



11 DUPONT CIRCLE NW
SUITE 800
WASHINGTON, DC 20036
202-588-5180
NWLC.ORG

**Testimony of
Andrea Johnson, Director of State Policy, Workplace Justice & Cross-Cutting Initiatives
National Women's Law Center**

**In SUPPORT of HB123 -Labor and Employment—Wage History and Wage Range
Before the Maryland House Economic Matters Committee**

February 4, 2020

Thank you for the opportunity to submit this testimony on behalf of the National Women's Law Center. The National Women's Law Center has been working since 1972 to secure and defend women's legal rights and opportunities, and to help women and families achieve economic security.

Maryland made important strides in strengthening its equal pay laws by passing the Equal Pay for Equal Work Act in 2016, but there are a number of practices that aren't clearly prohibited by that law that are causing—often inadvertently—gender and racial pay disparities to be perpetuated throughout Marylanders' careers, Maryland businesses, and the Maryland economy. In a recent Harvard Business Review study, a significant percentage of employers who conduct pay equity audits found that relying on applicants' salary history is a key driver of gender wage gaps within their company.¹

With HB 123 we have found a proven tool for helping employers proactively avoid wage gaps in their company and for helping close Maryland's crushing wage gaps. Research into one of the states that passed legislation in 2017 prohibiting employers from relying on salary history, like HB 123 provides, shows that the legislation has already measurably helped narrow gender wage gaps in the state.² Likewise, research shows that providing applicants the salary range for a position—which HB 123 requires if an applicant asks for it—helps narrow gender wage gaps.³

HB 123 gives employers an easy-to-follow tool for creating a more efficient and effective way of attracting and matching with applicants and setting pay and also avoiding introducing bias and wage gaps into the hiring process. By providing employers a tool to proactively avoid unjustified gender wage gaps, HB 123 also helps insulate them from costly pay discrimination litigation.

We urge a favorable report for this simple, high-impact, proven tool for closing the wage gap.

I. Relying on salary history perpetuates gender and racial wage gaps

Because women in Maryland are systematically paid less than men, employers who rely on salary history to select job applicants and to set new hires' pay will tend to perpetuate gender- and race-based disparities in their workforce, condemning women to perpetually depressed salaries throughout their career.

In Maryland, women overall are typically paid 86 cents for every dollar paid to men. Black women and Native women are paid only 69 cents and 72 cents, respectively, for every dollar paid to white, non-Hispanic men. And the gap is even larger for Maryland's Latinas, who make only 47 cents for every dollar made by white, non-Hispanic men—the fourth largest wage gap for Latinas in the country.⁴ These gaps start early in women's careers. Just one year after college graduation, women are paid just 82 percent of what their similarly educated and experienced male peers are paid.⁵

There are several reasons why women will typically be responding to the dreaded “What is your salary history” question with lower prior salaries than men. And they have nothing to do with women's skill, knowledge, experience, negotiation abilities, or fit for the job.

First, it is well-documented that women, and especially women of color, still face overt discrimination and unconscious biases in the workplace, including in pay.⁶ By using a person's salary history to evaluate her suitability for a position or to set her salary, new employers allow past discrimination to drive hiring and pay decisions. Moving to a new job can be the best opportunity women have to increase their pay, but employers' reliance on salary history forces women to carry pay discrimination with them from job to job.

Second, women are more likely to have worked in lower paid, female-dominated professions that pay low wages simply because women are the majority of workers in the occupation and “women's work” is valued less.⁷ Relying on applicants' salary histories to set salaries perpetuates the systemic undervaluing of women's work, even where women are entering male-dominated or mixed-gender industries. We regularly hear about women who are doing the same work as their male counterparts and have comparable experience, but are being paid less because, for instance, the woman's past experience was in the non-profit or government sector, whereas the man's was in the higher-paying private sector.

