

WBASNY Equal Opportunity in the Profession Committee

**CLE: THE GENDER WAGE GAP: WHAT IT IS?
WHY IT HAPPENS, AND WHAT WOMEN CAN DO ABOUT IT?**

May 14, 2024 @ 12:00-1:30pm

Presenting Sponsor:



Written Materials

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Equal Pay: Past, Present and Future

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Lilly Ledbetter Fair Pay Act of 2009

- ▶ **Pre-LLFPA-** Litigation under the Equal Pay Act
- ▶ **January 29, 2009-** Overturned the Supreme Court's decision in *Ledbetter v. Goodyear Tire & Rubber Co., Inc.*, which severely restricted the time period (300/180 days) for filing complaints of employment discrimination concerning compensation.
- ▶ **EACH paycheck** that contains discriminatory compensation is a separate violation, regardless of when the discrimination began.
- ▶ **Ensuring that employees are not penalized if they are initially unaware of the discrimination**

Trends in Pay Transparency

▶ Growing Legislative Mandates

- ▶ A series of laws across various states and localities in the U.S. require employers to disclose salary ranges for open positions
- ▶ Many states have adapted laws that prohibit asking candidates about their previous pay history, as well as basing their job offers off of the employees pay history

▶ Impact on Negotiation and Fairness

- ▶ Pay transparency empowers job seekers, especially women, by giving them information about the market value of the position, which enables better negotiation
- ▶ Pros and cons of salary history bans

▶ Cultural Transformation and Trust Building

- ▶ Companies that are impacted by transparency laws have to develop a clear salary structure, ensuring fairness and transparency with employees
- ▶ Enhances trust between employer and employees, while also helping to attract and retain talent, which ultimately benefits the organization



Can Millennials Deliver on Equal Pay?

▶ Legal Compliance and Proactive Adoption

- ▶ While federal laws have been slower to adapt, the rapid evolution of state legislation suggests a future shift at the national level
- ▶ Employers are urged to stay ahead of legal requirements by embracing pay transparency

▶ Social Pressure and Workplace Culture Shift

- ▶ Driven by grassroots efforts and social movements, particularly Millennials and Gen -Zers demanding cooperate social responsibilities
- ▶ Companies are starting to recognize the importance of fostering diverse and equitable workplaces

▶ Technological Advancements and Changing Norms

- ▶ Platforms like Glassdoor and social media are reshaping norms around discussing salary
- ▶ Technological influence is challenging traditional secrecy around pay and encourages greater transparency



Understanding Your Right to Pay Equity in New York!

What Workers and Employers Need to Know About New Pay Transparency Laws in New York?

New York City, Westchester County, Ithaca, and New York State recently passed groundbreaking pay transparency legislation. New York City's law went into effect on November 1, 2022, and [New York State's law](#) goes into effect on September 17, 2023. These new laws provide a critical tool to help achieve pay equity and are having a transformative impact on advancing pay transparency laws and practices across the country. This Q & A provides an overview for workers and employers alike on what the laws in New York City and New York State require, why are these laws needed, and how workers and employers can use this law to their benefit.

What does an employer need to do to comply with the new requirements?

NY City: Employers with four or more employees and employers of domestic workers must include a good faith wage/salary range in any advertisement for a job, promotion, or transfer opportunity for any position that can or will, at least in part, be carried out in New York City. Employers must include the minimum and maximum salary they in good faith believe at the time of the posting they are willing to pay for the advertised job, promotion, or transfer opportunity. "Good faith" means the salary range the employer honestly believes at the time they are listing the job advertisement that they are willing to pay the successful applicant(s). [See the NYC Commission's Fact Sheet for more information.](#)

NY State: Employers with four or more employees must include a good faith compensation range and job description, if one exists, in any advertisement for a job, promotion, or transfer opportunity that can or will be physically performed, at least in part, in NY, including opportunities that may be performed outside the state but report to a supervisor, office, or other works site in New York. Under the law, a good faith range includes the minimum and maximum annual salary or hourly range of compensation that the employer in good faith believes to be accurate at the time of the posting.

Which employers have to comply and does the law apply to remote work opportunities?

NY City: The law applies to employers with four or more employees, or one or more domestic workers so long as one of the employees works in NYC. The law applies if a covered employer is posting an opportunity that can or will be done in New York City, including remote work opportunities. The law also applies to employment agencies and recruiters regardless of their size, but it does not apply to temp agencies.

NY State: The law applies to employers with four or more employees if they are posting a position that can or will be physically performed, at least in part, in New York as well as remote opportunities that can be performed outside the state but report to a supervisor, office, or other work site in New York.

What can I do if an employer does not follow the pay transparency requirements?

NY City: Failing to disclose minimum and maximum salary is a form of employment discrimination. Any member of the public who identifies a violation of the law can file a complaint to the NYC Commission on Human Rights. If you are a current employee and seek to allege a violation of this law against your employer, you may also be able to file a civil lawsuit.

NY State: Any member of the public who identifies a violation of the law can file a complaint with the NYS Department of Labor, which can investigate and issue penalties. Covered employers are subject to a sliding scale of civil penalties up to \$3,000 for repeated violations.

Why are pay disclosure laws important?

There is a significant gender and racial pay gap in New York that is worse for women of color and pay secrecy has contributed to and perpetuated these gaps. Under our pre-existing scheme of pay secrecy, workers typically applied for, interviewed for, and negotiated salaries without knowing the compensation or compensation range for the position and employees typically carry out their jobs without knowing what their colleagues are earning, with women often being paid significantly less than male colleagues for doing the same or substantially similar work. Pay secrecy has made it almost impossible to identify problematic disparities and allowed employers to set pay behind closed doors in an ad hoc fashion, often based on gender and racial bias, and without thoughtful, equitable, or consistent compensation schemes and without accountability. Pay secrecy especially disadvantages women and people of color, who historically have earned less due to discriminatory practices, have less leverage, and are thus in a weaker position to negotiate higher salaries without information about compensation rates. Research conducted in jurisdictions that have enacted pay transparency provisions and among employers who have adopted transparent pay practices shows that pay transparency laws do in fact help reduce the gender pay gap. ⁱ

How does pay transparency address the gender and racial pay gap?

