
[Protection to Discuss Pay,  
Tighten Exceptions, &  
Increase Penalties](#)

**2017**

New York State Contractor  
Reporting of Equal Pay Data  
[Executive Order 162](#)

New York State Salary History  
Ban for Municipal Workers  
[Executive Order 161](#)

Salary History Ban Signed into law  
[New York City in 2017 &  
New York State in 2019](#)

**2019**

New York State  
[Equal Pay for Substantially  
Similar Work & Expansion  
of Protected Classes](#)

[NYC Local Law 18 requiring  
analysis of pay for public  
sector workforce](#)

**2021**

[First Pay Equity Analysis as  
mandated by NYC Local Law 18](#)

[New York City Pay Disclosure  
Law \(Amended in 2022\).  
Regulations](#)

**2022**

[New York State Pay  
Disclosure Law enacted and goes  
into effect September 2023](#)

[New York State Contractors  
Reporting of Equal Pay Data -  
Passed by legislature, vetoed  
by Governor Hochul](#)





## Next steps to advance pay transparency in New York

Enforcement of newly enacted pay transparency laws is underway, and data show the vast majority of New York job postings now include salary ranges, a critical piece of information for job seekers across the state. However, too many employers are skirting the law by posting overbroad salary ranges and offering salaries that fall outside posted ranges altogether.<sup>18</sup> Moreover, while new job openings must list salary ranges, employers are still not required to disclose information on current employee pay and compensation. New York must take the following steps to build on recent progress and bring us closer to finally closing our gender and racial pay gaps:

**Enforce and strengthen** existing pay transparency laws by:

- Requiring employers to post “good faith” rather than overbroad salary ranges that seek to thwart transparency
- Requiring employers to disclose pay ranges to *current employees with respect to their existing positions*
- Requiring employers to disclose broader forms of compensation like bonuses and stock options as well as core benefits offered in addition to salary
- Prohibiting employers from paying outside a posted salary range unless a new job advertisement with an updated salary range has been posted

**Require employers to report data** on employee pay and compensation

- Pay data reporting laws require companies to compile and share mean and median pay gaps and pay data that is anonymized and disaggregated by race, gender, and ethnicity in order to identify and address problematic disparities. These laws also give enforcement agencies and the public information on overarching trends, which can be a critical tool to assess and address occupational segregation.
- Pay data reporting provides a concrete tool for workers to advocate for themselves and hold employers accountable where they fail to address unlawful inequities in pay.
- Pay data reporting is likely to become the norm. Increasingly, countries and U.S. states are enacting pay data reporting requirements. In addition to dozens of countries around the world and the EU, which passed a directive on pay transparency in 2023, California and Illinois have successfully enacted pay data reporting legislation in recent years.<sup>19</sup> This means that many U.S. companies are already reporting their pay data, including hundreds of companies with operations in New York.<sup>20</sup>

## How can you **take action**?



### **REPORT**

Report New York job postings that lack a pay range or list overbroad and unreasonable pay ranges to the [NYC Commission on Human Rights](#) or the [New York State Department of Labor](#).



### **SHARE**

Learn about your pay equity rights and share this factsheet with your network.



### **ADVOCATE**

Urge your elected officials to advance pay transparency. Go to [www.powherny.org](http://www.powherny.org) to learn how.



### **GET ADVICE**

If you believe you are being paid unfairly and want more guidance, contact Legal Momentum's Helpline by calling **1-800-649-0297** or email [Help@LMHelpline.org](mailto:Help@LMHelpline.org).



## Endnotes

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- 11 Women who are members of or represented by unions earn more than women who are not in unions, U.S. Department of Labor, <https://blog.dol.gov/2022/02/15/want-equal-pay-get-a-union-and-wage-gaps-are-smaller-among-public-sector-workers-than-among-private-sector-workers>, Sun et al., 2021, p. 13.
- 12 On the effects of salary transparency laws in the U.S., see Zoe Cullen, Shengwu Li, and Ricardo Perez-Truglia. What’s my employee worth? The effects of salary benchmarking (National Bureau of Economic Research, Working Paper No. 30570, October 2022), DOI: 10.3386/w30570; on the effects of salary transparency laws in OECD nations, see OECD, Can pay transparency tools close the gender wage gap? (Labour and Social Affairs Policy Briefs, November, 2021).
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The Community Service Society of New York (CSS) has worked with and for New Yorkers since 1843 to promote economic opportunity and champion an equitable city and state. We power change through a strategic combination of research, services, and advocacy to make New York more livable for people facing economic insecurity. By expanding access to health care, affordable housing, employment, opportunities for individuals with conviction histories, debt assistance, and more, we make a tangible difference in the lives of millions.

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PowHer® New York is a statewide network of over 100 gender and racial justice organizations committed to accelerating economic equality for 10 million New York women and their families. Through collective action, we organize intersectional collaborations, educate the public about combating gender inequality, convene innovators and advocates to explore and develop new approaches and strategies, and work with legislators and business leaders on concrete solutions. The Equal Pay Campaign, PowHerNY's signature project, leads the eighteen year fight to achieve pay equity that has resulted in groundbreaking legislation, a shift in culture and practice and a more equitable state for all workers.

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