Third, women still shoulder the majority of caregiving responsibilities and are more likely than men to have to reduce their hours or leave the workforce to care for children and other family members.⁸ Asking about salary history harms women seeking to reenter the workforce or increase their hours, since their last salary may no longer reflect current market conditions or their current qualifications. In fact, in 2015, the federal Office of Personnel Management (OPM) issued a new policy discouraging government agencies from relying primarily on candidates' prior salary in setting their pay, explaining that “[r]eliance on existing salary to set pay could potentially adversely affect a candidate who is returning to the workplace after having taken extended time off from his or her career or for whom an existing rate of pay is not reflective of the candidate's current qualifications or existing labor market conditions.”⁹

Relying on salary history in the pay setting process compounds the negotiation disadvantages that women and people of color already experience. Research has documented that women who negotiate their salaries are already at a disadvantage because they are perceived as greedy, demanding, not nice, and less desirable candidates, leading to lower starting pay.¹⁰ And when a new employer requests a candidate's prior salary information, they are likely to anchor salary negotiations

around the prior salary, with only small room for adjustment,¹¹ thereby further entrenching, even if unwittingly, gender and racial disparities in the candidate's new salary.

Reliance on salary history not only disadvantages women and people of color in hiring, negotiation, and setting pay, it also negatively impacts subsequent raises, bonuses, and promotions that are tied to the employee's initial salary. Over time, those lower salaries add up to huge losses that affect an employee's and her family's financial well-being and ultimately her retirement. The class action law suit *Beck v. Boeing*,¹² settled in 2004 for \$72.5 million, is a poignant example of this destructive dynamic. Boeing set the salaries of newly hired employees as their immediate past pay plus a hiring bonus which was set as a percent of their past salary. Raises were also set as a percentage of an employee's salary. Boeing claimed it set pay based on a neutral policy, but since women had lower average prior salaries than men, these pay practices led to significant gender disparities in earnings that compounded over time and could not be justified by performance differences or other objective criteria.

In short, salary history is not a neutral, objective or unbiased factor that accurately reflects a candidate's qualifications, suitability, interest in a position, or their market value. Several courts have rejected employers' arguments that basing pay on salary history alone is a neutral "factor other than sex" justifying paying women less.¹³ These courts point to the fact that salary histories reflect historical discriminatory market forces.¹⁴ The Equal Employment Opportunity Commission (EEOC) has explained since 2000 that "permitting prior salary alone as a justification for a compensation disparity 'would swallow up the rule and inequality in compensation among genders would be perpetuated.'"¹⁵ Nevertheless, many employers continue to rely on salary history in setting pay and some courts have broken with the EEOC's position on salary history, and have permitted employers to rely on employees' salary history to justify paying women less for the same work.¹⁶ This makes it all the more important to enact legislation clearly banning the harmful use of salary history in the hiring process.

II. Relying on salary history hurts Marylanders and businesses across the board

Employers who use salary history to screen applicants or set pay unfairly block many other types of qualified applicants from fair pay and much-needed employment opportunities. Relying on salary history can lead to depressed wages for individuals who have previously worked in the public sector or in nonprofits and are moving into the private sector. And it can deprive older individuals with higher salaries who are looking to change jobs or re-enter the workforce the opportunity to be considered for lower paying jobs they might seek.¹⁷

By relying on salary history, employers also appear to be unjustifiably limiting their talent pool. Moreover, a recent study showed that when salary history information was taken out of the equation, the employers studied ended up widening the pool of workers under consideration and interviewing and ultimately hiring individuals who had made less money in the past.¹⁸

III. Secrecy around salary range information perpetuates gender and racial wage gaps

When an employer asks a job applicant what his or her salary expectations are without providing the applicant any information about the pay for the position, women and people of color lose out. Studies show that women often ask for less when they negotiate than men, even when the women applicants are otherwise equally qualified.¹⁹ That may be, in part, because it is a common practice for job applicants to ask for an amount that is a 10 to 20 percent increase over their prior salary.²⁰ Given that women and people of color are typically paid less than white, non-Hispanic men, they would have to request a particularly large percentage increase over their current pay for their request to be on par with their white, non-Hispanic male counterparts.

