



## **Pay Equity and Workplace Opportunity: A Simple Matter of Fairness**

The American Association of University Women has long fought to end wage discrimination. As early as 1922, AAUW's legislative program called for a reclassification of the U.S. Civil Service and for a repeal of salary restrictions in the Women's Bureau. In 1955, AAUW supported a bill introduced by Reps. Edith Green (D-OR) and Edith Rogers (R-MA) requiring "equal pay for work of comparable value requiring comparable skills." Congress enacted the Equal Pay Act,<sup>1</sup> a version of the 1955 bill, in 1963. AAUW's 2009-2011 Public Policy Program states that AAUW is committed to supporting "fairness in compensation, equitable access and advancement in employment, and vigorous enforcement of employment antidiscrimination statutes."<sup>2</sup>

AAUW's interest in this issue is reflective of women as a whole. Among issues identified as important to women, 90 percent say equal pay for equal work is a priority.<sup>3</sup> This is not surprising, since the wage gap is a pervasive issue affecting women in all walks of life, regardless of marital, familial or employment status. Further, surveys show that most business leaders consider pay equity "good business" and a step that is necessary to remain competitive.<sup>4</sup> Pay disparities are not limited to one career or to one demographic, and affect women of all ages, races, and education levels—regardless of their family decisions.

### **The Wage Gap Persists**

According to the U.S. Census Bureau and Bureau of Labor statistics, women who work full time earn about 77 cents for every dollar men earn.<sup>5</sup> Because of the wage gap, since 1960, the real median earnings of women have fallen short by more than half a million dollars compared to men.<sup>6</sup> Minority women face a larger wage gap. Compared to white men, African American women make 70 cents on the dollar (African American men make 74 cents); Hispanic or Latina women make about 60 cents (Hispanic men make almost 66 cents).<sup>7</sup>

The wage gap has real consequences. With a record 70.2 million women in the workforce,<sup>8</sup> wage discrimination hurts the majority of American families. Furthermore, women are increasingly the primary breadwinners in their households (22% in 2007, up from 4% in 1970).<sup>9</sup> In an economic recession with high unemployment in which more women than ever before are the sole or primary sources of household income, the wage gap is undermining families' economic security.

In addition, wage discrimination lowers total lifetime earnings, thereby reducing women's benefits from Social Security and pension plans and inhibiting their ability to save not only for retirement but for other lifetime goals such as buying a home and paying for a college education. New research calculates that the pay inequity shortfall in women's earnings is about \$210,000 over a 35-year working life.<sup>10</sup>

### **Origins of the Wage Gap**

One partial explanation for the wage gap is occupational segregation. According to AAUW research, women are still pigeonholed in “pink-collar” jobs that tend to depress their wages. In 2010, the U.S. civilian workforce included 139 million full- and part-time employed workers; 53 percent were men, and 47 percent were women. Almost 40 percent (39.7 percent) of working women were employed in traditionally female occupations such as social work, nursing, and teaching. In contrast, less than 5 percent (4.5 percent) of men worked in these jobs.<sup>11</sup>

A 12-state analysis based on data from the Department of Education found that women tend to be overwhelmingly clustered in low-wage, low-skill fields. For example, women constitute 98 percent of students in the cosmetology industry, 87 percent in the child care industry, and 86 percent in the health aide industry. In high-wage, high-skill fields, women fall well below the 25 percent threshold to qualify as a “nontraditional field.” For example, women account for 10 percent in the construction and repair industry, 9 percent of students in the automotive industry, 6 percent in the electrician industry, and 6 percent in the plumbing industry.<sup>12</sup>

Women’s achievements in higher education during the past three decades are considered to be partly responsible for narrowing the wage gap.<sup>13</sup> At every education level, however, women continue to earn less than similarly educated men. Educational gains have not yet translated into full equity for women in the workplace.

