**EQUAL PAY DAY - April 10, 2018**

**Toolkit for Organizations**

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**OVERVIEW**

Together we’ve made progress in New York, but until we close the wage and opportunity gap, the Equal Pay Campaign will press for important policy changes. This year, PowHer New York with the close and invaluable partnership of A Better Balance and CWA Local 1180 continues the fight for a New York State law to **ban the salary history question in hiring**. To get this passed, we need your help!

**What is the bill about? Why is it important? Who supports it?**

A.2040C/S.6737A prevents employers from asking about or relying on salary history in setting the wages of applicants. It does not exclude applicants from sharing information voluntarily.

The **FAQ** below discusses the bill, the issue, the status, and the stats!

**What can your group do now?**

1. **Ask your NYS Senator to sponsor** **A.2040C/S.6737A.** Use the below letter or call (518) 455-2800. Make an appointment to meet during Spring Recess in the district office. (If he/she is a sponsor, call to say thank you.)
2. **Ask your local elected officials to:** *(see draft letter, resolution, samples below)*
   1. **Pass a Resolution** in support of the state salary history ban
   2. **Pass a local salary history ban**
   3. **Issue an Executive Order** covering public sector employees
3. **Join an informational call on April 3rd at 2PM** - RSVP to [info@powherny.org](mailto:info@powherny.org)
4. **Share Upcoming Equal Pay Day actions and Speak out:** write a Letter to the Editor, sponsor an event, host an UnHappy Hour, etc.

**Documents to read and share:**

* **Letter of Support signed by 150+ organizations (authored by ABB/PowHerNY):** <http://bit.ly/2018SalaryHistoryLetter>
* **Link to A.2040C/S.6737A:** <https://www.nysenate.gov/legislation/bills/2017/s6737/amendment/a>
* **A Better Balance/PowHerNY Factsheet (2017):** <https://drive.google.com/file/d/0B0wZA7uz8cwAeXdFTnZYZU4wc3NLNmZIRXRJSi1ac1lERlow/view?usp=sharing>

**FAQ for NYS SALARY HISTORY BILL**

*To assist in your outreach, below are frequently asked questions and answers about A.2040C/S.6737A.*

**What are the bill numbers?**

* **A.2040C and S.6737A** - This is a uni-bill, which means that a change in one house version of the bill automatically changes the version in the other house.

[**Link to Bill**](https://www.nysenate.gov/legislation/bills/2017/s6737/amendment/a): https://www.nysenate.gov/legislation/bills/2017/s6737/amendment/a

**Who are the bill sponsors and co-sponsors?**

* **Assembly Sponsor:** Assembly member Marcos Crespo (D - Bronx - AD 85)
* **Senate Sponsor:** Senator David Carlucci (D-Westchester/Rockland)
* **Assembly Co-sponsors:** https://www.nysenate.gov/legislation/bills/2017/a2040/amendment/c
* **Senate Co-sponsors:** (updated regularly at https://www.nysenate.gov/legislation/bills/2017/s6737/amendment/a

Joseph P. Addabbo Jr - (D) 15th

Marisol Alcantara - (D) 31st

Tony Avella - (D, IP) 11th

Phil Boyle - (R) 4th

Neil D. Breslin - (D, IP, WF) 44th

Martin Malavé Dilan – (D) 18th

Jesse Hamilton - (D) 20th

Todd Kaminsky - (D) 9th

Timothy M. Kennedy - (D, IP, WF) 63rd

Liz Krueger - (D, WF) 28th

Kathleen A. Marchione - (R, C, IP) 43rd

Jose Peralta - (D, WF) 13th

Roxanne J. Persaud - (D) 19th

James Sanders Jr. - (D) 10th

David J. Valesky - (D, IP) 53rd

Catharine Young - (R, C, IP) 57th

**Who supports this bill?**

* **Organizations include:** PowHer New York, A Better Balance, CWA Local 1180, Association of American University Women NYS & chapters, League of Women Voters NYS and Chapters, NYS Women’s Inc, YWCA NYS & Chapters, NOW NYS and chapters, New York March Alliance, New York State Coalition Against Domestic Violence, NYCLU, NYS Public Affairs Committee of the Junior League. Full list on Letter of Support
* **Letter of Support 150+ organizations**: <http://bit.ly/2018SalaryHistoryLetter>

**What is Business reaction?**

* There is growing acceptance and understanding of the proposed law and its value as a hiring best practice. A growing number of businesses are adopting the salary history ban policy for their US workforce, including: American Express, Amazon, Bank of America, Google. A recent study finds that businesses of different sizes report that implementation is not difficult.