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 and racial wage gaps. Studies show that when job applicants are clearly informed about the context for negotiations, including the salary range, women are more willing to negotiate, more successful in negotiating, and the gender wage gap narrows.²¹ The much narrower wage gap in the public sector, where agencies typically have transparent and public pay structures, is further evidence that greater salary range 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,²² the gender-based wage gap in 2012 was 13 percent.²³

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.²⁴ Even if they don't have established pay ranges, all employers must budget an amount for the position for which they are hiring. But when employers hold all of the salary information, they are at a significant advantage in negotiating the lowest possible salary and women and people of color lose out.

IV. HB 123 is a proven tool for closing persistent gender and racial wage gaps and creating more efficient and effective negotiations for employers and applicants

HB 123 does two simple things: (1) prohibits employers from seeking and relying on salary history to evaluate applicants and set pay, and (2) requires employers to provide an applicant the salary range for a position if the applicant asks for it. HB 123 has been intentionally drafted to allow negotiations and pay discussions to flow freely and naturally between employers and applicants while reducing the bias that is, often inadvertently, introduced in that process. This type of legislation is proven to work: research shows that legislation prohibiting employers from relying on salary history helps to narrow gender wage gaps,²⁵ as does the practice of providing job applicants the wage range for a position.²⁶

A. Ending the detrimental reliance on salary history

Under the bill, an employer is prohibited from seeking and relying on the prior salary of a job applicant in screening or considering the applicant for employment or in determining his or her wages.

These provisions will help ensure that job applicants are evaluated and compensated based on their experience, skills, accomplishments, track record, and the responsibilities they will be assuming, not their gender or race, nor their apparent value to a previous employer or other factors unrelated to an applicant's fit for the job.

An employer can still ask for an applicant's salary requirements or expectations to help them attract an applicant or match with candidates—they just can't ask applicants for one data point: salary history. Recognizing that an applicant might naturally volunteer his or her salary history in the course of pay discussions to support a request for higher pay than initially offered, the bill explicitly makes clear that an applicant can volunteer their salary history and the employer may rely on that information to support paying a higher wage than that offered by the employer. An employer can also seek to verify the salary history that an applicant has volunteered.

B. Requiring disclosure of the salary range for a position, upon request

HB 123 would also require employers to provide a job applicant the wage range for a position to which they are applying, if the applicant requests it. Employers know the general range they are willing to pay for a position based on their budget. This bill simply requires employers to be transparent about that range for a particular position if an applicant requests it. The bill does not require an employer to ultimately pay the applicant within the range they provide. Thus, for instance, if an employer loses a business grant or realizes they can't attract the qualifications they need with the original range they had in mind or decides to give a chance to someone with significant potential but fewer years experience than initially sought, they can pay outside of the range they had initially provided.

Providing applicants the salary range for a position is a tool that can help an employer more efficiently and accurately match with candidates whose salary requirements are aligned with what the employer can offer. And it is proven to help employers narrow the gender wage gaps that otherwise arise in negotiations because women tend to ask for less than men, even when equally qualified. The bill will help level the negotiating playing field and ensure that Marylanders are paid a fair salary based on what the job is worth and not their perceived negotiation skills. This provision builds on Maryland's commitment to pay transparency and is a crucial addition to the pay transparency protections Maryland enacted two years ago ensuring that employees can discuss their pay with each other free from fear of retaliation.

V. HB 123 is Good for Maryland Businesses

In addition to giving employers a tool to more efficiently, accurately, and effectively hire, negotiate, and set pay, as described above, HB 123 would strengthen Maryland businesses and the business climate in other ways. Most practically, HB 123 will give employers a tool to proactively avoid unjustified gender wage gaps and help insulate themselves from costly pay discrimination litigation.

HB 132 will also help Maryland businesses attract and retain talent. As a human resources professional stated in Forbes, the practice of asking for salary history is "intrusive and heavy-handed . . .