### **Education and the Wage Gap**

The impact of education levels on the wage gap is of particular importance to AAUW. Women with a college degree earn more than women without this credential. For example, on a weekly basis, women with a four-year college degree (not including those with advanced degrees) earned about 64 percent more than women with only a high school degree in 2009<sup>14</sup> Moreover, during the past two decades, this difference has grown. Men and women with college degrees enjoyed a real increase in the purchasing power of their earnings between 1973 and 2001. Women without these credentials saw little or no improvement, and men with a high school education or less saw a decline in the purchasing power of their earnings. Nevertheless, while women with a college education earn considerably more than women without this credential, women continue to earn less than men with similar educational backgrounds.<sup>15</sup>

While several measures of educational achievement show that on average women are faring as well as their male counterparts today, often these gains do not translate into comparable economic success beyond college. In 2008, college-educated women 25 and older earned 71 percent of what their male peers earned.<sup>16</sup> AAUW’s 2007 report, *Behind the Pay Gap*, controlled for factors known to affect earnings such as education and training, parenthood and hours worked, and found that college-educated women still earn five percent less than men one year out of college and 12 percent less than men 10 years out of college, even when they have the same major and occupation as their male counterparts.<sup>17</sup> These findings suggest that sex discrimination not only continues to be a problem in the workplace, but that it affects the incomes of even the most educated women and affects them immediately out of college.

## The Wage Gap Reflects Sex Discrimination

Wage inequalities are not simply a result of women's qualifications or choices. Wage discrimination persists despite women's increased educational attainment, greater level of experience in workforce, and decreased amount of time spent out of the workforce raising children, according to a study by the Government Accountability Office.<sup>18</sup>

- **Education.** Although the number of women attaining baccalaureate and advanced degrees now surpasses the number of men,<sup>19</sup> it has not translated into equal income. In 2009, a typical college-educated woman earned \$39,263 a year compared to \$57,714 for college-educated male workers — a difference of \$18,451.<sup>20</sup>
- **Experience.** The pay gap between college educated men and women appears within the first year after college—even when women are working full-time in the same fields as men with the same major —and continues to widen during the first ten years in the workforce.<sup>21</sup>
- **Child care.** Women spend more time in the workforce than ever before. In fact, 60 percent of women with children under the age of three and 77 percent of mothers with school-age children remain in the workforce. Time spent out of the workforce is not enough to account for the persistent wage gap that women experience.<sup>22</sup>

## Examples of Pay Inequity

According to the United States Census Bureau, women marketing and sales managers earned \$59,491 in 2009, compared with \$89,933 for men; women physicians and surgeons earned \$120,971, compared with \$190,726 for men; and women securities, commodities, and financial services sales agents earned \$52,524, compared to \$85,760 for their male counterparts.<sup>23</sup>

## Legislative Efforts to Close the Wage Gap

AAUW believes that equal pay for equal work is a simple matter of justice for women. Wage discrimination impacts the economic security of families today and directly affects retirement security as women look down the road. But despite the Equal Pay Act and many improvements in women's economic status over the past 48 years, wage discrimination still persists and is attributable in part to the Equal Pay Act's limited scope. Not only does it fail to cover wage discrimination based on race (although Title VII of the 1964 Civil Rights Act does), it also fails to provide equal pay for jobs that are comparable but not identical. Further, it excludes part-time or contingent workers, and does not allow groups of workers to file class action suits.

Although enforcement of the Equal Pay Act as well as other civil rights laws such as Title VII have helped to narrow the wage gap, significant disparities remain which need to be addressed. AAUW strongly supports initiatives that seek to close the persistent and sizable wage gaps between men and women, and minorities as well. To that end, AAUW supports legislation to promote pay equity.

In May 2007 the U.S. Supreme Court issued a decision in *Ledbetter v. Goodyear* that severely

limited the ability of victims of pay discrimination to seek remedies under Title VII. Under this new interpretation, employers were immunized from accountability for their discrimination once 180 days had passed. The *Ledbetter* decision reversed the Equal Employment Opportunity Commission's longstanding position that repeated payments of discriminatory paychecks can be challenged as long as one discriminatory payment occurred within the charge filing period the paycheck accrual rule. Fortunately the 110th Congress acted quickly, introducing legislation in both the Senate and House to correct the Supreme Court's misstep. It took a year to push this necessary legislation through both the House and Senate, and find a friendly administration to sign the bill into law. Thanks to AAUW and its members, that happened on January 29, 2009. The Lilly Ledbetter Fair Pay Act became law, restoring the long-standing interpretation of civil rights laws and EEOC policies that allow employees to challenge any discriminatory paycheck they receive.