**Why do we need this new law?**

* A.2040C/S.6737A aims to help close the gender wage gap by banning the question of an applicant’s salary history during the interview process. By not relying on salaries that reflect wage discrimination, employers will be required to offer jobs and compensation based on a prospective candidate’s skills, merit and demands of the job. This will require making a clear, market-based reasoning for pay, leading to workplace transparency and ultimately net a more informed applicant pool.

The wage gap is pervasive involving not only women, but also minority groups and people with disabilities. W**omen in New York earn a median pay of 89 cents for every dollar earned by men**, but for some groups – particularly those women of color and those who take time off to care for family needs -- that pay gap is even higher. Historically, women and minorities earn less than their white male counterparts. The salary history inquiry, which is a routine question for employers and hiring managers, is an unintentional form of discrimination that perpetuates workplace inequality as yesterday’s wages become the basis for tomorrow’s compensation.

**Specifically, what would this bill do?**

* The bill prevents employers from relying on salary history when determining the salary of a potential employee unless an applicant voluntarily provided salary history information that supported a wage higher than the one offered by the employer. [[1]](#footnote-1)
* The bill prohibits employers from asking a job applicant to provide their salary history as part of the interview process, or as a prerequisite for hiring. [[2]](#footnote-2)
* The bill prohibits employers from asking a job applicant’s current or former employer to provide an applicant’s salary history unless the employer is doing so to confirm such information after an offer has been made and an applicant responded to the offer by providing salary history that included a wage higher than that proposed by the employer.[[3]](#footnote-3)
* The bill makes it illegal for employers to retaliate against an applicant for not providing salary history information.[[4]](#footnote-4)
* The bill would require the Department of Labor to establish a public awareness campaign informing employers in the state that it is illegal to seek salary information from prospective employees.

**What other jurisdictions have passed a similar bill on salary bans?**

**In New York:**

* New York State: January 9, 2017, Governor Cuomo signed Executive Order 161 bars state agencies from inquiring about or relying on a job applicant’s salary history
* New York City: October 31, 2017 - law became effective.

<https://www1.nyc.gov/site/cchr/media/salary-history-frequently-asked-questions.page>

* Albany County – December, 2017 - law became effective <http://albanycounty.com/Libraries/County_Executive/20171030-PH-16-LL_P.sflb.ashx>
* Westchester County - Under consideration

<http://westchestercountyny.iqm2.com/Citizens/Detail_LegiFile.aspx?ID=10093&highlightTerms=10093>

**Other Jurisdictions:**

* Passed: California, Massachusetts, Delaware, Oregon, and Puerto Rico, and over 20 other states have proposed similar legislation

**Who is affected by the gender pay gap?**

* While many factors contribute to the gender pay gap, including occupational segregation, patterns of work or even direct or indirect discrimination, the disparity in earnings between women and men from the 2015 U.S. Census Bureau is hard to ignore. U.S. women working full time year-round were paid just 80 percent of U.S. men's median earnings – a gap of 20 percent. In New York, that number was better with an 89 percent median earnings ratio between genders - yet a gap still remains and can hardly be considered equal pay for equal work.

Although the gender pay gap has narrowed over time, according the American Association of University Women (AAUW), women are not expected to reach pay equity until 2059. If change continues at a slower growth rate seen since 2001, the pay gap is not expected to close until 2152.

* Despite having the smallest overall wage gap, in New York minority groups have as severe a gap as around the country:
* African American women – 66¢ of every dollar earned by non-Hispanic white men
* Hispanic women - 56¢ of every dollar earned by non-Hispanic white men
* Asian American women – 82¢ of every dollar earned by non-Hispanic white men
* The 2015 American Community Survey (ACS) by the U.S. Census Bureau indicates that people with disabilities made just 68 percent of what those without earned.

* In the long-term, lower career wages result in an even greater disparity in retirement income, namely through smaller Social Security benefits which are calculated based on an individual's earning history.
  + Median income for women 65 years or older is 44 percent less than the median income for men in the same age group.
  + Women 75 years or older are almost twice as likely as men to live in poverty.