It's a Worst Practice . . . It hurts an employer's brand and drives the best candidates away."²⁷

Eliminating pay practices that many employees recognize as deeply unfair and increasing transparency around pay for a position also benefits employers' bottom line because it increases the likelihood that employees will believe they are paid fairly, which in turn promotes employee engagement and productivity.²⁸

Recognizing these benefits and the unfairness of relying on salary history, small and large businesses in Maryland and throughout the country, including Bank of America, Progressive, Cisco Systems, Amazon, American Express, Facebook, Google, GoDaddy, Starbucks, and Wells Fargo, have announced they are not asking applicants for salary history.²⁹ And some companies are also making salary information available to both employees and the general public.³⁰ One of these, GoDaddy, includes salary level and range for a given position on each employee's pay statement.

VI. By Passing HB 123, Maryland Would Finally Join the Movement of States Seeking to Ban Reliance on Salary History and Increase Salary Range Transparency

Since 2016, there has been a groundswell of support across the country for legislation prohibiting reliance on salary history. Thirteen states have passed laws prohibiting both private and public sector employers from relying on salary history: Delaware, New Jersey, New York, Illinois, Massachusetts, Connecticut, Vermont, Maine, Oregon, Hawaii, California, Colorado and Washington. All of these laws have passed with bipartisan support.

Many localities have also passed these laws, including Kansas City, Missouri; Cincinnati, OH; New York City, and San Francisco. Additionally, Governors in Pennsylvania, North Carolina, New Jersey, New York, Illinois, and Michigan have issued Executive Orders banning the use of salary history in setting pay for state employees and Washington, D.C. has prohibited reliance on salary history by District agencies.

States are also increasingly considering provisions requiring employers to provide the salary range for a position. Colorado, Washington, and California also included in their salary history legislation provisions requiring employers to either provide the salary range for a position in the job announcement or provide it to the job applicant if they request it. Many more states this session are considering such salary range transparency requirements, from Indiana to Massachusetts.

VI. Conclusion

Ending reliance on salary history and requiring employers to provide applicants with the salary range for a position upon request are crucial steps towards closing the wage gap. And since the wage gap has barely budged in more than a decade, we need to take action now. We urge the members of this Committee to once again stand up for working people in Maryland by supporting HB 123.

¹ Harvard Business Review Analytic Services, Navigating the Growing Pay Equity Movement, What Employers Need to Know About What to Do 5 (2019), <https://resources.trusaic.com/pay-equity-downloads/harvard-business-review-trusaic-pulse-survey>.

² Drew McNichols, Information and the Persistence of the Gender Wage Gap; Early Evidence from California's Salary History Ban (February 1, 2019), SSRN: <https://ssrn.com/abstract=3277664> or <http://dx.doi.org/10.2139/ssrn.3277664>.

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), https://projects.iq.harvard.edu/files/hbowles/files/situational_mechanics.pdf.

⁴ NAT'L WOMEN'S LAW CTR (NWLCL). THE WAGE GAP, STATE BY STATE, <http://nwlc.org/resources/wage-gap-state-state/>.

⁵ AMERICAN ASSOCIATION OF UNIVERSITY WOMEN (AAUW), GRADUATING TO A PAY GAP: THE EARNINGS OF WOMEN AND MEN ONE YEAR AFTER COLLEGE 9 (2012), available at www.aauw.org/research/graduating-to-a-pay-gap/.

⁶ Even when accounting for factors like race, region, unionization status, education, occupation, industry, and work experience, 38 percent of the gender wage gap remains unexplained and data make clear that discrimination is a major cause of this unexplained gap. Francine D. Blau & Lawrence M. Kahn, *The Gender Wage Gap: Extent, Trends and Explanations*, NATIONAL BUREAU OF ECONOMIC RESEARCH (Jan. 2016), <http://www.nber.org/papers/w21913.pdf>. For example, in an experiment where scientists were presented with identical resumes—one with the name John and the other with the name Jennifer—the scientists offered the male applicant for a lab manager position a salary of nearly \$4,000 more. Corrine A. Moss-Racusin et al., *Science Faculty's Subtle Gender Biases Favor Male Students*, Proceedings of the National Academy of Science of the United States of America (Aug. 2012), <http://www.pnas.org/content/109/41/16474.abstract#aff-1>.

