



WORKPLACE JUSTICE

REQUIRING TRANSPARENCY AROUND SALARY RANGES REDUCES THE GENDER 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.

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 Fortunately, 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.³

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.⁴ 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.

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,⁵ the gender-based wage gap in 2012 was 13 percent.⁶ Since employers tend to anchor salary negotiations, consciously or subconsciously, on the job applicant's first request, providing applicants with a salary range that the employer is willing to pay helps level the negotiating playing field and reduces gender wage gaps.

Given the research demonstrating the effectiveness of transparency measures at lessening discriminatory wage disparities, states are beginning to understand the importance of requiring transparency around salary ranges as a key tool in efforts to do away with the gender wage gap.

States are Leading the Way on Salary Range Requirements

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.⁷ In 2017, California passed a bill requiring that employers must provide a pay scale upon an applicant's reasonable request.⁸

In the 2018 state legislative session, states around the country are considering bills requiring salary range transparency. Legislators in Rhode Island introduced a bill that requires employers to provide job applicants with the wage range for the position for which the applicant is applying upon request, before inquiring about the job applicant's wage expectations, or before providing the



applicant with an offer of compensation, whichever comes first. It further requires employers to provide employees the wage range for the employee's job title and for comparable jobs upon hired, and thereafter annually and upon request.⁹

In South Carolina, legislators introduced a bill which requires an employer to provide a wage range for a position to a job applicant upon request.¹⁰

Colorado legislators proposed a bill requiring employers to disclose an hourly pay rate or salary range in all job listings, and then to select a salary from within that range when hiring – or the employer must republish each job listing with an adjusted range before selecting an hourly pay rate or salary for a prospective employee.¹¹

Maryland introduced a bill requiring employers to provide a pay scale for a position at the request of an applicant.¹²

And Arizona legislators have similarly introduced a bill requiring employers to provide a pay scale for a position at the reasonable request of an applicant.¹³

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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.

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2. *Id.*
3. 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).
4. Payscale, *ATTACK OF THE OUT-OF-DATE COMP PLAN 13* (2015), available at <http://resources.payscale.com/hr-2015-compensation-practices-report.html>.
5. 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).
6. 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-on-advancing-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).
7. 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>.
8. 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.
9. H. 7427, 2018 Gen. Assemb. (R.I. 2018) (amending R.I. GEN. LAWS § 28-6-17, 18, 19, 20, 21 (2018)), available at <http://webserver.rilin.state.ri.us/BillText/BillText18/HouseText18/H7427.pdf>.
10. H.B. 4856, 122nd Gen. Assemb. (S.C. 2018) (amending S.C. CODE ANN. § 1-13-80 (2018)), available at http://www.scstatehouse.gov/sess122_2017-2018/prever/4856_20180207.htm.
11. H.B. 1378, 71st Gen. Assemb. (Colo. 2018) (amending COLO. REV. STAT. § 8-5-101, 102, 103, 104, 105 (2018)), available at https://leg.colorado.gov/sites/default/files/documents/2018A/bills/2018a_1378_ren.pdf.
12. H.B. 512, 438th Leg. Sess. (Md. 2018) (amending MD. CODE ANN. § 3-304.2 (2018)), available at <http://mgaleg.maryland.gov/2018RS/bills/hb/hb0512f.pdf>.
13. S.B. 1242, 53rd Leg. Sess. (Ariz. 2018) (amending ARIZ. REV. STAT. § 23-206 (2018)), available at <https://legiscan.com/AZ/text/SB1242/id/1690408/Arizona-2018-SB1242-Introduced.html>.
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