- By requiring employers to disclose compensation ranges up front, employers are encouraged to set salary based on objective qualifications, experience, competencies, and job expectations instead of individualized and subjective assessments, which we know to rely on implicit gender and racial biases and salary expectations.
- These laws will give jobseekers (women and people of color in particular) more leverage in the hiring process by arming them with basic information, so they do not continue to undersell themselves in negotiations.
- Pay transparency can combat occupational segregation by giving jobseekers (women and people of color, in particular) basic information they need about what jobs are worth to pursue and move into higher paying industries.
- Pay disclosure also drives fairer employment practices, making it harder for employers to set exploitative wages behind closed doors and giving employers an incentive to set salary in a way that is more fair, efficient, and accountable.

Are there benefits for business/employers?

Yes. Businesses, big and small, across the United States are moving towards a practice of disclosing compensation ranges in job advertisements, often voluntarily. Salary is one of the most important factors for candidates, and disclosing it gives employers a competitive advantage by making employers more attractive to workers. ⁱⁱ Disclosing salary eliminates inefficient hiring practices allowing candidates to apply only for those jobs that can meet their salary requirements. By eliminating unfair schemes, that breed resentment and result in higher turnover, disclosure allows employers to attract a better qualified applicant pool, increase trust, job satisfaction, employee engagement, worker productivity, retention, and profitability.ⁱⁱⁱ Even once-skeptical employers [are recognizing the significant benefits](#) of transparency, including attracting better candidates who are likely to stay longer, and many HR firms across the country are increasingly advising employers to get on board.^{iv} According to Payscale, “Pay transparency will be a part of any modern compensation plan, as the future is trending in this direction.” Companies that attempt to keep pay a secret will be at a competitive disadvantage compared to other employers and are likely to suffer reputational costs.^v

Endnotes

ⁱ Michael Baker et al., Pay Transparency and the Gender Gap (Nat'l Bureau of Econ. Research Working Paper No. 25834), https://www.nber.org/system/files/working_papers/w25834/w25834.pdf; Michael Baker et al., Can Transparency Laws Fix the Gender Wage Gap?, Harvard Business Review (Feb. 26, 2020), <https://hbr.org/2020/02/can-transparency-laws-fix-the-gender-wage-gap>; Maria Recalde & Lise Verterlund, Gender Differences in Negotiation and Policy (Nat'l Bureau of Econ. Research Working Paper No. 28183), https://www.nber.org/system/files/working_papers/w28183/w28183.pdf; Does Pay Transparency Close the Gender Wage Gap?, PayScale, <https://www.payscale.com/content/whitepaper/Pay-Transparency-ClosingGender-Wage-Gap.pdf> (last visited Mar. 8, 2022) (“The high-level results of this research show that when respondents agree that pay is transparent in their organization, the gender wage gap vanishes for women doing similar jobs to men when all compensable factors are adjusted.”).

ⁱⁱ Greg Lewis, This Job Description Heatmap Shows You What Candidates Really Care About (and What They Ignore), LinkedIn Talent Blog, <https://www.linkedin.com/business/talent/blog/talent-acquisition/jobdescription-heatmap>, 2018; https://worldatwork.org/workspan/articles/pay-transparency-remains-key-amid-atight-labor-market?utm_source=marketo&utm_medium=email&utm_term=workspanweekly_06212022&utm_content=mixed&utm_campaign=pub-workspanweekly&mkt_tok=OTM1LVVaVS03MTgAAAGFJVUyz9S-ip5XTofXxdP00XrXGTKvQ1Jfe0h7icf2um41EUFKeewm8mEv3kEWGL9c5sP4WHcqYpbxq00vn7GD7FzoKaFfJlHDEz7ZSdo11Q.

ⁱⁱⁱ Does Pay Transparency Close the Gender Wage Gap?, PayScale, <https://www.payscale.com/researchand-insights/paytransparency/#:~:text=Fortunately%2C%20when%20analyzed%20against%20pay,every%20%241%20a%20man%20earns> (last visited Mar. 8, 2022); Samantha Cooney, Should You Share Your Salary With CoWorkers? Here's What Experts Say, Time (Aug. 14, 2018), <https://time.com/5353848/salary-pay-transparencywork/>.

^{iv} Roy Maurer, More Employers Post Salary Ranges to Attract Workers, SHRM, <https://www.shrm.org/resourcesandtools/hr-topics/talent-acquisition/pages/salary-ranges-.aspx>, 2021