⁷ Philip N. Cohen, *Devaluing and Revaluing Women's Work*, Huffington Post (April 3, 2010), http://www.huffingtonpost.com/philip-ncohen/devaluing-and-revaluing-w_b_444215.html.

⁸ PEW RESEARCH CENTER, WOMEN MORE THAN MEN ADJUST THEIR CAREERS FOR FAMILY LIFE (Oct. 1, 2015), <http://www.pewresearch.org/fact-tank/2015/10/01/women-more-than-men-adjust-their-careers-for-family-life/>.

⁹ July 30, 2015, Letter from Beth F. Cobert, Acting Director, U.S. Office of Personnel Management, <https://www.chcoc.gov/content/additional-guidance-advancing-pay-equality-federal-government>.

¹⁰ See HANNAH RILEY BOWLES, LINDA BABCOCK & LEI LAI, SOCIAL INCENTIVES FOR GENDER DIFFERENCES IN THE PROPENSITY TO INITIATE NEGOTIATIONS: SOMETIMES IT DOES HURT TO ASK, 103 ORGANIZATIONAL BEHAV. & HUM. DECISION PROCESSES 84 (2007).

¹¹ See Bourree Lam, *The Government Thinks that Interview Questions about Salary History are Holding Women Back*, THE ATLANTIC (Aug. 10, 2015), <http://www.theatlantic.com/business/archive/2015/08/hiring-interview-gender-gap-pay-salary-history-opm/400835/>; TODD J. THORSTEINSON, INITIATING SALARY DISCUSSIONS WITH AN EXTREME REQUEST: ANCHORING EFFECTS ON INITIAL SALARY OFFERS, JOURNAL OF APPLIED SOCIAL PSYCHOLOGY (2011), <http://onlinelibrary.wiley.com/doi/10.1111/j.1559-1816.2011.00779.x/abstract>.

¹² *Beck v. Boeing*, Court-Approved Consent Decree 30, 35-36 (W. D. WA. (Oct. 8, 2004)), <http://digitalcommons.ilr.cornell.edu/cgi/viewcontent.cgi?article=1072&context=condec>; see also Institute for Women's Policy Research, *Ending Sex and Race Discrimination in the Workplace: Legal Interventions That Push the Envelope* 72-83 (March 2011).

¹³ See, e.g., *Cole v. N. Am. Breweries*, No. 1:13-cl-236, 2015 WL 248026, at *10 (S.D. Ohio Jan. 20, 2015) (citing *Irby v. Bittick*, 44 F.3d 949, 955 (11th Cir. 1995) (finding that that a beer distributor improperly used a female hire's previous salary to set her pay significantly lower than that of her male predecessor, her male successor, and other male employees performing the same job); *Glenn v. General Motors Corp.*, 841 F.2d 1567, 1571 (11th Cir. 1988) (prior salary alone cannot justify a pay disparity); *Faust v. Hilton Hotels Corp.*, 1990 WL 120615, at *5 (E.D. La. 1990) (reliance on prior salary as a factor other than sex would "allow employer to pay one employee more than an employee of the opposite sex because that employer or a previous employer discriminated against the lower paid employee"). *Angove v. Williams-Sonoma, Inc.*, 70 F. App'x 500, 508 (10th Cir. 2003) (citing *Irby* to find that the EPA "precludes an employer from relying solely upon a prior salary to justify pay disparity").

¹⁴ See, e.g., *Glenn v. General Motors Corp.*, 841 F.2d 1567 at 1570; *Faust v. Hilton Hotels Corp.*, 1990 WL 120615, at *5, n. 12; *Angove v. Williams-Sonoma, Inc.*, 70 F. App'x 500 at 507-508

¹⁵ *Id.* (citing *Irby v. Bittick*, 44 F.3d 949, 955 (11th Cir. 1995); *Glenn v. General Motors Corp.*, 841 F.2d 1567, 1571 (11th Cir. 1988) (prior salary alone cannot justify a pay disparity); *Faust v. Hilton Hotels Corp.*, 1990 WL 120615, at *5 (E.D. La. 1990) (reliance on prior salary as a factor other than sex would "allow employer to pay one employee more than an employee of the opposite sex because that employer or a previous employer discriminated against the lower paid employee").

