



February 12, 2019

Congresswoman Suzanne Bonamici
Chair, Subcommittee on Civil Rights and Human
Services
Committee on Education and Labor
U.S. House of Representatives
Washington, D.C. 20515

Congressman James Comer
Ranking Member, Subcommittee on Civil Rights
and Human Services
Committee on Education and Labor
U.S. House of Representatives
Washington, D.C. 20515

Congresswoman Alma Adams
Chair, Subcommittee on Workforce Protections
Committee on Education and Labor
U.S. House of Representatives
Washington, D.C. 20515

Congressman Bradley Byrne
Ranking Member, Subcommittee on Workforce
Protections
Committee on Education and Labor
U.S. House of Representatives
Washington, D.C. 20515

Dear Chair Bonamici, Chair Adams, Ranking Member Comer, Ranking Member Byrne, and Members of the Subcommittees:

On behalf of the more than 170,000 bipartisan members and supporters of the American Association of University Women (AAUW), I would like to thank you for the opportunity to submit this letter in advance of the Subcommittees' hearing on "*Paycheck Fairness Act (H.R. 7): Equal Pay for Equal Work.*" Despite federal and state equal pay laws, gender pay gaps persist. The Paycheck Fairness Act¹ offers a much-needed update to the Equal Pay Act of 1963 by providing new tools to battle these pervasive pay gaps and to challenge discrimination. I applaud your examination of this important bill and urge the Subcommittees to support and seek its swift movement.

Introduction

The American Association of University Women has long fought to end wage discrimination. Starting as early as 1894, AAUW has conducted research into the gender pay gap.² By 1922, AAUW's legislative program called for a reclassification of the U.S. Civil Service and for a repeal of gender-based salary restrictions in the Women's Bureau of U.S. Department of Labor.³ In 1955, AAUW supported a bill championed by Reps. Edith Green (D-OR) and Edith Rogers (R-MA) and introduced by Edna Flannery Kelly (D-NY), providing "that there shall be equal pay for equal work for women" and requiring equal pay "for work of comparable character."⁴ Congress enacted a version of the 1955 bill in the 1963 Equal Pay Act—a law intended to close the wage gap.⁵

¹ Paycheck Fairness Act, H.R. 7, 116th Cong. (2019).

² *Gap and Gown: An AAUW Issue since 1894*, AAUW, <https://www.aauw.org/2012/10/16/gap-and-gown-an-aauw-issue-since-1894/> (last visited Feb. 12, 2019).

³ HISTORIC PRINCIPLES, 1881–2007, AMERICAN ASSOCIATION OF UNIVERSITY WOMEN (2007).

⁴ Women's Equal Pay Act, H.R. 281, 84th Congress (1955). *See also*, Legislative Notes, AAUW Archives, Washington, DC.

⁵ Equal Pay Act of 1963, Pub. L. No. 88-38, 77 Stat. 56 (codified as 29 U.S.C. § 206(d)).

As the Equal Pay Act celebrated its 55th anniversary last year, it has become clear that improvements are still necessary. Because of limited enforcement tools and inadequate remedies, the law has not been fully able to fulfill its promise. The Paycheck Fairness Act provides a much-needed update to the Equal Pay Act.

This bill, first introduced in 1997,⁶ passed the House of Representatives twice.⁷ In 2009, the House of Representatives overwhelmingly passed the Paycheck Fairness Act with bipartisan support. At that time, the bill failed to move forward on a procedural vote in the Senate, even though 58 senators -- a majority of the Senate -- also supported the bill. Momentum continues to build for this bill, with 240 original sponsors in the House and 46 in the Senate in the 116th Congress. This meaningful support demonstrates that Congress knows American families need fair pay.

And families cannot wait for equal pay because they increasingly rely on women's wages and economic participation. Women make up 47 percent of the civilian workforce,⁸ 64 percent of mothers are primary, sole, or co-breadwinners of their families,⁹ and women play a significant role in consumer purchasing through buying power and influence.¹⁰ Discriminatory paychecks that bring down women's yearly income not only hamper their short-term economic prospects—they also endanger their long-term economic security and that of their families. Equal pay for them means women, men, their families, and the economy are better off.

In this statement we will address the ongoing nature of the pay gap, some of its causes, and the need for swift passage of the Paycheck Fairness Act, in order to give women the tools they need to successfully challenge pay discrimination and to provide incentives to employers to comply with the law.