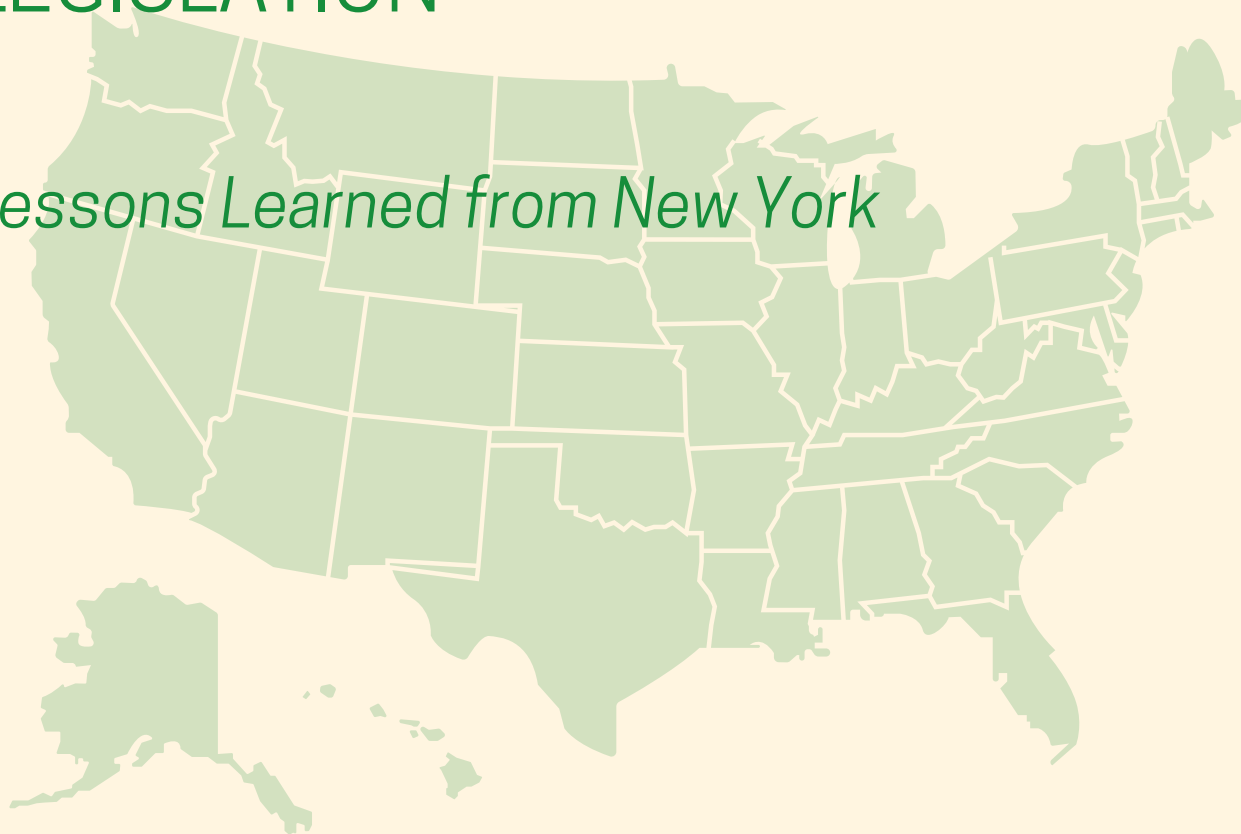
^v Does Pay Transparency Close the Gender Wage Gap?, PayScale, <https://www.payscale.com/researchand-insights/paytransparency/#:~:text=Fortunately%2C%20when%20analyzed%20against%20pay,every%20%241%20a%20man%20earns>.

NOV. 2023

TRANSPARENCY PAYS

GUIDANCE ON ENACTING PAY TRANSPARENCY LEGISLATION

Lessons Learned from New York



LEGALMOMENTUM[®]

The Women's Legal Defense and Education Fund™

ACKNOWLEDGEMENTS

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This Guidance is based on the collective work of advocates across New York State to enact pay transparency laws in New York City and New York State, which could not have been achieved without the leadership and contributions of the following:

The Legal Team at Legal Momentum

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INTRODUCTION

In a market that has long devalued work carried out by women and people of color, employers continue to utilize hiring and salary-setting practices that entrench discriminatory decision-making. Among these practices, pay secrecy is particularly pernicious as it fosters pay inequity. Shrouding pay conceals problematic pay disparities and perpetuates reliance on bias in salary setting, while shielding employers from accountability and disincentivizing implementation of more equitable pay schemes.

State legislative efforts to advance pay transparency are helping to dismantle these practices, empowering workers with critical information to better advocate for themselves while mandating employers to improve their pay practices. These efforts include legislation to require employers to disclose pay ranges during hiring; to report pay data by gender, race, and ethnicity; and to protect workers' rights to share pay information.

Working in collaboration with core partners as part of PowHer New York's Equal Pay Campaign, Legal Momentum helped enact groundbreaking pay transparency laws in New York City and New York State that require employers to disclose pay ranges in any advertisement for a job, promotion, or transfer opportunity.^[1] These laws, along with similar laws in Colorado, California, Washington and other states and localities, are contributing to a significant shift towards pay disclosure and can serve as a model for similar legislation nationwide.^[2]

Building upon lessons learned in New York, including a review of compliance thus far and ongoing advocacy to strengthen existing legislation, this Guidance is intended to serve as a resource for state and federal policymakers and advocates working on legislation to mandate disclosure of pay ranges during the hiring process. To that end, the Guidance highlights the need for these laws, best practices for enacting legislation, and key considerations and components, to support the enactment of meaningful and effective pay transparency protections.

WHY PAY DISCLOSURE IS ESSENTIAL TO CLOSING THE GENDER AND RACIAL PAY GAPS

Under our longstanding system of pay secrecy, workers typically apply for, interview for, and negotiate salaries without knowing the available pay range for a position; and employees typically work without knowing what their colleagues earn.

In this context, women have historically been paid significantly less than male coworkers, based on discriminatory biases, for doing the same or substantially similar work or have been subject to occupational segregation, where they are pushed into lower paying roles often designated as “women’s work.”

Pay secrecy especially disadvantages women and people of color, who, because they have historically earned less due to discriminatory practices, have less leverage and are thus in a weaker position to negotiate higher salaries without information about compensation rates.