¹⁶ See, e.g., *Lauderdale v. Ill. Dep't of Human Servs.*, ---F.Supp.3d---, Civ. No. 13-3062, 2016 WL 5660369 (C.D. Ill. Sept. 28, 2016), appeal filed Nov. 2, 2016; *Sparrock v. NYP Holdings, Inc.*, No. 06 Civ. 1776(SHS), 2008 WL 744733 (S.D.N.Y. Mar. 4, 2008).

¹⁷ See Katie Donovan, *Five Reasons Salary History Hurts Your Hiring Goals*, HUFFINGTON POST, Sept. 8, 2015, http://www.huffingtonpost.com/katie-donovan/five-reasons-salary-histo_b_8105182.html.

¹⁸ Moshe A. Barach & John J. Horton, *How do Employers Use Compensation History: Evidence From a Field Experiment* (CESifo, Working Paper No. 6559, 2017), <http://moshebarach.com/wp-content/uploads/2017/06/WageHistory.pdf>.

¹⁹ See Linda Babcock & Sara Laschever, *WOMEN DON'T ASK: NEGOTIATION AND THE GENDER DIVIDE* (2003); Jenny Save-Soderbergh, *Are Women Asking for Low Wages? Gender Differences in Wage Bargaining Strategies and Ensuring Bargaining Success*, Swedish Inst. Soc. Res. Working Paper Series 7/2007 10 (2007), available at https://ideas.repec.org/p/hhs/sofiwp/2007_007.html.

²⁰ See Jacquelyn Smith, *How Much Money to Ask for in a Salary Negotiation* (May 22, 2015), <http://www.businessinsider.com/how-much-money-to-ask-for-in-a-salary-negotiation-2015-5>; Melissa Phips, *Interview Questions about Your Salary Expectations* (Nov. 11, 2016), <https://www.thebalance.com/interview-questions-about-your-salary-expectations-2061235>.

²¹ 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).

²² 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).

²³ 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-onadvancing-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).

²⁴ PAYSACLE.COM, *Attack of the Out-of-Date Comp Plan 13* (2015), available at <http://resources.payscale.com/hr-2015-compensation-practices-report.html>.

²⁵ Drew McNichols, *Information and the Persistence of the Gender Wage Gap; Early Evidence from California's Salary History Ban* (February 1, 2019), SSRN: <https://ssrn.com/abstract=3277664> or <http://dx.doi.org/10.2139/ssrn.3277664>.

²⁶ 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)

²⁷ Liz Ryan, *When Someone Demands Your Salary History, Give Your Salary Requirements Instead*, FORBES (Jan. 16, 2017), <https://www.forbes.com/sites/lizryan/2017/01/16/when-they-demand-your-salary-history-give-your-salary-requirement-instead/#944ba255a8bb>.

²⁸ See Deborah Thompson Eisenberg, *Money, Sex and Sunshine: A Market-Based Approach to Pay Discrimination*, 43 ARIZ. STATE L.J. 951, 1001-15 (2011); LAMB, N. & KLEIN, W., *A Proactive Approach to Wage Equality is Good for Business*, EMPLOYMENT RELATIONS TODAY (Summer 2015), available at <http://arjuna-capital.com/news/a-proactive-approach-to-wage-equality-is-good-for-business/>.

²⁹ Jena McGregor, *Bank of America is the latest company to ban this dreaded job-interview question*, WASHINGTON POST (January 29, 2018) https://www.washingtonpost.com/news/on-leadership/wp/2018/01/29/bank-of-america-is-the-latest-company-to-ban-this-dreaded-job-interview-question/?utm_term=.0cd01451eda2

³⁰ NAT'L WOMEN'S LAW CTR, *EMPLOYER LEADERSHIP TO ADVANCE EQUAL PAY: EXAMPLES OF PROMISING PRACTICES* (Mar. 1 2017), <https://nwlc.org/resources/employer-leadership-to-advance-equal-pay-examples-of-promising-practices/>

Maryland Business and Employer Voices Speak Out Against the Use of Salary History in the Hiring Process

“I’m a small business owner who also worked for five years in human capital consulting, and I don’t use salary history in hiring because I know it can inadvertently perpetuate discrimination and it isn’t the most effective way for us to bring the best people onto our team.”