There are other legislative measures that have been pending in Congress for several years that will address longstanding discriminatory practices that contribute to the gender-based wage gap. These bills have been AAUW priorities in the past and continue to be a focus of AAUW's advocacy in the 112th Congress. Key among them is the Paycheck Fairness Act (S. 797/H.R. 1519), which would expand upon the original scope of the Equal Pay Act. Passed by the House in January 2009 with a bipartisan majority, the Paycheck Fairness act was defeated in the Senate on a procedural vote in November 2010. The bill was reintroduced in the 112<sup>th</sup> Congress on April 12, 2011 in the same form that nearly succeeded previously. If passed, the Paycheck Fairness Act would:

- **Close a loophole in affirmative defenses for employers:** The legislation clarifies acceptable reasons for differences in pay by requiring employers to demonstrate that wage gaps between men and women doing the same work have a business justification and are truly a result of factors other than sex.
- **Fix the "Establishment" Requirement:** The bill would clarify the establishment provision under the Equal Pay Act, which would allow for reasonable comparisons between employees within clearly defined geographical areas to determine fair wages. This provision is based on a similar plan successfully used in the state of Illinois.
- **Prohibit Employer Retaliation:** The legislation would deter wage discrimination by prohibiting retaliation against workers who inquire about employers' wage practices or disclose their own wages (NOTE: employees with access to colleagues' wage information in the course of their work, such as human resources employees, may still be prohibited from sharing that information.) This non-retaliation provision would have been particularly helpful to Lilly Ledbetter, because Goodyear prohibited employees from discussing or sharing their wages. This policy delayed her discovery of the discrimination against her by more than a decade.
- **Improve Equal Pay Remedies:** The bill would deter wage discrimination by strengthening penalties for equal pay violations by providing women with a fair option to proceed in an



opt-out class action suit under the Equal Pay Act, and allowing women to receive punitive and compensatory damages for pay discrimination. The bill's measured approach levels the playing field by ensuring that women can obtain the same remedies as those subject to discrimination on the basis of race or national origin. . For this reason, AAUW would strongly oppose any efforts to cap damages.

- **Increase Training, Research and Education:** The legislation would authorize additional training for Equal Employment Opportunity Commission staff to better identify and handle wage disputes. It would also aid in the efficient and effective enforcement of federal anti-pay discrimination laws by requiring the EEOC to develop regulations directing employers to collect wage data, reported by the race, sex, and national origin of employees. The bill would also require the U.S. Department of Labor to reinstate activities that promote equal pay, such as: directing educational programs, providing technical assistance to employers, recognizing businesses that address the wage gap, and conducting and promoting research about pay disparities between men and women.
- **Establish Salary Negotiation Skills Training:** The bill would create a competitive grant program to develop salary negotiation training for women and girls.
- **Improve Collection of Pay Information:** The bill would also reinstate the Equal Opportunity Survey, to enable targeting of the Labor Department's enforcement efforts by requiring all federal contractors to submit data on employment practices such as hiring, promotions, terminations and pay. This survey was developed over two decades and three presidential administrations, was first used in 2000, but was rescinded by the Department of Labor in 2006.

The Fair Pay Act (S. 788/H.R. 1493) would prohibit wage discrimination based on sex, race and national origin by requiring employers to provide equal pay for work of equal value, whether or not the jobs are the same. This legislation specifically addresses equal pay for women working in female-dominated jobs equivalent in skills, effort, responsibility, and working conditions to jobs dominated by men. In addition, the Fair Pay Act would:

- Amend the Fair Labor Standards Act of 1938 to ban retaliation and require employers to file wage information annually with the EEOC.
- Require employers to provide equal pay for jobs that are comparable but not identical, positions that require the same or comparable education, skills, responsibilities and working conditions.
- Eliminate the "gag rule" on wage disclosure, thereby prohibiting employers from punishing employees who discuss their wages with a co-worker.
- Prohibit employers from reducing any employee's wages in order to comply with pay equity requirements.