Based on the assignment of unpaid caregiving responsibilities to women, employers are known to offer women lower salaries based on discriminatory stereotypes that mark women as unreliable and less competent.[3] Conversely, employers are known to reward male candidates, who are less likely to take on these responsibilities, with higher salaries based on views of men as dependable breadwinners.[4] Employers also undervalue the work of people of color, and especially of women of color, who have long been overrepresented in the lowest-paid occupations in the American economy. [5]

**For too long,
pay secrecy
has
contributed to
a protracted
pay gap.**

In a system in which prior salary dictates future salary, this dynamic feeds an ongoing cycle in which women's salaries are artificially depressed, based on systemic inequities and biased notions about what an "exceptional" employee looks like.[6]

As a result of these discriminatory notions, women and people of color are offered less and make less, and typically carry those depressed salaries throughout their lives, often passing them on to future generations.

For too long, pay secrecy has contributed to a protracted pay gap, denying workers critical information needed to identify pay disparities and advocate for equitable and fair pay while allowing employers to make discretionary, candidate-specific decisions about pay that incorporate conscious and unconscious biases about women and people of color. Requiring employers to disclose pay upfront in job postings will make meaningful strides towards reducing inequity, combating discrimination, and improving employer pay practices.

CORE BENEFITS

Requiring employers to disclose pay in job postings helps reduce inequity, combat discrimination, and improve employer pay practices.

01

Increasing Employer Objectivity & Reducing Bias in Salary Setting

Mandating disclosure of pay ranges in job posting encourages employers to price the job and not the person when setting a pay range. Employers must contemplate a range before meeting candidates based on objective factors—such as qualifications, experience level, competencies, job expectations, budget, and the existing payscale for the position.[7] Because pay rates are visible, employers have an incentive to develop more fair and equitable compensation schemes based on these factors instead of making ad hoc decisions that center around subjective candidate-specific assessments, which are known to incorporate implicit gender and racial biases.[8]

02

Increasing Worker Leverage & Mobility

Women and people of color enter salary negotiations with less leverage because their salaries have historically been artificially depressed due to intersecting forms of discrimination. Providing legitimate pay ranges in job postings helps level the playing field, giving all workers, including those with the least amount of leverage, the same basic information about the value employers assign to particular jobs and what an employer plans to pay for that position based on a number of variables. Candidates can now use the pay range to ask important questions and to negotiate based on their skills and experience rather than their prior salary.

CORE BENEFITS

03

Disrupting Occupational Segregation

Women and people of color have historically been segregated into low-wage, undervalued jobs and paid significantly less. While addressing occupational segregation requires broad efforts to increase wages in these industries, workers have an important role to play. Secrecy around pay has made it impossible for the most marginalized workers to have a sense of what different industries pay, preventing workers from identifying better-paying industries and better paying employers. Pay transparency laws requiring disclosure of pay ranges help women and people of color understand the value that employers assign to different jobs, empowering them to make better more informed decisions about what jobs, employers, and industries to pursue.[9]

04

Safeguarding Low-Wage Workers

Employers in lower-wage, minimum wage, piece rate, and tipped wage industries often target and recruit vulnerable workers, taking advantage of their economic insecurity and/or immigration status. Many of these employers violate or try to skirt labor protections, offering below the minimum wage, failing to pay overtime, and engaging in a range of other wage theft practices.[10] The absence of transparency encourages informality that fuels exploitation. Pay transparency laws that require all employers to disclose wages in job advertisements or upon request, including help wanted signs, make it harder for employers to set exploitative wages behind closed doors. They also help workers identify employers paying above minimum wage. Pay transparency laws play an important function for lower-wage workers and should be sure to include them as beneficiaries.

CORE BENEFITS

05

Advancing Employer Interests & Creating Better Workplaces

Salary transparency is good for employers. Disclosing salary eliminates inefficient hiring practices, helping to bring in candidates who are best suited and committed to carrying out the job advertised within the pay range contemplated and allowing candidates to apply only for those jobs that meet their salary requirements. Salary is one of the most important factors for candidates, and disclosing it also gives employers a competitive advantage by making employers more attractive to workers.[11] By eliminating unfair schemes that breed resentment and result in higher turnover, disclosure allows employers to attract a better qualified applicant pool, and increase trust, job satisfaction, employee engagement, worker productivity, retention, and profitability.[12] Businesses, big and small, across the United States are seeing these benefits and moving towards a practice of disclosing compensation ranges in job advertisements.

06

Doing What Works

Research conducted in jurisdictions that have enacted pay transparency provisions and among employers who have adopted transparent pay practices shows that pay transparency laws do in fact help reduce the gender pay gap.[13]

ESSENTIAL COMPONENTS OF EFFECTIVE PAY TRANSPARENCY LEGISLATION

Based on Legal Momentum’s advocacy to enact pay disclosure legislation and analysis of gaps in existing protections, we have identified key components that should be included in laws aiming to help achieve the goals outlined above to advance gender and racial pay equity; increase fair pay; and to uplift the most vulnerable workers, including women, people of color, and low-wage workers.

PROACTIVE PUBLIC DISCLOSURE

Legislation that only mandates disclosure upon request or at certain stages in the application process is less effective in tackling pay inequity. This approach fails to address or alleviate vulnerabilities for workers facing the greatest barriers, namely women, people of color, and lower-wage workers. Workers with less power and leverage are less likely to request pay information for fear that it will result in retaliation and disadvantage them in the hiring process. Mandating public disclosure in job advertisements helps alleviate some of these vulnerabilities and drives equity more broadly and consistently.

Pay transparency legislation should therefore require that employers make proactive disclosure upfront in all advertisements for new jobs, promotions, and transfer opportunities shared both externally and internally. To prevent employers from circumventing disclosure requirements, legislation should also require employers to disclose pay ranges upon request in scenarios where employers do not post a job advertisement.

