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## TESTIMONY ON PAY EQUITY BEFORE THE NEW YORK CITY COMMISSION ON GENDER EQUITY, COMMISSION ON HUMAN RIGHTS, AND THE DEPARTMENT OF CONSUMER AND WORKER PROTECTION

### Submitted by Seher Khawaja, Senior Attorney, Economic Empowerment on behalf of Legal Momentum, The Women’s Legal Defense and Education Fund

Good evening and thank you for convening this critical panel on pay equity. We applaud your pioneering work to meaningfully tackle gender inequality in New York City; an approach that stands out as a national model.

My name is Seher Khawaja, I am a Senior Attorney at Legal Momentum, The Women’s Legal Defense and Education Fund where we use strategic policy advocacy, litigation, and education to secure access to equal opportunity for all women and girls.

Gender-based pay inequity remains prevalent in our workplaces, particularly for women of color and women doing low-wage work. Tonight my testimony will briefly highlight key contributors, progress made, existing challenges, and policy recommendations, all of which are discussed in greater detail in my written testimony.

### Contributors to Inequity

A host of interrelated factors contribute to the persistent wage gap.

**1. Gender and Racial Discrimination.** Black women in New York City earn a mere 57 cents for every dollar earned by a white non-Hispanic man.<sup>1</sup>

**2. Occupational Segregation.** In our city agencies, women disproportionately fill traditionally female dominated roles where the average salary is \$10,000 less.<sup>2</sup> Conversely, one of our recent clients in the private sector helped raise her employer’s diversity quotient when hired in a male-dominated field where women have had difficulty gaining experience. Yet, she was paid \$15,000 less than her male colleague for the same job because she allegedly had less experience.



**3. Pregnancy and Caregiving Penalties.** Women are more likely to experience workplace interruptions that negatively impact their earning potential or ability to work.<sup>3</sup> As a result, mothers are less likely to be hired, receive lower starting salaries, and are perceived as less competent.<sup>4</sup> One woman we assisted was forced to go on unpaid leave when placed on a medically necessary lifting restriction during her second trimester of pregnancy, which imposed a debilitating financial cost that could have been avoided with a reasonable accommodation.

## **Progress**

Where federal law has fallen short, the State and City have stepped up, working towards creating a much needed support structure—from pregnancy accommodations; protections against caregiver discrimination; paid parental leave, a more relaxed equal pay standard; and weakened employer defenses.<sup>5</sup> And in 2017, the City led the way to enact a salary history ban and the state followed suit this year.<sup>6</sup>

These reforms have had an impact. When one of our clients challenged a sizable pay differential, her employer advised her it was correctly based on her male colleague's higher prior salary. We invoked New York City's salary history ban, making clear that although the law was not yet in effect at the time, it reflected the future trajectory for pay equity. We promptly and successfully negotiated pay parity for our client.

## **Challenges & Recommendations**

Yet for many who call us seeking help, these protections are unknown or inaccessible.

Another one of our clients who requested paid family leave from her hospital employer well before her son was born, had still not received a determination months after his birth, until we intervened.

The protections we have all fought so hard for are thwarted if workers cannot reasonably obtain these benefits absent legal counsel.

- We need to engage in widespread worker outreach, meeting women in their communities through channels they trust.
- Employers must be educated about their obligations and be given guidance on implementing best practices, such as pay data collection and annual pay parity audits.
- The City must invest in outreach and training to place women in high-demand occupations with higher salaries.
- The City must invest in affordable quality childcare for low-wage workers, who experience the highest motherhood penalty.<sup>7</sup>
- Meanwhile we need to increase salaries in occupations where women already work, increase pay for low-wage workers, and eliminate the unjust tipped minimum wage.

- We must invest in a more equitable “comparable worth” system that correlates compensation to skill, education, and responsibilities.
- To drive pay transparency and fairness, the city must enact laws requiring employers report on pay data and diversity and disclose compensation or salary range when posting job openings.
- To eliminate exploitative industries, labor and anti-discrimination protections must apply consistently to all industries and job types.
- Women in low-wage work need stronger mechanisms to advocate for themselves and the City should continue to invest in emerging organizing models such as worker cooperatives, to help women secure better salaries and working conditions.
- Since poverty is gendered, we must also rethink our poverty measures to account for the specific ways in which poverty impacts women.

As we tackle pay inequity, we must take a multifaceted approach and do so with a focus on women of color and women in low-wage work. Thank you again for the opportunity to speak to this important issue.

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<sup>1</sup> Scott M. Stringer, N.Y.C. Comptroller's office, *Inside the Gender Wage Gap, Part 1: Earnings of Black Women in New York City* 3, 5 (Aug. 2018); <https://comptroller.nyc.gov/reports/gender-wage-gap/inside-the-gender-wage-gap/inside-the-gender-wage-gap-part-i-earnings-of-black-women-in-new-york-city/>.

<sup>2</sup> Leticia James, N.Y.C. Public Advocate's Office, *Policy and Investigative Report: Tipping the Scales, Wage and Hiring Inequity in New York City Agencies* 3 (March 2018).

<sup>3</sup> Francine D. Blau & Lawrence M. Khan, *The Gender Wage Gap: Extent, Trends, and Explanations*, *The Institute for the Study of Labor* 24 (Jan. 2016), <http://ftp.iza.org/dp9656.pdf>.

<sup>4</sup> Shelley J. Correll, Stephan Bernard, & In Paik, *Getting a Job: Is there a Motherhood Penalty*, *American Journal of Sociology* (Mar. 2007), [https://sociology.stanford.edu/sites/g/files/sbiybj9501/f/publications/getting\\_a\\_job\\_is\\_there\\_a\\_motherhood\\_penalty.pdf](https://sociology.stanford.edu/sites/g/files/sbiybj9501/f/publications/getting_a_job_is_there_a_motherhood_penalty.pdf).

<sup>5</sup> N.Y. Labor Law § 194.

<sup>6</sup> N.Y. Admin. Code § 8-107(25).

<sup>7</sup> Michelle J. Budig, *The Fatherhood Bonus and The Motherhood Penalty: Parenthood and the Gender Gap in Pay*, *Third Way & Next* 17, 20 (2012), [https://thirdway.imgix.net/downloads/the-fatherhood-bonus-and-the-motherhood-penalty-parenthood-and-the-gender-gap-in-pay/NEXT\\_-\\_Fatherhood\\_Motherhood.pdf](https://thirdway.imgix.net/downloads/the-fatherhood-bonus-and-the-motherhood-penalty-parenthood-and-the-gender-gap-in-pay/NEXT_-_Fatherhood_Motherhood.pdf).