The Pay Gap Persists, Starts Early, and Widens Over Time

While the gap has narrowed since passage of the Equal Pay Act of 1963, progress has largely stalled in recent years. Data from the U.S. Census Bureau once again revealed that women working full-time, year-round are typically paid only 80 cents for every dollar paid to men.¹¹ The pay gaps have grown even wider for women of color. African American women and Latinas make, respectively, 61 and 53 cents on the dollar as compared to non-Hispanic, white men.¹² The overall pay gap has only decreased by a nickel during the 21st century and, unless action is taken, the pay gap between men's and women's earnings will not close until 2106.¹³

⁶ Paycheck Fairness Act, H.R. 2023, 105th Cong. (1997).

⁷ Paycheck Fairness Act, H.R. 110-783, 110th Cong. (2007) (passed House in 2008); Paycheck Fairness Act, H.R. 12, 111th Cong. (2009) (passed House in 2009).

⁸ BUREAU OF LABOR STATISTICS, U.S. DEP'T OF LABOR, LABOR FORCE STATISTICS FROM THE CURRENT POPULATION SURVEY: HOUSEHOLD DATA ANNUAL AVERAGES, 2. EMPLOYMENT STATUS OF THE CIVILIAN NONINSTITUTIONAL POPULATION 16 YEARS AND OVER BY SEX, 1978 TO DATE (Jan. 18, 2019) www.bls.gov/cps/cpsaat02.htm.

⁹ Sarah Jane Glynn, *Breadwinning Mothers Are Increasingly the U.S. Norm*, CENTER FOR AMERICAN PROGRESS (Dec. 19, 2016), www.americanprogress.org/issues/women/reports/2016/12/19/295203/breadwinning-mothers-are-increasingly-the-u-s-norm/.

¹⁰ See, e.g., Bridget Brennan, *Top 10 Things Everyone Should Know About Women Consumers*, FORBES, Jan. 21, 2015, <https://www.forbes.com/sites/bridgetbrennan/2015/01/21/top-10-things-everyone-should-know-about-women-consumers/#5e04613d6a8b>.

¹¹ See Kevin Miller & Deborah J. Vagins, *The Simple Truth about the Gender Pay Gap*, AMERICAN ASSOCIATION OF UNIVERSITY WOMEN (Fall 2018), at 5 <https://www.aauw.org/research/the-simple-truth-about-the-gender-pay-gap/>.

¹² *Id.* at 9.

¹³ *Id.* at 5.

Research indicates that the gender pay gap develops very early in women’s careers. In *Graduating to a Pay Gap: The Earnings of Women and Men One Year after College Graduation*, AAUW found that just one year after college graduation, women were paid 82 percent of what men were paid.¹⁴ Controlling for factors known to affect earnings, such as education and training, marital status, and hours worked, research finds that college-educated women still earn 7 percent less than men just one year out of college.¹⁵

Women with college degrees who work full time make, on average, 26 percent less than their male peers with college degree.¹⁶ It is important to note that this pay gap is larger than the overall pay gap for women; although women with degrees have higher earnings than women without degrees, men with degrees have even higher earnings. And even when women gain degrees in more lucrative majors and pursue higher-paying occupations, women still tend to be concentrated in lower-paying subfields and are paid less across fields, even with advanced degrees.¹⁷ Over time, the gap compounds and widens, impacting women’s social security and retirement.

Factors in the Wage Gap

The gap of 20 cents on the dollar between men and women working full-time and year-round is a statistical fact, though the overall pay gap summarizes a huge diversity of women and life circumstances. Factors such as race, class, sexual orientation, and disability mean different women have different opportunities and advantages. Once in the workforce, women and men again face gendered perceptions, expectations, and other biases.

Wage inequalities are not simply a result of women’s qualifications or choices. Wage discrimination persists despite women’s increased educational attainment or greater level of experience in the workforce, regardless of any time spent out of the workforce.¹⁸ We address some of the causes, factors, and contributors to the pay gap below.

Gender and Race Discrimination

It is critical to note that not all of the gender and race pay gaps can be explained by observable differences in college major, occupation, work hours, and time out of the workforce or other factors. Direct discrimination and bias against women in the workplace are also pernicious factors in these pay gaps.

