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SALARY RANGE TRANSPARENCY REDUCES THE WAGE GAP

When an employer asks job applicants what their salary expectations are without providing applicants any information about the pay for the position, women lose out. Disclosing salary ranges levels the playing field in negotiations, and helps applicants and employees detect and remedy any unjustified pay disparities. Transparency around salary ranges also provides companies with an opportunity to proactively review and evaluate their compensation practices and address any unjustified disparities between employees.

Secrecy around salary ranges harms women

Studies show that women often ask for less when they negotiate than men.¹ This is true even when the women applicants are otherwise equally qualified and applying for similar jobs as their male counterparts.² 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.³ Given that women and people of color are typically paid less than white, non-Hispanic men in the same occupations, 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, to the job applicant's first request,⁴ providing applicants with a salary range that the employer is willing to pay helps level the negotiating playing field and reduces gender wage gaps.

Research shows that salary range transparency helps close wage gaps

Studies show that when job applicants are clearly informed about the context for negotiations, including the types of compensation, benefits, or conditions that are negotiable, or the typical pay for the position, women are more willing to negotiate, more successful in negotiating, and the gender wage gap narrows.⁵

The much narrower wage gap in the public sector – where agencies typically have transparent and public pay structures – is further evidence that greater pay transparency helps reduce wage disparities. Nationally, the gender-based wage gap for all full-time workers, based on median earnings, is 20 percent, but in the federal government, where pay rates are publicly available,⁶ the gender-based wage gap in 2012 was 13 percent.⁷

Too many employers are not transparent about salary ranges, but could

be and should be

Unfortunately, many employers, especially in the private sector, are not transparent about pay ranges for positions even though, according to a study by payscale.com, 85 percent of employers use pay ranges to structure compensation programs.⁸ Even if they don't have established pay ranges, all employers generally budget an amount for the position for which they are hiring. When employers hold all of the salary information, they are at a significant advantage in negotiating the lowest possible salary and women suffer most.

Employers also often contend that they need to ask job applicants for their salary history to not “waste time” interviewing someone who would not accept the position because the salary is too low. But employers can achieve the same efficiency goals—and more effectively—by providing job applicants the salary range for a position early in the hiring process without introducing information into the hiring process that is not necessarily an accurate indicator of a candidate's interest and perpetuates gender and racial wage gaps.⁹

States are leading the way on salary range requirements

Given the research demonstrating the effectiveness of transparency measures at lessening discriminatory wage disparities, a growing number of states have passed or proposed laws and adopted executive orders that take a step towards salary range transparency. In 2016, the Montana governor issued an executive order providing that state contractors must include salary ranges in employment listings.¹⁰ In 2017, **California** passed a bill requiring employers to provide a pay scale upon an applicant's reasonable request.¹¹

In 2019, **Colorado** became the first state to require employers to include in every job posting the actual hourly or salary compensation or range for the position and a description of benefits. The new law also requires an employer to make reasonable efforts to announce, post, or otherwise make known all opportunities for promotion to all current employees.¹²

Also in 2019, **Washington** amended its equal pay law to require employers with 15 or more employees to provide the minimum wage or salary for the position to job applicants who request it after the employer has offered them the position. The new law also requires an employer to provide the pay scale or salary range for a position to an employee offered an internal transfer to a new position, if the employee requests it. If no scale or range exists, the employer must provide the employee with the minimum salary expectation set by the employer prior to posting the position, making a position transfer, or making the promotion.¹³

In the 2020 state legislative sessions, states around the country from Massachusetts to South Carolina to Indiana are considering bills requiring salary range transparency.

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We all have much to gain from pay transparency. Transparency around salary ranges is crucial to leveling the playing field for negotiating pay and to ensuring that women are paid a fair salary based on what the job is worth. Pay transparency also promotes employee loyalty and productivity, which is good for employers' bottom line.¹⁴ All employers and working people should benefit from pay transparency measures, no matter where they live and work

1 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 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.

2 *Id.*

3 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>.

4 See Bourree Lam, *The Government Thinks that Interview Questions about Salary History are Holding Women Back*, *THE ATLANTIC* (Aug. 10, 2015), <http://www.theatlantic.com/business/archive/2015/08/hiring-interview-gender-gap-pay-salary-history-opm/400835/>; Todd J. Thorsteinson, *Initiating Salary Discussions with an Extreme Request: Anchoring Effects on Initial Salary Offers*, *JOURNAL OF APPLIED SOCIAL PSYCHOLOGY* (2011), available at <http://onlinelibrary.wiley.com/doi/10.1111/j.1559-1816.2011.00779.x/abstract>.

5 See, e.g., 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).

- 6 See, Pay & Leave, Salaries & Wages, OFFICE OF PERSONNEL MGMT. (2016), <http://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/>; Search Federal Pay, FEDS DATA CTR., <http://www.fedsdatacenter.com/federal-pay-rates/> (last visited Feb. 29, 2016).
- 7 U.S. OFFICE OF PERSONNEL MGMT, GOVERNMENTWIDE STRATEGY ON ADVANCING PAY EQUALITY IN THE FEDERAL GOVERNMENT 2,12 (Apr. 2014), <https://www.opm.gov/policy-data-oversight/pay-leave/reference-materials/reports/governmentwide-strategy-onadvancing-pay-equality-in-the-federal-government.pdf> (gender wage gap was 13 percent for all “white collar” workers (all pay plans) and 11 percent for workers on the GS scale only).
- 8 Payscale, ATTACK OF THE OUT-OF-DATE COMP PLAN 13 (2015), available at <http://resources.payscale.com/hr-2015-compensationpractices-report.html>.
- 9 NAT’L WOMEN’S LAW CTR., Asking for Salary History Perpetuates Pay Discrimination from Job to Job (Jan. 2020), <https://nwlc.org/resources/asking-for-salary-history-perpetuates-pay-discrimination-from-job-to-job/>.
- 10 Mont. Exec. Order No. 12-2016 (Aug. 1, 2016), available at <https://governor.mt.gov/Portals/16/docs/2016EOs/EO-12-2016%20Equal%20Pay%20for%20Montana%20Women.pdf>.
- 11 A.B. 168, 2017 Reg. Sess. (Cal. 2017) (amending CAL. LAB. CODE § 432 (West 2017)), available at https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=201720180AB168.
- 12 S.B. 19-085, 72nd Gen. Assemb. (Colo. 2019) (amending Colo. Rev. Stat. § 8-5 (2019)).
- 13 H.B. 1696, 66th Leg., 2019 Reg. Sess. (Wa. 2019) (amending RCW § 2 49.58 (2019)).
- 14 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-wage-equality-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/>.