

Vote in Favor of the DeLauro/Frankel/Scott (#29) Amendment to Preserve Funding for EEOC Implementation of the Revised EEO-1 in the FY 2018 Commerce, Justice, Science Appropriations Bill

September 7, 2017

Dear Representative:

As organizations committed to equal pay and equal opportunity in the workplace, we write to urge you in the strongest possible terms to vote in favor of an amendment proposed by Representatives DeLauro, Frankel, and Scott to the FY 2018 Commerce, Justice, Science (CJS) appropriations bill (#29). This amendment would preserve the ability of the Equal Employment Opportunity Commission (EEOC) to use appropriated funds to collect information from employers related to employees' earnings and hours worked, as part of the EEOC's efforts to enforce protections against unlawful employment discrimination.

Equal pay is under attack. For over 50 years, companies have used the Employer Information Report (EEO-1) to provide the EEOC with important employee demographic information as to sex, race, and ethnicity, by job category. In 2016, after an extensive, multiyear intragovernmental inquiry and multiple public comment periods to determine the most effective and least burdensome means to collect information about employee compensation, the EEO-1 form was updated to require large private employers and federal contractors to report information on what they pay employees in each job category by sex, race, and ethnicity, beginning in March 2018. This equal pay data collection would provide a critical tool to identify pay discrimination, improve enforcement of pay discrimination laws, and increase voluntary employer compliance with those laws.

The equal pay data collection is based on years of careful analysis and study by the Department of Labor and the EEOC. Nevertheless, in July, the Appropriations Committee Republican majority voted in favor of an amendment to the FY 2018 CJS appropriations bill, introduced by Representative Harris, to defund efforts by the EEOC to collect information related to employees' earnings and hours worked via the EEO-1 form.

Last week, the Trump Administration's Office of Management and Budget (OMB) also targeted the effort, staying the EEO-1 equal pay data collection, subject to an indefinite "review" that has no timeline or defined process. In contrast to the transparent process engaging all stakeholders by which the EEO-1 equal pay data collection was adopted and approved, OMB provided no opportunity for public input on the stay and offered no concrete recommendations for next steps or alternatives to address its identified concerns. OMB issued the stay in response to petitions by corporate interests, but when equal pay advocates asked to meet with OMB to provide input on this matter, our requests were ignored.

These efforts by Republican members of the Appropriations Committee and the Trump Administration seek to turn back the clock on gender, racial, and ethnic equity in the workplace and threaten decades of efforts to better identify and end pay discrimination. In its announcement staying the equal pay data collection, however, OMB instructed the EEOC to submit a new proposal and justification for information collection by through the EEO-1 for OMB to review. Thus, it now falls to the EEOC to address OMB's expressed concerns and identify a constructive path forward for equal pay enforcement. The DeLauro/Frankel/Scott amendment would strike the broad Harris amendment language defunding collection of data related to employee compensation via the EEO-1, and ensure that the EEOC is not inappropriately restricted from pursuing critically important efforts to address pay discrimination in the workplace.

Pay discrimination is real and drives race and gender wage gaps. Women working full time, year round typically are paid only 80 percent of the median annual wages paid to men working full time, year round. The wage gap is even worse when looking specifically at women of color: African American women and Latinas typically are paid only 63 percent and 54 percent, respectively, and Native American women are paid only 58 percent, of the wages white, non-Hispanic men typically are paid for full-time, year-round work. While Asian American and Pacific Islander (AAPI) women are cited as making 85 cents for every dollar paid to white, non-Hispanic men, AAPI subgroups experience drastically wider pay gaps. For instance, Southeast Asian and Pacific Islander women have some of the widest wage gaps compared to other communities of color, with Bhutanese women making as little as 38 cents for every dollar paid to white, non-Hispanic men. Women are still paid less than men in nearly every occupation, and studies show that even controlling for race, region, unionization status, education, experience, occupation, and industry leaves as much as 38 percent of the pay gap unexplained.¹

Men of color also face a wage gap compared to white, non-Hispanic men. For every dollar paid to white, non-Hispanic men, African American men make 72 cents and Hispanic men are paid 62 cents.

Gender and racial stereotypes—which are often subconscious—continue to influence pay decisions. For example, in a 2012 study, science professors who were given otherwise identical applications for a lab manager position proposed an average starting salary of \$30,200 when the applicant was named John, compared to \$26,500 when the applicant was named Jennifer.² Yet pay discrimination remains difficult to detect. An individual can be paid less than a counterpart doing the same job for many years without knowing it, as pay is often cloaked in secrecy; indeed, according to the best available data, about 60 percent of workers in the private sector are either contractually forbidden or strongly discouraged from discussing their pay with their

¹ Blau, F. D. & Kahn, L.M, *The Gender Wage Gap: Extent, Trends and Explanations*, NAT'L BUREAU OF ECONOMIC RESEARCH (Jan. 2016), available at <http://www.nber.org/papers/w21913.pdf>.

² Moss-Racusin, C.A. et al., *Science faculty's subtle gender biases favor male students*, PROCEEDINGS OF THE NAT'L ACADEMY SCI. OF THE UNITED STATES OF AMERICA (Aug. 2012), available at <http://www.pnas.org/content/109/41/16474.abstract#aff-1>.

colleagues.³ As a result, discriminatory pay will often not be obvious to an affected employee and can thus continue unchallenged for many years.

Voting to preserve the ability of the EEOC to collect compensation information is a vote for equal pay.

The EEOC must retain the ability to collect information related to employee compensation, as collection of pay data provides an opportunity and strong incentive for employers to proactively self-evaluate their pay practices and not only correct unjustified pay disparities, but prevent them from occurring in the first place. Collecting pay data will also allow the EEOC to see which employers have racial or gender pay gaps that differ significantly from the pay patterns from other employers in their industry and region, and investigate pay discrimination more efficiently and effectively as a result. The EEOC must retain the ability to move forward in this important work.

Women and people of color cannot afford to keep waiting for change; nor can the families depending on their earnings. Race and gender pay gaps have shortchanged too many for far too long. Please vote in favor of the DeLauro/Frankel/Scott amendment, which will preserve the ability of the EEOC to continue to make meaningful progress on equal pay.

Sincerely,

American Association of University Women

American Civil Liberties Union

Center for American Progress

Equal Pay Today!

Equal Rights Advocates

The Leadership Conference on Civil and Human Rights

National Employment Law Project

National Partnership for Women & Families

National Women's Law Center

Women Employed

Women's Law Project

³ INST. FOR WOMEN'S POLICY RESEARCH, PAY SECRECY AND WAGE DISCRIMINATION (2014), *available at* http://www.iwpr.org/publications/pubs/pay-secrecy-and-wage-discrimination-1/at_download/file.