As discussed above, after accounting for college major, occupation, economic sector, hours worked, months unemployed since graduation, GPA, type of undergraduate institution, institution selectivity, age, geographical region, and marital status, AAUW found a remaining 7 percent “unexplained” difference between the earnings of male and female college graduates one year after graduation. That

¹⁴ Christianne Corbett & Catherine Hill, *Graduating to a Pay Gap: The Earnings of Women and Men One Year after College Graduation*, AMERICAN ASSOCIATION OF UNIVERSITY WOMEN (Oct. 2012), <https://www.aauw.org/files/2013/02/graduating-to-a-pay-gap-the-earnings-of-women-and-men-one-year-after-college-graduation.pdf>.

¹⁵ *Id.*

¹⁶ Kevin Miller, *Deeper in Debt: Women and Student Loans*, AMERICAN ASSOCIATION OF UNIVERSITY WOMEN (May 2017), <https://www.aauw.org/research/deeper-in-debt/>.

¹⁷ Anthony P. Carnevale, Nicole Smith, & Artem Gulish, *Women Can't Win*, GEORGETOWN UNIVERSITY CENTER ON EDUCATION AND THE WORKFORCE, 4 (2018), https://1gyhoq479ufd3yna29x7ubjn-wpengine.netdna-ssl.com/wp-content/uploads/Women_FR_Web.pdf.

¹⁸ U.S. GENERAL ACCOUNTING OFFICE, WOMEN’S EARNINGS: WORK PATTERNS PARTIALLY EXPLAIN DIFFERENCE BETWEEN MEN’S AND WOMEN’S EARNINGS (Oct. 2003) <http://www.gao.gov/new.items/d0435.pdf>.

gap jumped to 12 percent 10 years after college graduation.¹⁹ Other researchers have reached similar conclusions about gender discrimination and the pay gap when controlling for certain factors. For instance, a study of medical researchers found an unexplained gap of 6 percent between comparable men and women in the field, and a recent study of the American workforce as a whole found an unexplained gap of 8 percent.²⁰

The intersectional impact of race and gender biases contributes to the overall gender pay gap. In other words, when closely examining the impact of race and gender (as well as other factors) on the pay of black men, black women, white men, and white women, it is clear that black women experience a large gap that cannot be attributed to other observable characteristics, such as occupation and education, or by race or gender separately.²¹ Black women's education and other labor force characteristics are now such that they would be expected to be paid more than black men if gender bias were not a factor. Yet they are still paid less.²² Women of different racial and ethnic backgrounds all have different experiences of discrimination, but biases based on race, gender, and the intersection of race and gender all contribute measurably to the overall gap.

Motherhood Penalty

Becoming a parent produces very different professional outcomes for women and men. Mothers working full time are paid 71 percent as much as fathers.²³ Many employers and industries still prioritize long, continuous, traditional work hours rather than flexible schedules, a preference that tends to put women who have primary caregiving responsibilities at a disadvantage.²⁴ In 2017, 71 percent of mothers of children under age 18 participated in the labor force, compared with 93 percent of fathers of children under age 18.²⁵

Many working mothers also encounter a “motherhood penalty,” which extends beyond any actual time out of the workforce. Experimental studies have documented that employers are less likely to hire mothers (including mothers who never left the workforce) than they are to hire women without children, and when employers do make an offer to a mother, they offer her a lower salary than they offer to other women.²⁶ Fathers, in contrast, do not suffer a penalty compared with other working men. Many fathers

¹⁹ Christianne Corbett & Catherine Hill, *Graduating to a Pay Gap: The earnings of women and men one year after college graduation*, AMERICAN ASSOCIATION OF UNIVERSITY WOMEN (Oct. 2012); Judy Goldberg Dey & Catherine Hill, *Behind the Pay Gap*, AMERICAN ASSOCIATION OF UNIVERSITY WOMEN EDUCATIONAL FOUNDATION (April 2007).

²⁰ Reshma Jaggi et al., *Gender Differences in the Salaries of Physician Researchers*, 307 J. OF THE AM. MED. ASS'N 22, 2410–17 (June 13, 2012); Francine D. Blau & Lawrence M. Kahn, *The Gender Wage Gap: Extent, Trends, and Explanations*, 55 J. OF ECON. LITERATURE 3, 789-865, 798 Fig. 2 (2017), <https://pubs.aeaweb.org/doi/pdfplus/10.1257/jel.20160995>.

²¹ Mark Paul, Hamilton Darrick, and William Darity, Jr., *Discriminatory penalties at the intersection of race and gender in the United States*, WASHINGTON CENTER FOR EQUITABLE GROWTH (Aug. 7 2018), <https://equitablegrowth.org/discriminatory-penalties-at-the-intersection-of-race-and-gender-in-the-united-states/>.

