

*Pay Transparency Measures
in the United States*

Research and Executive Summary by

Women's Fund of the Greater Cincinnati Foundation



WOMEN'S FUND
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Forward

At the Women's Fund, research is fundamental to our work. Before promoting any policy change or legislation, we ensure it will have the intended impact without any unintended consequences for individuals, employers or the community. Every policy recommendation, program or initiative we develop is grounded in our research.

Since 2017, gender and racial pay equity and wage gaps have been one of our key priority areas. We have researched the issue and potential solutions from many angles, including considering employer and government interventions. In recent years, there has been a growing national movement recognizing pay transparency as one strategic solution to address these disparities.

We developed this report to more thoroughly understand the impacts and arguments for and against pay transparency policies. Whether you are an employer, policymaker, community leader or wage earner, we hope the following information will provide a more complete picture of the impact of pay transparency, as well as provide actionable methods to increase transparency within your own spheres of influence.

About the Women's Fund

Through leadership, research and policy advocacy, the Women's Fund is designing a community where all women can participate, prosper and reach their full potential.

Our mission is to advance gender and racial equity for women by addressing systemic barriers to upward mobility. We focus on economic mobility, public benefits reform and civic engagement at a systems level.

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Overview and Background

Pay transparency is a broad term that describes the level of openness about wages, salaries and compensation of other employees or job openings. It ranges along a continuum from open pay (where employee names and pay levels are publicly available) to total secrecy. Many options lie in between; for example, publishing pay bands for different job classifications, providing pay ranges to job applicants, and publishing salary information with gender and race breakdowns.¹⁵ Heisler provides an excellent framework for thinking about transparency along a continuum from low to high transparency along multiple dimensions of wages/salaries (see Table 1 for an abbreviated version of his table).³³

Pay transparency is affected by legal mandates, explicit employer policies, and informal norms about disclosure of salary and compensation information. Typically, the salaries of public sector employees, executives in publicly traded corporations, and unionized employees are required to be made public. As a result, in these sectors pay transparency is high, whereas in the private sector, it is low.^{20, 29, 30, 33}

Currently, social and cultural forces are fostering a shift in attitudes about pay confidentiality. The desire for pay transparency is high; in a recent survey 79% of employees would like some transparency, and 32% desired total transparency. In fact, job applicants rate information about salary and compensation as the top information desired in job postings.³⁴ Indeed, 58% of workers would consider moving to a company that provides higher pay transparency (a percent that goes up to 70% among younger workers).²⁵

Gen Z and Millennials in particular view pay secrecy practices as antiquated and see discussions about compensation as one way to support career growth.¹⁹ Social media forums allow for the easy sharing of salary and workplace climate information. Leading-edge employers view pay transparency as a means both to retain the most valuable workers and to enhance their reputations as fair and equitable organizations.^{11, 33, 34} As a result, states, counties and cities across the U.S. have been responding to this trend with a wide variety of laws and ordinances promoting more transparency.²⁸

Justifications for Transparency vs. Confidentiality

There are several evidence-based rationales in favor of both pay transparency and keeping pay information confidential. Many of these arguments are supported by research, and are outlined below:

Arguments supporting Pay Transparency:

- Lowers gender and racial wage gaps.²⁵
- Leads to emphasis on productivity as the determinant for pay. Reduces favoritism and/or discrimination and lessens the impact of negotiation skills.⁹
- Increases accountability by preventing employers from maintaining wage inequities without protest from employees and the public.^{10, 33}
- Builds trust that the system is fair, and that merit goes to those who work hard (rather than those who bargain hardest). Increases engagement and productivity when employees understand how compensation is allocated and how they fit into the pay system.¹⁰
- Enhances the reputation of a company as fair and equitable, providing a competitive advantage.^{1, 4, 9, 33}
- Enhances employee bargaining power and ability to seek better employment.⁹ Has potential to improve the efficiency of the labor market overall (since employees are able to bargain with a full set of information).³³
- Addresses employees' desire for more knowledge about their value to the organization.²⁵
- Promotes compliance with state and federal wage and hour rules and exposes potential wage discrimination.⁹

Arguments supporting Pay Confidentiality:

- Preserves employee privacy.^{4, 10, 33}
- Helps avoid internal conflict, and envy/resentment.^{4, 9} Prevents dissatisfaction with the pay gap between upper management and employees.²⁵
- Potential for higher turnover and lower morale, productivity and job satisfaction among those paid less than average wages.^{7, 9, 25}
- Managers can more easily reward productivity with bonuses and salary increases. Helps avoid politicking and requests for pay adjustments.^{9, 33, 35}
- Potential for unintended consequences, such as salary compression or tying raises only to factors that are easily measured.^{9, 10, 35}

Justifications for Transparency vs. Confidentiality

- Maintains the employer's competitive advantage; other employers cannot use salary information to entice top talent away.^{4, 9, 23}
- Low wage workers may be negatively affected if corporations are rewarded for holding down wages or low wage work is contracted out.⁹
- Fear of a heavy administrative burden when changing to new pay transparency policies.²⁶

Workplace Impact of Pay Transparency

The most important question may well be ***what are the specific impacts of pay transparency on employees, employers and communities?*** The trend toward pay transparency has provided the opportunity to systematically study the effects of these new policies and laws in the U.S., Canada, and Europe. This research often relies on natural field studies and experiments after a corporation, city, state, or country change pay transparency practices. Note that the data are still somewhat limited since pay transparency laws and ordinances are relatively new. Major findings include:

Business Impact:

- Increased employee productivity and job satisfaction, along with greater trust of management and perceived fairness.^{4, 9}
- Higher performance when employees understood why pay differences existed.⁴
- No change in the rates of either men or women entering/leaving the labor force.¹³
- Workers were more likely to leave when pay was higher elsewhere and stay when current job paid better.⁴ Workers who found out they were underpaid relative to peers were also more likely to leave.³⁵
- Employers avoided paying individual employees more in order to avoid adjusting the pay of all other employees.^{4, 8}
- Assists employers in reaching pay equity goals with transparency.^{9, 32}

Workplace Impact of Pay Transparency

Compensation System:

- Pay was linked to more observable metrics, and managers were encouraged to aggressively address wage inequities.²⁴
- Some managers responded to transparency rules by rewarding employees equally, which over time led to salary compression.^{4,24} Others responded by creating new compensation systems to clarify how salaries are allocated and how performance compares to coworkers.¹⁶

Climate within the Organization:

- Increased pay satisfaction and a reduction in uncertainty about the fairness of an individual's own pay.⁴
- Evidence is mixed regarding pay transparency causing employee jealousy. Estlund concludes there is not strong evidence of friction among employees, while Brown finds some indirect support for envy/jealousy.^{4,9} Schnauffer notes that friction and dissatisfaction occurred only among employees with low pay standing relative to their peers.³¹
- Employees preferred privacy when concerned that transparency would show large pay gaps or could undermine coworker relationships. Also, lower-wage employees preferred privacy to avoid embarrassment.⁴

Gender Wage Gap:

- Modest narrowing of the gender wage gap, driven mainly by an increase in wages for women and a slowing of the growth of men's wages. The gains were higher for newly hired and college educated women.^{2,3,4,9,32} Note that increased gender and racial wage equity has become commonplace in sectors where salaries are transparent (e.g., among unionized employees and in the public sector).⁹
- Under confidentiality, pay growth for women was lower. When pay transparency was introduced, gender differences in pay growth disappeared.⁴

Pay Transparency Laws

States and local jurisdictions have passed a wide variety of laws and ordinances about pay equity and pay transparency. These range from a rather straightforward extension of the federal Equal Pay Act of 1963, to bans on asking about salary history, to requiring annual reporting of salaries/wages broken down by gender and race. We provide here an overview of the many ways that a state or local government might approach increasing pay equity and pay transparency for employees, and provide case studies to illustrate how different jurisdictions have enacted pay transparency. In addition, Table 2 provides an overview of a sampling of laws and ordinances that have been enacted or proposed.

Pay Equity Pledges:

- Annual examination of organization-wide wages and promotion rates broken down by gender and race.
- Reflect a voluntary commitment and plan to address inequities over time.
- *Case Example:* [Pay Equity Commitment, Hamilton County OH](#)

As a key tenet of its work to support pay equity across genders, the Hamilton County Commission on Women and Girls launched a Pay Equity Commitment in 2021. They ask employers to make a public commitment to set an example for pay equity, and also provide employers specific recommendations, ranging from pay audits to intervening and minimizing pay disparities within the organization. To date, 44 employers have signed the commitment.