DISCLOSURE OF A LEGITIMATE PAY RANGE

Pay transparency laws in New York City and New York State require disclosure of a “good faith” range, an ambiguous term that fails to provide sufficient parameters on the type of range required. Based on Legal Momentum’s tracking, we have seen some employers use this vague standard as a loophole to post overly broad ranges in which the top salary exceeds the bottom salary by anywhere from 40–70 percent.^[14] These ranges obscure or conceal the true range and undermine pay transparency. These ranges also encourage employers to perpetuate discriminatory practices of offering significantly higher salaries to certain candidates based on prior salary, a practice which is also prohibited under many state laws.^[15]

To address these concerns, legislation should require employers to post “the minimum and maximum pay range that the employer actually believes it will pay for a particular job based on factors such as relevant qualifications, the budgeted amount available for the position, applicable pay scale or compensation model relied upon by the employer, the actual range of compensation for those currently holding the position or equivalent positions, or other operational considerations.”

Legislation should further specify that “the breadth of the wage range provided is one factor relevant to the analysis of whether the wage range has been set in good faith” and that the range is for a single opportunity. Advertisements seeking to cover multiple levels, bands, and geographic locations should do so by including multiple ranges.

Laws in New York City and New York State only require that the range be in good faith “at the time of posting.” While this language is meant to give employers leeway to revise the range based on changed circumstances, it also creates a dangerous loophole for employers to pay outside the range without transparency and to revert to discriminatory decision-making.

Employers should be discouraged from paying outside the range and encouraged to consider the full range of qualifications when establishing a range so as to limit adjustments. If adjustments are necessary and the employer seeks to offer outside the range, employers should be required to reissue the posting with the revised pay range to ensure ongoing transparency.

DISCLOSURE OF BASE PAY, OTHER FORMS OF COMPENSATION & BENEFITS

In many industries, base wage or salary does not capture the full spectrum of compensation. Employers regularly offer a variety of compensation packages, including bonuses and stock options, and these packages vary by worker even in cases where workers share the same job title and responsibilities. As a result, these additional forms of compensation can serve as key drivers of inequity. Access to critical benefits also advances gender equity. Because women are disproportionately tasked with caregiving and bear the cost of pregnancy, access to benefits like sick time, paid family leave, and healthcare is often essential when considering a job opportunity, yet women often refrain from inquiring about these benefits upfront due to fear of retaliation.

Pay transparency legislation is therefore more effective in addressing gender and racial pay discrimination *when it mandates disclosure of base pay, regardless of the frequency of payment; all known forms of compensation; and a general description of core benefits such as healthcare, paid time off, and paid family leave. Legislation should require disclosure of applicable ranges for any known yet discretionary forms of compensation, like bonuses.*

DISCLOSURE TO EXISTING EMPLOYEES

To effectively tackle gender and racial pay discrimination, employers need to address inequities in their existing compensation schemes. One way to force employers to begin this process is by requiring them to engage in broad internal pay transparency. This means that *employers should be required to disclose the current compensation range to existing employees for their current title. One way employers can easily do this to ease burden is to maintain a deidentified list of all existing employees that includes job title, rate of pay, gender, race, and ethnicity that is updated annually and internally available to all employees. Employers should also be required to publicly disclose deidentified pay data by gender, race, and ethnicity, and should be tracking and maintaining this data internally.*

This type of pay transparency helps us get to the heart of pay discrimination, by allowing workers to assess whether they are paid fairly and to encourage employers to maintain thoughtful, equitable, and fair compensation schemes that withstand public scrutiny. *In addition to mandating disclosure of compensation ranges in job postings, legislation should therefore mandate disclosure of current compensation ranges (including base pay plus other forms of compensation) to employees annually and upon request, with safeguards against retaliation.*

DISCLOSURE OF JOB DESCRIPTIONS

Women, particularly women in lower-wage work, regularly accept positions at a particular wage only to see their job responsibilities expand while their wages remain stagnant. The absence of written job descriptions encourages informality, which often results in wage theft, with employers expanding job responsibilities without negotiation and without pay increases. The absence of a clear job description also creates ambiguity that can make it difficult for women to establish pay inequities in cases where they know they are being paid less to do the same job as their male counterparts. Job descriptions—which list duties and expectations—provide some basis for distinguishing the low and high ends of the pay range and are thus critical towards assessing whether a salary range is overbroad or legitimate. *Legislation should mandate that advertisements include job descriptions alongside pay ranges, to give context to the pay range and to serve as a check on exploitative labor practices.*

DEFINING “JOB ADVERTISEMENTS” BROADLY

Pay transparency laws should benefit all workers, including workers across all industries and workers in lower-wage industries. *To ensure all workers are effectively covered, the term “advertisement” or “posting” in pay transparency legislation should be defined broadly to include all written and electronic forms of advertisement, including signs displayed in store windows and email communications, even if one-on-one. Laws should apply insofar as the information has been displayed or distributed to one or more potential applicants. When drafting legislation, keep lower-wage workers in mind as intended beneficiaries of these laws and avoid provisions and language that exclude them.*

COVERAGE OF ALL EMPLOYERS

All workers deserve pay transparency. Carving out small businesses from coverage under pay disclosure laws excludes some of most vulnerable workers from protection. In New York City and New York State, attempts to narrow the applicability of the law to only businesses with 15 or 20 employees or more would have excluded a significant number of employers and workers, including women working in restaurants, nail salons, hair salons, retail stores, and daycare centers. This type of exemption simultaneously excludes many small yet high-revenue employers, including boutique law firms and hedge funds. Moreover, transparency laws do not impose onerous requirements on employers, and they are arguably less onerous on small businesses, which have smaller budgets and fewer employees to track, and thus should be able to easily determine and disclose compensation ranges during their hiring process. Excluding small businesses also puts them at a competitive disadvantage in an environment where workers increasingly expect to see a pay range.

Pay transparency legislation should cover all workers and thus all employers. Instead of excluding small businesses from compliance, which inevitably excludes a large number of women workers in lower-wage industries, legislation can build in specific assistance, guidance, and support for small businesses as well as a lower penalty scheme.