²² *Id.*

²³ *Motherhood Wage Gap for Mothers Overall: 2016 State Rankings*, NATIONAL WOMEN'S LAW CENTER (May 2018), <https://nwlc-ciw49tixgw51bab.stackpathdns.com/wp-content/uploads/2017/05/Motherhood-Wage-Gap-Overall-Table.pdf>

²⁴ Claudia Goldin, *A Grand Gender Convergence: Its Last Chapter*, 104 AM. ECON. REV. 4, 1091–119 (2014).

²⁵ Economic News Release, Bureau of Labor Statistics, U.S. Dep't of Labor, Employment Characteristics of Families News Release (April 19, 2018), <https://www.bls.gov/news.release/famee.htm>.

²⁶ Shelly J. Correll, Stephen Benard, & In Paik, *Getting A Job: Is There a Motherhood Penalty?*, 112 AM. J. OF SOC. 5 1297–1338 (2007); Tamar Kricheli-Katz, *Choice, Discrimination, and the Motherhood Penalty*. 46 LAW AND SOC'Y REV. 3, 557–87 (2012).

actually receive higher wages after having a child, known as the “fatherhood bonus.”²⁷

The very different experiences of women and men who become parents are the result of gendered stereotypes and expectations; institutional systems built around a worker who is not a primary caretaker; and a lack of systemic supports for new parents in the United States.

Retaliation for Wage Disclosure

One significant reason the gender pay gap is closing so slowly is that pay disparities are notoriously difficult to detect. Generally, salaries are not public and because many employees have no way of knowing when they are shortchanged, it’s hard for them to contest pay discrimination on their own.

Furthermore, employees may face retaliation for inquiring about wages because some workplaces have punitive pay secrecy policies that punish or even fire employees for disclosing or inquiring about their own wages or the wages of a co-worker. Such punitive pay secrecy policies make it difficult for workers to remedy wage disparities because they cannot find out if they’re being paid less.

In 2011, a national survey by the Institute for Women’s Policy Research (IWPR) found that about half of employees said they worked in a setting where managers either formally prohibited or discouraged discussions of wages and salaries.²⁸ According to IWPR, pay secrecy was particularly common in the private sector, where 61 percent of employees are either discouraged or prohibited from discussing wage and salary information.

In recognition of this problem, President Obama signed an executive order in 2014 banning retaliation for wage disclosure for federal contracting employers, reaching approximately 26 million workers. Moreover, there are limited protections under state laws and the federal National Labor Relations Act, and the EEOC recently issued guidance describing when employers’ retaliation for employees’ wage disclosure or inquiries may violate the Civil Rights Act of 1964.

These protections, however, do not reach all employees and circumstances, and that is why it is so important for there to be uniform federal protections, like the Paycheck Fairness Act.

Use of Prior Salary History

The practice of using past salaries to set current wages perpetuates the gender pay gap because it assumes that prior salaries were fairly established by previous employers. Relying on salary history allows a new employer to continue underpaying a woman who faced a pay gap and lost wages due to bias or discrimination at a previous job. Salary history questions can also introduce bias and discrimination into the recruitment process of a company that may be attempting to avoid it.

Employers should not use salary history to set wages, but should instead use market research to determine what the position is worth to the organization, pegged to the duties of the job. If a woman starts her career with a pay gap tainted by prior discrimination, it’s likely to follow her from job to job perpetuating the wage gap.

²⁷ Alexandra Killewald, *A Reconsideration of the Fatherhood Premium: Marriage, Coresidence, Biology, and Fathers’ Wages*, 78 Am. Soc. Rev. 1, 96–116 (2013); Michelle J. Budig, *The Fatherhood Bonus and the Motherhood Penalty: Parenthood and the Gender Gap in Pay*, THIRD WAY (Sept. 2, 2014).

²⁸ Ariane Hegewisch, Claudia Williams, & Robert Drago, *Pay Secrecy and Wage Discrimination*, INSTITUTE FOR WOMEN’S POLICY RESEARCH (June 9, 2011), <https://iwpr.org/publications/pay-secrecy-and-wage-discrimination>.