Codified Pay Equity Requirements:

- Reinforcement of the Equal Pay Act (for example, adding language about “comparable work” or “substantially similar work”)
- Extension of EPA to include other protected classes (e.g., Race, Age, Sexuality, Gender Identity, Disability)
- Requirements to address or analyze gender or race wage gaps (e.g., by filing an annual pay report with race and gender breakdowns)
- *Case Example:* [Extension of the Equal Pay Act in Oregon](#)

In 2021, Oregon enacted a comprehensive extension of the federal Equal Pay Act. Oregon requires equal pay regardless of race, color, gender, age, religion, national origin, sexual orientation, disability, veteran status, or marital status, and includes language on paying

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equitably for jobs of comparable work. Differences in pay are allowed based on bona fides including seniority system, merit system, workplace location, education, training, or experience, among others. Employers may not ask about salary or base compensation history.

- **Case Example:** [Contracts Enforcement Pilot Program – Santa Clara County](#)

The County of Santa Clara, California launched a pilot in May 2021 to ensure that both current and applicant contractors are complying with the County’s provisions on pay equity, wages and hours. The County can disqualify or terminate a contractor who has violated these labor laws, and has crafted the program as a message to vendors that it will not tolerate wage discrimination or theft, or retaliation against employees.

Job Postings and Applications:

- Requirement to report compensation or salary range in job postings, or provide when an applicant requests, or following an interview
- Ban on asking applicants about their prior salary/compensation
- Prohibition of making employment conditional on signing a salary non-disclosure agreement
- **Case Example:** [Required Salary Information in Job Postings, New York City](#)

In 2022, New York City Council enacted a bill requiring inclusion of minimum and maximum salaries in all job postings for firms with four or more employees. The law applies also to transfers and promotions, and remote workers. There was pushback from employers who argued that this was problematic in a tight job market, and the City delayed the enactment date. The law went into effect on November 1, 2022.^{5, 17, 18, 29}

- **Case Example:** [Job Postings for Remote Workers, Colorado](#)

In 2021, Colorado enacted a comprehensive extension of the Equal Pay Act. Part 2 of the law was intended to promote wage transparency by requiring that compensation information be included in job descriptions, including wage range, bonuses, commissions and other compensation, and benefits. This applies to all businesses with at least one employee in Colorado, including recruitment of remote workers who reside in Colorado. The latter requirement caused controversy, with some out-of-state employers prohibiting applications from CO residents. The state responded with an interpretive notice asserting that the law had to be followed, and the debate continues.^{6, 21, 22, 23}

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Applying for Promotion:

- Notify current employees of promotional opportunities with compensation range
- *Case Example.* [Equal Pay & Opportunities Act, Washington](#)

Washington's law prohibits pay discrimination and promotes fair pay across genders. One part of this act requires employers to provide wage/salary information upon request of an employee who is applying for a promotion.

Employee Discussions of Wages/Salaries:

- Cannot prohibit employees from discussing their wages/salaries^a
- Cannot retaliate against employees who discuss salaries
- *Case Example.* [Equal Pay for Equal Work, Maryland](#)

One section of this 2020 act clarifies that employers may not prohibit employees from asking about, discussing or disclosing their own or others' wages; require a non-disclosure waiver; or retaliate against those who voluntarily disclose wages.

^aNote that an employee's right to discuss salary and compensation is protected by rules generated by the National Labor Relations Board. Coworkers are allowed to discuss pay, without backlash; if an employee files an unfair labor practice claim, the employer may be held liable for reinstatement and back pay. These rules were initially put in place in the 1930s, and have been reaffirmed by both legislation and executive orders since then (the latter in particular with reference to federal employees and contractors). Note that most non-union employees are not aware of these rights.^{9, 33}

Pay Transparency through Employer Policy

There are other possibilities for pay transparency that exist at the level of the individual employer. For example, a given company may decide to make all salaries transparent to all employees. Whole Foods, Buffer and SumAll are three notable examples of corporations who have instituted high levels of pay transparency. Their CEOs note many benefits, including a greater solidarity among teams, clarifying the pathway for promotions and raises, and compelling managers to provide detailed explanations for pay differentials.^{14, 33}

Both Heisler and Hill make compelling points about when and where pay transparency works well within a company:

Hill emphasizes that “group performance suffers when pay differences or similarities are not justified by individuals’ performance.” High dispersion of salaries is not necessarily bad, rather it is the “mismatch between pay and individual performance that creates problems.”^{16, p. 1}

Heisler concludes that transparency works best when an organization has formal evaluation systems, pay grades, and job classifications – that is, when “performance is highly transparent and differences in levels of performance are easily recognized.”^{15, p. 79}

Final Thoughts

Although there are several arguments against pay transparency, the evidence above suggests that increased pay transparency has an overall positive impact on workers, as well as employers and organizations. This is especially true if pay transparency is implemented alongside clear performance measurements and employee communications about how pay is determined.