EFFECTIVE ENFORCEMENT & RECORDKEEPING

To ensure that employers comply with the law and post legitimate salary ranges, employers must be able to verify that a salary range was posted in good faith. *Employers should therefore be required to maintain records of job postings and salary range determinations to verify that ranges were accurate and in good faith. Legislation should make clear that the burden of demonstrating “good faith” or a “legitimate” pay range rests on the employer.* Because violations impact the public at large, including any member of the public who is looking at and contemplating applying for a particular job posting, legislation should include a broad complaint scheme.

To ensure effective enforcement, legislation should therefore empower any aggrieved individual or organization, not just applicants and employees, to file a complaint with the assigned enforcement agency to report a violation of a pay transparency law. Legislation should include a sliding scale of penalties that have teeth, particularly against large employers that purposefully seek to avoid transparency requirements. While pay transparency laws are meant to function primarily as regulatory requirements, legislation should still contemplate a limited private right of action, particularly for existing employees, to challenge violations of these laws.

EMPLOYMENT AGENCIES & RECRUITERS

Employers continue to try and find ways to use outside entities to avoid pay transparency requirements. To eliminate loopholes, pay transparency legislation should apply to employment agencies, recruiters, and others similar entities. The term “advertisement” should be defined to include the types of recruitment practices used by these entities to ensure that they cannot be used to skirt requirements.

TEMP WORK

Temp agencies are regularly used to employ vulnerable workers at lower wages and over an extended period of time while simultaneously avoiding labor and anti-discrimination laws. *Temp agencies should therefore not be exempt from compliance and, like all employers, should be mandated to disclose the pay range or the rate of pay for a particular position.*

CONCLUSION

We are shamefully overdue in closing the pay gap, particularly for women of color, whose work has long been purposefully undervalued, underpaid, and exploited. While pay inequity is multifaceted, and addressing it requires a range of strategies, we cannot overlook the vital role that pay transparency plays in tackling inequality, discrimination, and exploitative labor practices.

One year into the implementation of New York City's law, we know pay transparency works. Overnight, we witnessed employers change their practices and workers become stronger advocates for themselves, unearthing disparities, demanding fair pay, seeking new employment, and disregarding opportunities that do not list legitimate salary ranges.

We hope legislators across the country will join this necessary movement to advance pay equity through transparency by enacting strong and meaningful legislation at the state and federal levels.

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ENDNOTES

[1] N.Y.C. Admin. Code § 8-107(32); N.Y. Lab. Law § 194-b.

[2] Colo. Rev. Stat. § 8-5-201; Cal. Lab. Code § 432.3(c); Wash. Rev. Code § 49.58.110.

[3] Michelle J. Budig & Melissa Hodges, *Statistical Models and Empirical Evidence for Differences in the Motherhood Penalty Across the Earnings Distribution: A Reply to Killewald and Bearak*, 79 Am. Socio. Rev. 358 (2014); Int'l Lab. Org., ACT/EMP Research Note, *Breaking Barriers: Unconscious Gender Bias in the Workplace* 3-7 (Aug. 2017), https://www.ilo.org/wcmsp5/groups/public/-/ed_dialogue/---act_emp/documents/publication/wcms_601276.pdf.

[4] Budig & Hodges, *supra* note 3; Emilio J. Castilla & Stephen Bernard, *The Paradox of Meritocracy in Organizations*, 55 Admin. Sci. Q. 543, 566-70 (2010), <https://dspace.mit.edu/bitstream/handle/1721.1/65884/Paradox%20of%20Meritocracy.pdf>; Payscale, *Does Pay Transparency Close the Gender Wage Gap?*, <https://www.payscale.com/research-and-insights/pay-transparency/> (“The high-level results of this research show that when respondents agree that pay is transparent in their organization, the gender wage gap vanishes for women doing similar jobs to men when all compensable factors are adjusted.”).

[5] Am. Ass’n of Univ. Women, *Systemic Racism and the Gender Pay Gap* 2-7 (2021), <https://www.aauw.org/resources/article/black-women-and-the-pay-gap/>; Stephanie Bornstein, *Confronting the Racial Pay Gap*, 75 Vand. L. Rev. 1401, 1423-29 (2022); Stephanie Bornstein, *Equal Work*, 77 Md. L. Rev. 581, 593-98 (2018).

[6] See Orly Lobel, *Knowledge Pays: Reversing Information Flows and the Future of Pay Equity*, 120 Colum. L. Rev. 547, 592-93 (2020).

[7] See Deborah Thompson Eisenberg, *Money, Sex, and Sunshine: A Market-Based Approach to Pay Discrimination*, Ariz. St. L.J. 951, 1008-09 (2012).

[8] Int'l Lab. Org, *Breaking Barriers*, *supra* note 3.

[9] See Zoe Cullen, *Is Pay Transparency Good?* 16–17 (Harv. Bus. Sch., Working Paper No. 23–039, Mar. 2023), https://www.hbs.edu/ris/Publication%20Files/23-039_f20d86a0-a1cf-4bd6-8066-74ccc6f2c3cf.pdf.

[10] David Cooper & Teresa Kroeger, *Employers Steal Billions from Workers' Paychecks Each Year*, Econ. Pol'y Inst. (May 10, 2017), <https://files.epi.org/pdf/125116.pdf>; E. Rsch. Grp., Inc., *The Social and Economic Effects of Wage Violations: Estimates for California and New York* 33–36 (Dec. 2014), <https://www.dol.gov/sites/dolgov/files/OASP/legacy/files/WageViolationsReportDecember2014.pdf>; Annette Bernhardt et al., *Broken Laws, Unprotected Workers: Violations of Employment and Labor Laws in America's Cities* 29–39 (2009), <https://www.iupat.org/wp-content/uploads/Wage-Theft-Study.pdf>.