Occupational Segregation

Finally, segregation by occupation is a major factor behind the pay gap. In 2017, the U.S. civilian workforce included 160 million full- and part-time employed workers. Of these, 53 percent were men, and 47 percent were women.²⁹ But women and men tend to work in different kinds of jobs. Women are disproportionately represented in education, office and administrative support, and health care occupations. Men are disproportionately represented in construction, maintenance and repair, and production and transportation occupations.³⁰ Even though a pay gap exists within nearly every occupational field, jobs traditionally associated with men tend to pay better than traditionally female-dominated jobs that require the same level of skill.³¹

Women are not drawn to low-paying fields because they desire low pay, and no one wants to be paid less for doing the same job. The work that women do is valued less than work done by men because that work is done by women.

Working in traditionally male fields will likely improve wages for individual women, but, as discussed above, it is unlikely to eliminate the pay gap. Women in such male-dominated jobs as computer programming still face a pay gap compared with men in the field, even though women in such jobs may be paid higher salaries than women in traditionally female fields.³²

The Paycheck Fairness Act: The Next Step in Closing the Wage Gap

We have learned a lot about how discrimination operates in the workplaces since the Equal Pay Act of 1963 was enacted. The Paycheck Fairness Act would update and strengthen this law to ensure that it provides effective protection against sex-based pay discrimination in today's workplace by addressing many of the factors discussed in this statement. The bill takes several important steps, including:

- **Ensures Non-Retaliation:** The bill prohibits retaliation against workers for discussing or disclosing wages, while also protecting certain confidential wage information.³³ It's difficult for workers to learn how their pay compares with fellow employees; indeed, many employers prohibit employees from discussing their salaries. Without the non-retaliation provisions of the Paycheck Fairness Act, many women will continue to be silenced in the workplace—that is, prohibited from talking about wages with coworkers without the fear of being fired. This is

²⁹ BUREAU OF LABOR STATISTICS, U.S. DEP'T OF LABOR, LABOR FORCE STATISTICS FROM THE CURRENT POPULATION SURVEY: HOUSEHOLD DATA ANNUAL AVERAGES, 2. EMPLOYMENT STATUS OF THE CIVILIAN NONINSTITUTIONAL POPULATION 16 YEARS AND OVER BY SEX, 1978 TO DATE (Jan. 18, 2019), www.bls.gov/cps/cpsaat02.htm.

³⁰ BUREAU OF LABOR STATISTICS, U.S. DEP'T OF LABOR, LABOR FORCE STATISTICS FROM THE CURRENT POPULATION SURVEY: HOUSEHOLD DATA ANNUAL AVERAGES, 39. MEDIAN WEEKLY EARNINGS OF FULL-TIME WAGE AND SALARY WORKERS BY DETAILED OCCUPATION AND SEX (Jan. 18, 2019), www.bls.gov/cps/cpsaat39.htm.

³¹ Ariane Hegewisch & Heidi Hartmann, *Occupational Segregation and the Gender Wage Gap: A Job Half Done*, INSTITUTE FOR WOMEN'S POLICY RESEARCH (Jan. 23, 2014), <https://iwpr.org/publications/occupational-segregation-and-the-gender-wage-gap-a-job-half-done/>.

³² And moving into a higher-paying field can have diminishing returns for women over time. A study of 50 years of U.S. workforce data concluded that when an influx of women enters a previously male-dominated profession, average wages for the occupation as a whole actually decrease, even for men in the field. See Asaf Levanon, Paula England, & Paul Allison, *Occupational Feminization and Pay: Assessing Causal Dynamics Using 1950–2000 U.S. Census Data*, 88 Soc. Forces 2, 865–91 (Dec. 2009).

³³ Many states have passed laws banning retaliation or discrimination against workers who disclose or discuss their salaries. In total, 18 states and D.C. have established these protections. AAUW *Policy Guide to Equal Pay in the States*, AMERICAN ASSOCIATION OF UNIVERSITY WOMEN (2018), <https://www.aauw.org/resource/state-equal-pay-laws/>. Federal action, like the Paycheck Fairness Act is needed, however, to ensure that women nationwide receive these same protections.

exactly what happened to Lilly Ledbetter – because Goodyear prohibited employees from discussing or sharing their wages, she did not know of the discrimination against her until long after it began. Allowing workers to discuss their salaries without fear of losing their jobs will help women to know whether or not they’re being treated equally.