- *Meg McNeill, McNeill Independent Spirit Creators, LLC*

“Our business – I imagine, like most – bases our employee wages on market conditions and what we can afford to pay, not what an applicant used to make doing a different job for someone else. In our view, salary history is never relevant to the hiring process. People change jobs for higher pay, gain new skills or education, change industries, move from part-time to full-time – and hundreds more legitimate reasons they might have made less money in the past than they will at our company. Salary history simply isn’t relevant to whether someone is up for the job, just an opportunity for an employer to try to pay less than fair market wages. It is difficult enough to find candidates who meet our needs already, and we see no benefit to anyone in penalizing people for working to better their lives.”

- *Aubrey Batten, Recruitment Manager for Well-Paid Maids.*

“At my chain of locally owned Ace Hardware stores, we value the expertise and skills of our employees and want to pay them in a way that reflects our values — that’s why we don’t ask for salary history when we hire and we happily give salary ranges if asked. We want to build the strongest and most diverse team possible and appreciate advocates putting forward tools for us to use to guide us in building better processes. We support HB 123 and hope to see it pass.”

- *Gina Schaefer, Co-Founder and CEO of 12 Ace Hardware stores located in Washington, DC Baltimore, MD and Alexandria, VA.*

“As a headhunter, I was trained to ask every candidate for their current salary. What I’ve learned is that this practice perpetuates gender bias in hiring and salary decisions that disproportionately hurts women, especially women of color, and contributes to the continuing pay gap women face. I stopped asking the question. Querying a candidate about what their salary expectations are provides the information an employer needs to make sure the candidate and the position’s salary are a fit.”

– *Diana Rubin, Commissioner, Montgomery County Commission for Women and former managing director of a national legal recruiting and staffing firm*

“Recruiting and retaining a highly qualified and committed staff is essential. Staff turnover or dissatisfaction are tickets to business mediocrity or failure. Because of this, we strive to pay competitive salaries for all our employees. We have never asked for salary histories, knowing that what someone may have paid before is not a good reflection of what the person is worth to our organization or what a

competitive salary is in the field. There is much data available to determine appropriate salaries that is superior to asking highly individualized salary histories. Relying on personal salary histories is just accepting and reinforcing discrimination that has already occurred. That does not bode well for keeping qualified and committed employees. Several years ago, we also began posting salary ranges in our job position announcements. Knowing the salary range and desired experience range keeps everyone's expectations in check and helps narrow our applicant pool to candidates who are serious about the job as offered."

- John Nethercut, Executive Director, Public Justice Center

"In my over 20 years of experience as a Senior Vice President of Human Resources for an international technology firm, I was involved in hiring hundreds of people each year. At my former company, new hire offers were predicated on compensation history and even asked for in writing on the job application. This information was regularly used to offer lower salaries to applicants who had previously been making less money – even if the budget/market value for the position was more than the current compensation of the applicant. This practice of paying the least keeps women and all minorities at a disadvantage long term as the starting salary is the springboard for all future pay changes. In addition, there are larger implications as base pay has an impact on 401k savings, life insurance, short term disability, long term disability, and similar benefits that are based on earnings. Maryland should join other states in prohibiting the salary history question."

- Denise Messineo, Thallo Leadership Consulting

"Business and Professional Women of Maryland is a statewide, nonprofit, nonpartisan, all volunteer organization with a diverse membership that includes administrators, teachers, business owners, and many other professions. Our members know that asking for salary history leads to discrimination and is not a necessary or good business practice."

- Linda Fihelly, Co-President, Business and Professional Women of Maryland