[11] Greg Lewis, *This Job Description Heatmap Shows You What Candidates Really Care About (and What They Ignore)*, LinkedIn Talent Blog (June 19, 2018), <https://www.linkedin.com/business/talent/blog/talent-acquisition/job-description-heatmap>; Brett Christie, *Pay Transparency Remains Key Amid a Tight Labor Market*, *World at Work* (June 16, 2022), <https://worldatwork.org/workspan/articles/pay-transparency-remains-key-amid-a-tight-labor-market>; Roy Maurer, *More Employers Post Salary Ranges to Attract Workers*, SHRM (2021), <https://www.shrm.org/resourcesandtools/hr-topics/talent-acquisition/pages/salary-ranges-.aspx>.

[12] *Does Pay Transparency Close the Gender Wage Gap?*, *supra* note 4; Samantha Cooney, *Should You Share Your Salary With Co-Workers? Here's What Experts Say*, *Time* (Aug. 14, 2018), <https://time.com/5353848/salary-pay-transparency-work/>.

[13] Michael Baker et al., *Pay Transparency and the Gender Gap* 4 (Nat'l Bureau of Econ. Rsch., Working Paper No. 25834, rev. Dec. 2021), https://www.nber.org/system/files/working_papers/w25834/w25834.pdf; Michael Baker et al., *Can Transparency Laws Fix the Gender Wage Gap?*, *Harv. Bus. Rev.* (Feb. 26, 2020), <https://hbr.org/2020/02/can-transparency-laws-fix-the-gender-wage-gap>; Maria Recalde & Lise Verterlund, *Gender Differences in Negotiation and Policy* (Nat'l Bureau of Econ. Rsch., Working Paper No. 28183, Dec. 2020), https://www.nber.org/system/files/working_papers/w28183/w28183.pdf; *Does Pay Transparency Close the Gender Wage Gap?*, *supra* note 4.

[14] See also H. Claire Brown, *A Job with a Fair Salary? What Pay Transparency Laws Are Revealing*, N.Y. Times (June 20, 2023), <https://www.nytimes.com/2023/06/20/business/job-search-salary-ranges.html?>

[15] *E.g.*, N.Y. Lab. Law § 194-a.

Understanding Your Right to Pay Equity in New York!

Today, women in the workforce, especially women of color, continue to face high rates of pay discrimination, which can follow them throughout their lives. Not only are women paid less for doing the same work as men, women are typically segregated into lower-wage jobs where they face higher rates of workplace violations, including sexual harassment and wage theft. While pay discrimination can sometimes be difficult to identify, there are now a number of important protections in New York to challenge unequal pay. Below is a brief overview of core pay equity protections as well as information on how to take action or get further assistance.

Know Your Rights!

- **Equal Pay for Substantially Similar Work:** You have the right to be paid equally for doing “substantially similar work,” regardless of your age, race, creed, color, national origin, sexual orientation, gender identity or expression, military status, sex, disability, genetic history, familial status, marital status, or domestic violence victim status. Jobs are compared looking at skill, effort, and responsibility, and the similarity of working conditions. Differences in pay are only allowed based on seniority, merit, quantity, or quality of production, or a “bona fide” factor other than your protected class such as education, training, or experience.
- **Pay Transparency in Job Postings:** As of September 17, 2023, you have the right to know the wage or salary range in an advertisement for any job, promotion or transfer opportunity posted by an employer with four or more employees. This means that, for all qualifying employers, every job opportunity posting must include the salary range. If it does not, you have the right to ask for it and be provided that information whether you are in consideration for the position or not. Similar protections are already in place in New York City, Ithaca, and Westchester.
- **Prohibitions Against Use of Pay History:** When you are in consideration for an employment opportunity, the employer or potential employer cannot ask about, seek out, or rely upon your past pay. This is helpful in combating pay equity because women have traditionally been paid less and that lower salary often stays with them when future employers use it to determine their new salary. Employers may, however, inquire about your salary expectations and consider current employee compensation already known to them.
- **Freedom to Discuss and Disclose Pay:** You have the right to ask about, discuss, or disclose your pay or the pay of another employee. Your employer may not prohibit you from discussing pay; however, your employer may have a written policy provided to all employees establishing workplace and workday limitations on the time, place, and manner in which you do so.
- **Freedom from Retaliation:** You are protected against retaliation. It is illegal for an employer to punish or penalize you for exercising any of the protections explained above or for filing a complaint or lawsuit to assert your rights.

How to Talk with Your Employer About Pay Equity Concerns:

If you learn or believe that you have been subject to pay discrimination based on your sex, gender, or other protected characteristic, consider bringing this problem the attention of your employer and seeing if you can resolve it. When having this conversation, consider the following guidance:

- Be prepared with as much information as you have available to you about your pay and comparable pay of your coworkers or workers doing similar jobs.
- Be prepared to outline your experience, skills, performance, and any other contributions you make to the role and to your organization.
- Reference any relevant laws that entitle you to legal protection.
- Identify specific requests or actions you would like your employer to take to correct the problem.
- Document your conversation in writing by following up with an email about what you discussed.

Get Help to Assert Your Rights:

It can be difficult to unearth pay inequity, but once identified, it can be hard to ignore. If you have experienced violations of any of the above rights or have concerns that your rights may have been violated there are a number of actions you can take to assert your rights.