- **Prohibits Use of Prior Salary History:** The bill prohibits employers from relying on salary history in determining future pay, so that prior pay discrimination doesn’t follow workers from job to job. If a worker faced a pay gap (and thus lost wages) at one job – perhaps because of earlier discrimination – basing their next job’s salary on the one prior only continues that pay gap. Relying on salary history to set future salary assumes that prior salaries were fairly established. Even a well-meaning employer could be carrying forward a salary that had previously been tainted with discrimination. A worker should be compensated based on what their skills and the job in question are worth to the new company, rather than based on a different job she did in the past.
- **Ensures Job-Relatedness:** The bill clarifies acceptable defenses that can be asserted for differences in pay between men and women. Current law allows an employer to defend a difference in pay between men and women if they assert that the difference is based on “any factor other than sex.” Courts have interpreted “any factor other than sex” reason so broadly that it now embraces many factors that can be derived from sex-based factors. The PFA closes loopholes in the current law by affirmatively requiring that pay gaps between men and women be based on something other than their sex, which is justified by a business necessity and is related to the job.
- **Equalizes Remedies:** The bill ensures women can receive the same robust remedies for sex-based pay discrimination that are currently available to those subjected to discrimination based on race and ethnicity. The bill helps level the playing field by ensuring that women are compensated fairly when they have been discriminated against and can obtain the same robust remedies for sex-based pay discrimination that are currently available under other civil rights statutes. Under current law, winning an Equal Pay Act suit only provides for back pay plus an equal amount in liquidated damages. These limited remedies are often inadequate to compensate plaintiffs who have experienced sex discrimination, and can be viewed by employers simply as the cost of doing business, rather than a deterrent to future discrimination in the workplace. Allowing individuals to recover the full amount of their injuries, as they can in race discrimination cases, strengthens the penalties that courts may impose for sex-based equal pay violations and provides a much stronger deterrent effect.
- **Helps Challenge Systemic Discrimination:** The Equal Pay Act, adopted prior to the current federal class action rule, requires plaintiffs to opt-in to a collective action suit. This rule has excluded women who may not be aware initially that they have a claim, or women who may be aware that they have a claim, but may be afraid that they will be subjected to retaliation in the workplace if they affirmatively opt in. The PFA would allow Equal Pay Act lawsuits to proceed as opt-out class actions under the Federal Rules of Civil Procedure as other civil rights statutes permit. This change would also make it easier for women to band together to challenge systemic discrimination.

- **Clarifies Comparable Establishments:** The PFA would eliminate artificial geographic limits, allowing a woman to reasonably compare her salary to male colleagues with the same employer, so long as the facilities are in similar geographic regions. Current law forbids unequal pay within the same “establishment,” which some courts have interpreted narrowly to mean that employers are barred only from paying unequal wages to employees within the same physical location. This interpretation unfairly limits employees’ ability to bring cases under the Equal Pay Act. In many cases, particularly in the case of managers or supervisors, there are no similarly situated employees of the opposite sex at the same physical place of business, but there are within the same county or similar political subdivision within the state.
- **Provides for Data Collection and Additional Assistance and Resources for Businesses:** The bill also provides technical assistance to businesses, requires wage data collection, and supports salary negotiation skills training programs to give women the tools to advocate for higher wages. The provisions include:
 - authorizing additional training for EEOC staff to better identify and handle wage disputes and requiring the EEOC and U.S. Department of Labor to collect pay and other employment related data.³⁴
 - providing important business-related provisions, including:
 - an exemption for small businesses;
 - a six month waiting period from the time of enactment that allows businesses covered under the Act sufficient time to comply with its requirements;
 - a requirement that the Department of Labor help educate small businesses about what is required under the law and assist them with compliance;
 - recognition for employers’ excellence in their pay practices;
 - federal outreach and assistance to all businesses to help improve equal pay practices; and
 - support for salary negotiation skills training programs to give women the tools to advocate for higher wages.³⁵

Impact of Equalizing Pay

The gender pay gap has lifelong financial effects. While in the workforce, and even after women leave the workforce, the pay gap follows them. Employers’ using women’s salary history to set their wages in new jobs means wage discrimination can carry forward from job to job, compounding over time. And because women typically are paid less than men during working years, women receive less income from Social Security, pensions, and other sources when they retire than men do.³⁶ Other benefits, such as

³⁴ In 2016, the EEOC announced a new pay data collection, which would have begun collecting critical wage data based on sex, race, and ethnicity from private employers and federal contractors with 100 or more employees. This data collection could help the EEOC better identify wage discrimination and encourage voluntary compliance by companies. The Trump administration halted this collection, and while we urge the administration to reinstate this critical collection, the Paycheck Fairness Act would codify a pay data collection.