- Require the EEOC to issue guidelines specifying criteria for determining whether a job is dominated by employees of a particular sex, race or national origin.
- Force employers with more than 25 employees to preserve records that document and support the method, system, calculation, and other bases used by the employer in establishing, adjusting and determining the wage rates paid to the employees of the employer.
- Require the EEOC to conduct studies and provide information to employers and the public with the goal of developing effective ways to correct the wage gap, as well as sponsor community informational and educational programs.

### **Improve and Advance Equal Opportunity**

In addition to legislative efforts, there is other critical work to be done to create an equal footing for women in the workplace. Some of these remedies can come from the executive branch via regulations, executive orders and enforcement efforts. This can occur through a number of administrative avenues including:

- Issuing guidance on the permissibility of gender-based affirmative action.
- Rescinding the recent Small Business Administration regulations that negatively impacted the Women's Procurement Program.
- Reinstating the Equal Opportunity Survey which would require all federal contractors to submit data on their employment practices such as hiring, promotions, terminations and pay. This data will result in better targeting of the Labor Department's enforcement efforts
- Ensure adequate enforcement of all civil rights laws through sufficient funding and staffing of the EEOC, the Office of Federal Contract Compliance Programs, and the various civil rights divisions. Going forward special attention in these entities needs to be given to strengthening the enforcement of laws prohibiting wage discrimination, as well as pregnancy and caregiving discrimination—two areas where claims are on the rise.
- Create an interagency civil rights task force to leverage resources, establish priorities, and ensure a coordinated approach for the federal government's equal opportunity efforts—both as an employer and a contract administrator.
- Convene an advisory group to help reinvigorate the Department of Labor's Women's Bureau, the only federal agency devoted to the concerns of women in the workplace. Critical steps include reviving the regional office structure, and reconsidering the staff

outsourcing plan initiated in 2006.

### Resources for Advocates

According to new data from the Bureau of Labor Statistics, in 2009 the ratio of women's and men's median annual earnings was 77 cents on the dollar for full-time year-round workers, down from 78 cents in 2007—a statistically significant change.<sup>24</sup> Congress has failed to pass legislation that would give women effective equal pay protections. In light of this development, join AAUW in telling Congress: “Keep the Change until Women Have Real Change.”

AAUW has “Keep the Change” and “I am the Face of Pay Equity” posters and lapel stickers available for use at AAUW events, meetings, programs, even protests. .

It is AAUW advocates across the county who speak their minds on issues important to them that truly advance AAUW's mission. Stay informed with updates on AAUW's work to support pay equity legislation and other issues by subscribing to AAUW's Action Network at [www.aauw.org/takeaction](http://www.aauw.org/takeaction). Make your voice heard in Washington and at home by using AAUW's Two-Minute Activist to urge your members of Congress to cosponsor and support these critical pieces of legislation and tell them to “Keep the Change until Women Have Real Change.” Attend town hall meetings for your members of Congress, or set up a meeting with your elected official's district office near you to urge their support. Write a letter to the editor of your local paper to educate and motivate other members of your community around the issue of pay equity. AAUW members can also subscribe to *Washington Update*, our free, weekly e-bulletin that offers an insider's view on the latest policy news, resources for advocates, and programming ideas.

AAUW's Pay Equity Resource Kit contains a variety of useful resources to help you take action on Equal Pay Day, April 12, and beyond. It includes information about state and federal legislation, and step-by-step suggestions to help you pursue pay equity projects. For more information, read AAUW's related position papers on retirement security and work-life balance, and AAUW's research, including *Behind the Pay Gap*. Download state-by-state wage gap data. You can find these and other resources on our website at [www.aauw.org/payequity](http://www.aauw.org/payequity).

### Conclusion

Many years of family-friendly legislation in action, including the Equal Pay Act, Family and Medical Leave Act, Pregnancy Discrimination Act, and policies such as flex time and telecommuting, have increased options to create a win-win situation for women and their employers—yet wage discrimination still persists. AAUW is engaged in grassroots action to educate the public about what they can do to address the wage gap. AAUW will continue to advocate within Congress and the administration to ensure that current equal pay laws are enforced, and to urge that appropriate measures to more thoroughly address the wage gap be passed.

For more information, call 202/785-7793 or e-mail [VoterEd@aauw.org](mailto:VoterEd@aauw.org).

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