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Can New Laws and Practices Address Pay Disparities?

By: Jessica Mendieta and Amy Silver O'Leary

According to the [U.S. Bureau of Labor Statistics](#) (BLS), women in the United States earned approximately 83 percent of what men earned in 2021. The pay disparity in management and professional occupations was more pronounced, with women earning about 76 cents on the dollar compared to men. While the BLS does not collect these statistics for nonprofits specifically, there is plenty of evidence that gender pay disparity exists in the nonprofit world as well. For example, [a recent study](#) analyzing data from Form 990s found that women executives at nonprofits earn 8.9 percent less than men, with the disparity increasing when there is room to negotiate salaries.

Black and Hispanic people, regardless of gender, also earn far less, on average, than white, non-Hispanic men. For example, in 2020, [according to U.S. Census estimates](#), the median earnings of Black men were less than 75 percent those of white men. Hispanic men earned even less, at 67 percent of white men's median earnings. Black and Hispanic women fared yet worse. The salary disparities that women of color face in the nonprofit world have been documented by Building Movement Project, for example in its report [Race To Lead: Women of Color in the Nonprofit Sector](#).

Disparities also exist for LGBTQ+ employees, and especially when disaggregated by race: a study just released by the [HRC Foundation](#) found that Native American LGBTQ+ and Black LGBTQ+ workers earn the least among LGBTQ+ workers, and transgender women earn only about 60 cents for every dollar the average worker earns.

What gives rise to pay disparities?

One common reason for pay disparities involves who is hired for higher- or lower-paying jobs. For example, more women lead smaller nonprofits, where salaries are lower, and more men lead larger nonprofits, where salaries are higher, [according to Candid](#). It's not that women prefer smaller organizations or lower pay; rather, if larger nonprofits are predisposed to hiring men, then many women may be squeezed out of the market for those higher paying jobs.

Another frequent cause for pay disparities is that employers often pay different amounts for the same job for reasons other than objective qualifications. Research shows that people are paid differently because of "[information asymmetry](#)" (people don't know what others are paid, so they don't know about pay inequities or what they should negotiate for) and implicit bias. For example, women and people of color can be [penalized for attempting to negotiate their salaries](#) in ways white men are not. And often, they don't try - [correctly intuiting](#) that they will [pay a cost](#) for negotiating.

A commitment to equity

In addition to working to advance gender, racial, and other aspects of diversity in their staffing and leadership, nonprofits with a commitment to equity need to implement hiring practices that have proven to produce better outcomes in pay equity. One such practice is salary transparency. For example, in the federal government, where salary levels are public, the [gender wage gap has narrowed to 7 percent](#). Salary transparency can also help with recruitment and retention, [according to experts](#).

Many nonprofit job boards have implemented salary disclosure requirements in job postings. For example, New Jersey's Center for Non-Profits began requiring compensation information in postings [on its job board](#) last month, after long

encouraging the practice. [Utah Nonprofits Association](#) put such a requirement in place in 2020, as did [AFP](#). [NTEN](#) and Momentum Nonprofit Partners in Tennessee have [required this practice](#) since 2019. Momentum also prohibits the posting of any job paying less than \$15.00/hour. Even if you are listing a position on a job board that doesn't require the salary, you can demonstrate your nonprofit's commitment to equity by listing it.

Emerging laws address pay disparity

New laws in an increasing number of cities and states are requiring all employers – including nonprofits – to implement practices that are shown to promote pay equity. [Dozens of states and localities](#) have enacted laws that prohibit employers from asking about an applicant's pay history, at least before an offer is extended; some even prohibit employers from taking disciplinary action against employees who discuss pay with coworkers. (A few, however, like Michigan and Wisconsin, have gone in the opposite direction, forbidding localities from passing such laws.)

In addition, an increasing number of jurisdictions have been mandating transparency requirements for all employers. Colorado's [Equal Pay for Equal Work Act](#) requires employers to disclose, among other things, the compensation or range of possible compensation in job postings; notably, it requires employers with even one employee based in Colorado to post salary information in job postings for remote work. Colorado's law also requires employers to keep records of job descriptions and wage rate history for employees during their employment and two years after they leave. Starting May 15, [most employers in New York City will need to post salary ranges](#) for salaried or hourly positions. This requirement will apply to all employers with at least four employees in the city, and includes independent contractors (although temporary positions are not covered). Beginning in 2023, Rhode Island will [require employers to provide a salary range](#) for job positions, and prohibit an employer from paying any of its employees a rate less than the rate for comparable work of others unless the employer can show the difference is justified under the law. [Edit to this post as of April, 2022: [Washington State just passed a law](#) that will require employers with 15 more more employees to make compensation-based disclosures to both job applicants and employees, beginning January 1, 2023.] [Edit October, 2022: A [California law will take effect January, 2023](#), requiring employers with more than 15 employees to list salary ranges for jobs and make that information available to existing employees.]

Other states have adopted laws on salary disclosure that only require disclosure upon the request of an applicant or employee. In Maryland, an employer must disclose the position's wage range upon request of [any applicant](#). Except for employers with more than 15 employees, who are covered by the law that passed in September, 2022, California's requirement is only applicable once the applicant completes an [initial interview](#). In Washington state, [disclosure is required](#) upon request from applicants who received an offer.

State legislation under consideration (some of which is unlikely to be signed into law) includes a [pay equity bill](#) in Indiana that would prohibit employers from paying wages that discriminate based on sex for substantially similar work, along with other provisions. [A Massachusetts bill](#) would require larger employers to publicly report wage data by gender and race along with the organization's 10 highest earners. The Mississippi House has passed and sent to the Senate an [equal pay bill](#) that would provide state-level legal recourse for employees paid less for the same work based on gender. Bills introduced in the New York [Assembly](#) and [Senate](#) would apply the New York City policy statewide. In Vermont, the House is [considering a bill](#) that would mandate certain practices for employers receiving state funds.

Bottom line for nonprofits

Whether or not it's required by law, nonprofits must intentionally change our practices and culture by implementing transparency policies on our own. Working at nonprofits is often a way for people to feel they're making a difference with their lives, not just earning a paycheck. But our employees still need to earn a living wage, pay their student loans, support their families, and save for retirement, just like those working at other types of organizations. Diversity adds power to our ability to advance our missions. Let's make sure it also means equity in compensation.

Resources:

- [Closing the Gender Pay Gap](#) (by Laurie Wolf for the National Council of Nonprofits, 2021)
- [The gender pay gap is a sleeper threat to nonprofit effectiveness and sustainability](#) (by Jennifer Chandler for the National Council of Nonprofits, 2017)

- [The Simple Truth About the Gender Pay Gap](#) (AAUW)