³⁵ While no one can negotiate around discrimination, learning how to effectively negotiate for higher salary and benefits is a great tool when navigating one’s own career. AAUW offers Salary Negotiation Program to teach women skills and resources to negotiate for fair and equitable salaries and benefits. For more information, see SALARY, AMERICAN ASSOCIATION FOR UNIVERSITY WOMEN, <https://salary.aauw.org/> (last visited Feb. 12, 2019).

³⁶ Jocelyn Fischer, & Jeff Hayes, *The Importance of Social Security in the Incomes of Older Americans: Differences by Gender, Age, Race/Ethnicity, and Marital Status*, INSTITUTE FOR WOMEN’S POLICY RESEARCH (Aug. 14, 2013), <https://iwpr.org/publications/the-importance-of-social-security-in-the-incomes-of-older-americans-differences-by-gender-age-raceethnicity-and-marital-status/>.

disability and life insurance, are also smaller for women because these benefits usually are based on earnings.

And ultimately, pay inequity contributes directly to women's poverty. In 2017, 13 percent of American women ages 18–64 were living below the federal poverty level, compared with 9 percent of men. For ages 65 and older, 11 percent of women and 8 percent of men were living in poverty.³⁷

The impact of the pay gap has also broadened in recent years as a result of changes in family structure. Between 1967 and 2015, the proportion of mothers working outside the home and contributing at least a quarter of the family's earnings rose from less than a third (28 percent) to nearly two-thirds (64 percent). As families increasingly rely on women's wages, the gender pay gap directly affects more men and children as well. In 2015, 42 percent of mothers with children under the age of 18 were their families' primary or sole breadwinners.³⁸ That figure jumps to 64 percent of mothers when including primary, sole, and co-breadwinners.³⁹

Ensuring that women have equal pay would have a dramatic impact on families and the economy. According to a 2017 report from IWPR, the poverty rate for all working women would be cut in half, falling from 8 percent to 3.8 percent if women were paid the same as comparable men.⁴⁰ The same study by IWPR indicates that the U.S. economy would have produced an additional \$512.6 billion in income if women had received equal pay for equal work.⁴¹

Business Support

Understanding these benefits and the power of women's increased economic participation, some companies across the country are leading the way to ensure their employees receive equal pay for equal work by removing barriers that result in pay discrimination. A more open approach can foster the perception that compensation is handled fairly, thereby improving employee morale.⁴²

Starbucks, for example, has banned retaliation against employees for asking about or discussing wages, as would be required by the Paycheck Fairness Act. Starbucks has also committed to providing a position's pay range upon a candidate's request, as well as using a pay calculator to objectively determine starting pay ranges.⁴³ With these and other best practices in place, Starbucks announced in March of 2018 that it achieved 100 percent pay equity in the United States.⁴⁴

³⁷ KAYLA FONTENOT, JESSICA SEMEGA, & MELISSA KOLLAR, U.S. CENSUS BUREAU, U.S. DEP'T OF COMM., INCOME AND POVERTY IN THE UNITED STATES: 2017 (Sep. 12, 2018), <https://www.census.gov/library/publications/2018/demo/p60-263.html>.

³⁸ Sarah Jane Glynn, *Breadwinning Mothers Are Increasingly the U.S. Norm*, CENTER FOR AMERICAN PROGRESS (Dec. 19, 2016), www.americanprogress.org/issues/women/reports/2016/12/19/295203/breadwinning-mothers-are-increasingly-the-u-s-norm/.

³⁹ *Id.*

⁴⁰ Jessica Milli *et al.*, *The Impact of Equal Pay on Poverty and the Economy*, INSTITUTE FOR WOMEN'S POLICY RESEARCH (April 2017), <https://iwpr.org/wp-content/uploads/2017/04/C455.pdf>.

⁴¹ *Id.*

⁴² *New Payscale Study Reveals Employees' Perceptions About Pay Fairness and Transparency are Five Times More Impactful on Engagement Than Actual Compensation*, PAYSCALE, (Nov. 7, 2017), <https://www.payscale.com/about/press-releases/new-payscale-study-reveals-employees-perceptions-pay-fairness-transparency-five-times-impactful-engagement-actual-compensation>.

⁴³ *History of Partner Benefits at Starbucks*, STARBUCKS (July 2016), <https://stories.starbucks.com/press/2016/starbucks-history-of-partner-benefits/>.