**REQUEST FOR ACTION**

Thank you for asking your city/county officials to support NYS legislation to ban salary history!

This letter can be adapted to 4 different asks: 1) Pass a resolution, 2) Introduce a local salary history ban law, 3) Issue an Executive Order (County Executives), or 4) Sponsor the bill (Senators only). Choose which action fits your elected official **(and delete the rest)**.

Following the letter, you will find links to sample legislation to share if your elected official needs examples, and scroll down for a draft resolution.

Contact Bev Neufeld, President, PowHerNY at [bev@powherny.org](mailto:bev@powherny.org) with questions or feedback.

**SAMPLE LETTER:**

**YOUR LOGO(S)**

**Date/ Address of Legislator**

**Dear [City/County Elected Official]:**

As National Equal Pay Day approaches on April 10, 2018, we/**Name of Your Organization** urge(s) you to **take action to help close the wage and opportunity gap** which especially hurts women and their families.

One important, timely step would be to **demonstrate support for a key piece of legislation** being considered in the New York State Legislature - [**A.2040C**](https://www.nysenate.gov/legislation/bills/2017/a2040/amendment/c?utm_source=2017+NYS+Senate++%2B+Assembly&utm_campaign=2cda1ac5d8-EMAIL_CAMPAIGN_2018_03_12&utm_medium=email&utm_term=0_f482912607-2cda1ac5d8-)/[**S.6737A**](https://www.nysenate.gov/legislation/bills/2017/s6737/amendment/a?utm_source=2017+NYS+Senate++%2B+Assembly&utm_campaign=2cda1ac5d8-EMAIL_CAMPAIGN_2018_03_12&utm_medium=email&utm_term=0_f482912607-2cda1ac5d8-) - 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 men throughout their careers.

As part of a statewide effort to advance equal pay, we ask you to consider

· passing a resolution in support of banning salary history.

· introducing a salary history ban bill for (name of city/county).

· issuing an Executive Order prohibiting using salary history in municipal hiring.

· becoming a Co-sponsor of [A.2040C](https://www.nysenate.gov/legislation/bills/2017/a2040/amendment/c?utm_source=2017+NYS+Senate++%2B+Assembly&utm_campaign=2cda1ac5d8-EMAIL_CAMPAIGN_2018_03_12&utm_medium=email&utm_term=0_f482912607-2cda1ac5d8-)/[S.6737A](https://www.nysenate.gov/legislation/bills/2017/s6737/amendment/a?utm_source=2017+NYS+Senate++%2B+Assembly&utm_campaign=2cda1ac5d8-EMAIL_CAMPAIGN_2018_03_12&utm_medium=email&utm_term=0_f482912607-2cda1ac5d8-).

Over 150 organizations signed a letter in support (<http://bit.ly/2018SalaryHistoryLetter>) and we are collaborating on this advocacy effort, coordinated by PowHer New York.

This sensible equal pay policy builds on national trends, as well as New York’s recent equal pay laws and the Executive Order Governor Cuomo signed in January 2017 requiring all New York State municipal entities to adopt salary history blind hiring. New York City law was enacted in October 2017, Albany County passed a bill in 2017, and a Westchester County bill will be voted on soon. ​In August 2016, Massachusetts became the first state to pass a law followed by California, Delaware, Oregon, Puerto Rico, Philadelphia, and San Francisco. Over 20 states are considering similar legislation. Business is also expanding its support with companies like Bank of America, American Express and Amazon adopting the salary history ban as a national hiring practice.

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. This legislation will help employers recruit and retain talent. Furthermore, employers will still be able to ask candidates about their salary requirements.

We believe **if you take action now, it will help move forward the state bill, protecting all New Yorkers from this discriminatory practice.**

Thank you for your consideration and we look forward to speaking with you soon about this issue which affects the women and families of our community.