There are options for interventions at both the employer and governmental level to begin working towards increased pay transparency. The resources listed on the following pages provide examples and external links to get started.

Table 1: Types of Pay Transparency

	TRANSPARENCY			
	NONE	LOW	MEDIUM	HIGH
PAY PROCESSES	No information on how pay is determined	General overview of pay principles	Substantive description of how pay is determined	Training for managers and employees in fundamentals of the pay system
PAY GRADES/RANGES	No disclosure	Pay grades/ranges provided to employees and applicants	Grades/ranges provided for the employee's job family and career path	Grades/ranges provided for all jobs in the company
INDIVIDUAL EMPLOYEE PAY	No disclosure of employee wages/salaries to anyone else	Annual total compensation statement	Provides salaries of coworkers in the same job classification	Salaries of all employees in the company

Heisler¹⁵ p. 75

Table 2: Pay Transparency Laws

A sampling from states, counties and local governments.

PAY EQUITY PLEDGES (voluntary by employers in the covered jurisdiction)		
Boston, MA	Columbus, OH	California (Equal Pay Pledge)
Chicago, IL	Hamilton County, OH	Tulsa, OK
White House Equal Pay Pledge (2016)		

CODIFIED PAY EQUITY		
California (SB 358, enacted 2016; strengthens CA Equal Pay Act of 1949)	Colorado (employers)	Massachusetts (employers)
New Jersey Diane B. Allen Equal Pay Act (amendment to New Jersey Law Against Discrimination, amendment signed 2018)	Oregon (employers)	Rhode Island (effective 2023)
San Francisco, CA (Equal Pay Ordinance; city contractors)	Santa Clara County, CA (contractors with the County; General Contract Policies and Provisions - Board Policy 5.5 - page 4-5, section 5.5.5.4)	Lilly Ledbetter Fair Pay Act (Executive Order Obama Administration, 2009) U.S. Equal Pay Act of 1963

Table 2: Pay Transparency Laws

SALARY/COMPENSATION HISTORY BANS

<u>Albany County, NY</u> (employers)	<u>Atlanta, GA</u> (city agencies)	<u>Cincinnati, OH</u> (employers)
<u>Columbia, SC</u> (city agencies)	<u>Illinois</u> (employers)	<u>Kansas City, MO</u>
<u>Louisville/Jefferson County, KY</u> (Metro agencies)	<u>New Jersey</u> (state agencies)	<u>New York</u> (state agencies)
<u>North Carolina</u> (state agencies)	<u>Oregon</u> (employers)	<u>Philadelphia, PA</u> (employers, city agencies, state agencies)
<u>Pittsburgh, PA</u> (city agencies)	<u>Salt Lake City, UT</u> (city agencies)	<u>Suffolk County, NY</u> (employers)
<u>Vermont</u> (employers)	<u>Washington State</u> (state agencies)	

PROTECTION OF EMPLOYER’S RIGHT TO ASK ABOUT SALARY HISTORY

<u>Michigan</u>	<u>Wisconsin</u>	
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Table 2: Pay Transparency Laws

REPORT SALARY/COMPENSATION RANGE IN JOB POSTINGS

California (SB 1162 passed by Assembly, awaiting Governor action)	Colorado	New York City
New York (A6529A – pending)	Pennsylvania (2019, died in committee)	

PROVIDE SALARY/COMPENSATION RANGE UPON APPLICANT REQUEST

California	Connecticut	Maryland
Cincinnati OH	Rhode Island	Washington State

NOTIFY CURRENT EMPLOYEES OF PROMOTIONAL OPPORTUNITIES WITH COMPENSATION RANGE

California	Colorado	New York City
Rhode Island		

Table 2: Pay Transparency Laws

CANNOT RETALIATE AGAINST EMPLOYEES WHO DISCUSS PAY

<u>Colorado</u>	<u>California</u>	<u>Massachusetts</u>
<u>Montgomery County, MD</u>	<u>New Hampshire</u>	<u>Washington State</u>

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