⁴⁴ Press Release, Starbucks, Starbucks announces 100 percent gender, racial pay equity for U.S. partners, sets global commitment (March 21, 2018), <https://news.starbucks.com/news/starbucks-pay-equity-for-partners>.

Several companies have begun proactively banning salary history inquiries in an effort to reduce pay discrimination. In September 2016, Staples eliminated salary inquiries during its application processes.⁴⁵ Amazon instituted a similar policy in January 2017, banning its hiring managers and recruiters from asking prospective US employees about their salary histories.⁴⁶ Zillow also removed salary history questions from pre-screen conversations with potential candidates.⁴⁷ These employment policies are directly aligned with the Paycheck Fairness Act's provision banning employers from relying on salary history in determining future pay, so that prior pay discrimination doesn't follow workers from job to job.

At the urging of activist investors, many companies have also recently agreed to analyze or disclose pay data. For example, after a gender pay shareholder proposal from the investment management firm Arjuna Capital, Citigroup publicly released the results of its pay equity review in 2018 covering a third of its global workforce. The bank found an average pay gap of 1 percent after accounting for factors like job and geography, and adjusted salaries where there were gaps.⁴⁸ In 2019, Citigroup conducted a more comprehensive review, covering its entire workforce and providing the raw pay gap, not accounting for the aforementioned factors. This review found a 29 percent gap between the median pay for women and the median for men.⁴⁹

When businesses do not play by the rules, they make it harder on those companies trying to pay employees fairly. That is why the Paycheck Fairness Act has been supported by business groups like the U.S. Women's Chamber of Commerce and the Main Street Alliance, which represents small business owners.⁵⁰

Conclusion

The pay gap is persistent and can only be addressed if women are armed with the tools necessary to challenge discrimination against them and employers are provided with effective incentives and technical assistance to comply with the law. The Paycheck Fairness Act (H.R. 7) brings the Equal Pay Act's principles and practices in line with the nation's other civil rights laws and is an important and reasonable approach in the effort to finally close the wage gap in the workplace. Families need to bring home every dollar they rightfully earn. Pay equity is necessary not only to families' economic security, but also to the nation's economy. This Congress has the historic opportunity to change the lives of women and families all across America.

I want to thank the Subcommittees for holding this important hearing on the Paycheck Fairness Act and hope the bill will move quickly through Committee. I also urge you to take a critical step towards pay equity by calling for swift floor action and passage of the Paycheck Fairness Act. Cosponsorship and

⁴⁵ Press Release, Staples, On Women's Equality Day, Staples Shows Commitment to Ending Gender Wage Gap (Aug. 26, 2016) <https://www.businesswire.com/news/home/20160826005329/en/Women%E2%80%99s-Equality-Day-Staples-Shows-Commitment-Gender>.

⁴⁶ Caroline O'Donovan, *Amazon Won't Ask Prospective Hires for Salary History Anymore*, BUZZFEEDNEWS, Jan. 17 2018, <https://www.buzzfeednews.com/article/carolineodonovan/amazon-wont-ask-prospective-hires-for-salary-history-anymore#.vr379qbM7/>.

⁴⁷ Spencer Rascoff, *Want to Further Gender Equality at Work? Do These 3 Things*, INC., April 2018, <https://www.inc.com/spencer-rascoff/want-to-further-gender-equality-at-work-do-these-3-things.html>.

⁴⁸ Michael Murray, *Pay Equity at Citi*, CITIGROUP, Jan. 15, 2019, <https://blog.citigroup.com/2018/01/pay-equity-at-citi>.

⁴⁹ Sara Wechter, *Global Pay Equity at Citi*, CITIGROUP, Jan. 16, 2019, <https://blog.citigroup.com/2019/01/global-pay-equity-at-citi>.

⁵⁰ Coalition Letter in Support of the Paycheck Fairness Act (January 2019), <https://www.aauw.org/files/2019/01/letter-to-house-supporting-the-paycheck-fairness-act-nsa.pdf>.

votes associated with this bill may be scored in the AAUW Action Fund *Congressional Voting Record for the 116th Congress*. Please do not hesitate to contact me at 202/785-7720 or Anne Hedgepeth, Director of Federal Policy, at 202/785-7724, if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Deborah J. Vagins". The signature is written in a cursive style with a long, sweeping underline.

Deborah J. Vagins
Senior Vice President, Public Policy and Research