Sincerely,

**SAMPLE LEGISLATION:**

**RESOLUTION in support of A.2040C/S.6737A: Below**

**EXECUTIVE ORDERS (covering public sector only):**

**New York State Executive Order:** <https://www.governor.ny.gov/news/icymi-governor-cuomo-signs-executive-orders-eliminate-wage-gap-and-further-new-york-s-efforts>

**New Jersey Executive Order:**<http://nj.gov/infobank/eo/056murphy/pdf/EO-1.pdf>

**NY SALARY HISTORY BAN LAWS:**

**Albany County NY – in effect 12/17/2017** <http://albanycounty.com/Libraries/County_Executive/20171030-PH-16-LL_P.sflb.ashx>

**New York City – in effect 10/31/2017**

<https://www1.nyc.gov/site/cchr/media/salary-history-frequently-asked-questions.page>

**Westchester County – under consideration** <http://westchestercountyny.iqm2.com/Citizens/Detail_LegiFile.aspx?ID=10093&highlightTerms=10093>

**RESOLUTION - DRAFT**

RESOLUTION

Urging the New York State Senate and Assembly to pass, and the Governor to sign, A.2040C/S.6737A which would ban salary history in hiring to help eliminate wage and opportunity inequity.

WHEREAS, Congress passed the landmark Equal Pay Act of 1963, unequivocally affirming that women deserve equal pay for equal work; and

WHEREAS, unequal pay on the basis of gender violates the law and the generally held beliefs regarding equality and fundamental fairness; and

WHEREAS, pay disparities exist in both the private and the public sectors and, in many instances, the pay disparities can only be due to continued intentional discrimination or the lingering effects of past discrimination; and

WHEREAS, a lifetime of lower pay means women have less income to save for retirement and less income counted in a Social Security or pension benefit formula; and

WHEREAS, nearly four in 10 mothers are primary breadwinners in their households, and nearly two-thirds are primary or significant earners, making pay equity critical to families’ economic security; and

WHEREAS, in New York the median annual earnings for the average full-time working woman is $46,208 while the annual pay for a full-time working white, non-Hispanic man is $52,124, equivalent to 89 cents for every dollar paid to men, a combined total of nearly $54 billion every year; and

WHEREAS, in New York the gender wage gap is significantly larger for women of color with Black women paid 66 cents, Latinas paid 56 cents and Asian women paid 82 cents for every dollar paid to white, non-Hispanic men; and

WHEREAS, in the \_\_\_# Congressional District, the overall gender wage gap is \_\_\_[find at <https://www.aauw.org/aauw_check/pdf_download/show_pdf.php?file=Gender_Pay_Gap_New_York> ] ; and

WHEREAS, the [Local report or Commission finding] reports that [statistic relevant to your locale]; and

WHEREAS, women at all levels of educational attainment suffer a wage gap which according to the American Association of University Women’s study *Graduating to a Wage Gap* finds women are paid an unexplained 7 percent less than their male peers were paid one year out of college, creating a gap which increases over time; and

WHEREAS, asking about salary history multiples wage inequity from job to job over a worker’s career and especially disadvantages those who have left the job market to take on family responsibilities, penalizing caregivers; and

WHEREAS, Governor Andrew Cuomo signed Executive Order 161 in January 2017 prohibiting New York State entities from evaluating prospective candidates based on prior wage history; and

WHEREAS, New York City enacted a salary history ban for private and public sector employers on October 31, 2017, and bans are in place in other states and cities, including Massachusetts, California, Oregon, Delaware, Puerto Rico, San Francisco and Albany County; and

WHEREAS, broad public support is expressed by over one hundred and fifty organizations statewide which signed a letter authored by A Better Balance and PowHer New York calling for the passage of A.2040C/S.6737A end the use of salary history in setting wages in the public and private sectors; and

WHEREAS, an increasing number of U.S, companies, including American Express, Bank of America, Amazon, and Google, have instituted this best hiring pay practice for their national workforce in a growing effort to end wage discrimination; and

WHEREAS unequal pay on the basis of gender threatens the economic security of the [your locale] and women and their families while the women are in the workforce and the retirement security of women after the women have left the workforce: Now, therefore, be it

Resolved, That the [your legislative entity]:

1) supports an end to pay discrimination based on gender and the strengthening of equal pay protections; and

2) supports and calls for the passage of NYS A.2040C/S.6737A to end the practice of using salary history to set future wages.

1. *Fact Sheet: New York 2017 Equal Pay Measures: Why We Need a Law Prohibiting Employers from Asking About Salary History*, A Better Balance and PowHer NY [↑](#footnote-ref-1)
2. *Id.* [↑](#footnote-ref-2)
3. *Id.* [↑](#footnote-ref-3)
4. *Id.* [↑](#footnote-ref-4)