- **Contact Legal Momentum or a Legal Advocate:** There are many actions you can take to challenge pay equity, but they often involve complex requirements and short deadlines, so it's important that you consult an attorney. The Syms Legal Momentum Gender Equality Helpline is available to provide information and assistance, and limited legal representation, for those who have experienced discrimination, including pay discrimination. Contact our Helpline at **1-800-649-0297**, Help@LMHelpline.org, or <https://www.legalmomentum.org/get-help-form>.
- **File a Lawsuit:** In many cases, you may be able to go to court directly to file a lawsuit. However, bringing a lawsuit can be complicated, costly, and take time so it's important to consult an attorney to discuss your options for filing a lawsuit and resources that might be available.
- **Contact the Office of the NYS Attorney General:** The New York State Office of the Attorney General investigates complaints, including pay equity complaints, and prosecutes cases alleging a pattern or policy of illegal behavior that affects many people. If you believe that you or other employees are experiencing rights violations by the same employer, you can contact the AG's office by filing a complaint with the Taskforce for Workers' Equality: **(212) 416-8700**, TaskForceforWorkersEquality@ag.ny.gov, or ag.ny.gov/labor-complaint.

- **File an Administrative Complaint:** Certain agencies are responsible for enforcing pay equity laws in New York and you can file a complaint with these agencies either on your own or with the help of a lawyer. The following agencies have authority to investigate and enforce the laws described above:
 - **NYS Department of Labor:** DOL is responsible for enforcing the pay equity laws discussed above. To file a complaint or for more information, visit <https://dol.ny.gov/salary-historypay-equity> or contact the Division of Labor Standards: **(888) 469-7365**.
 - **NYS Division of Human Rights:** Individuals can file general complaints for gender discrimination, including a complaint for intentional pay discrimination with the Division, <https://dhr.ny.gov/complaint>.
 - **Local Equal Employment Enforcement Agencies:** You may also be able to file a complaint with your local enforcement agency. For example, for issues related to pay transparency in job postings in NYC specifically, you can file a complaint with the NYC Commission on Human Rights at **(212) 416-0197** or <https://www.nyc.gov/site/cchr/about/report-discrimination.page>.

Job Postings - Equal Pay Transparency Chart by Jurisdiction - Last Updated: October 17, 2023

Jurisdiction ¹	Effective Date	Covered Employers		Advertising Requirements	Enforcement
		Minimum number of employees	Worksite requirements		
<p>New York State²</p> <p>S9427A/A.10477</p> <p>Adding new section 194-b to NY Labor Law</p> <p>Does NOT supersede or preempt any provision of <i>local</i> law, rules or regulations (e.g., NYC)</p> <p>Employers may need to comply with both sets of laws.</p> <p><i>Proposed regulations published 09/13/2023 in the NYS Register; 60-day comment period ends</i></p>	<p>09/17/2023</p> <p>Passed Senate and Assembly on 06/03/2022</p> <p>Signed into law on 12/21/2022</p> <p>Amended by S1326, signed into law on 03/03/2023</p>	<p>Four employees in any occupation, industry, trade, business or service (including agent, but not temporary help under Section 916, subdivision 5 of article 31 of the New York State Labor Law); <i>see</i> §194-b.7.</p>	<p>Appears to apply even if no employee is in NYS.</p> <p>- Jobs that will “physically be performed, at least in part, in the state of New York”</p> <p>- But also remote jobs outside of the state where the worker “reports to a supervisor, office, or other work site in New York” regardless of whether the employee will be working from home outside NYS.</p> <p>This means employers will need to assess reporting structures to determine</p>	<p>Applies to a new job, promotion or transfer opportunity = as per the proposed regulations a single opportunity and a single geographic location or region.</p> <p>The amendment defines “advertise” as “to make available to a pool of potential applicants (more than one) for internal or public viewing, including electronically, a written description of an employment</p>	<p><i>Any person aggrieved by violation can file a complaint with the New York Labor Commission (no mention of a right or lack thereof to file civil lawsuit); see §194-b.5.a.</i></p> <p>Civil penalty of up to \$1,000 for first violation, up to \$2,000 for second violation and up to \$3,000 for subsequent violation; <i>see</i> §218 of Labor Law.</p> <p>The Commissioner should consider:</p> <p>- The size of the business</p>

¹ Links to informative websites for each law are below. The chart only lists those jurisdictions where the law requires employers to list the salary ranges when advertising the job via a job posting. There are states that (also) have similar laws requiring employers to provide wage information to current employees and applicants, e.g., when interviewing candidates, upon request or upon making a job offer; these laws are not included in this chart. Employers interviewing a potentially qualified U.S. worker in the PERM context must consult with their labor & employment counsel regarding the need to disclose the wage or wage range during such an interview. Some employers might already state the wage or wage range offered without making a formal job offer, to be able to disqualify U.S. worker applicants who decide not to pursue their application in light of the wage or wage range.

² See <https://www.governor.ny.gov/news/governor-hochul-celebrates-new-yorks-statewide-pay-transparency-law-groundbreaking-legislation> (includes link to FAQ)

Job Postings - Equal Pay Transparency Chart by Jurisdiction - Last Updated: October 17, 2023

<p>11/12/2023³</p>			<p>possible applicability of the law to remote positions.</p> <p>As per FAQ, occasional physical presence such as meetings or mere communication with employees in NYS do not count.</p> <p>Proposed regulations clarify that “physically performed outside” of NYS includes working remotely, telecommuting or working from home in another state.</p>	<p>opportunity.”</p> <p>Actual compensation or range of compensation = minimum and maximum annual or hourly range of compensation, excluding benefits and bonuses, that the employer in good faith believes is accurate at the time of posting (as per the FAQ for the specific geographic region); <i>see</i> §194-b.6.a.</p> <p>As per FAQ and proposed regulations cannot be open-ended, but can be adjusted throughout the hiring process.</p> <p>Good faith as per the FAQ and proposed regulations means taking into account job market, current pay levels, hiring budget, and acceptable experience/education levels.</p> <p>Employer must disclose</p>	<p>- The good faith basis of the employer to believe that its conduct complied with the law</p> <ul style="list-style-type: none"> - The gravity of the violation - The history of previous violations - The failure to comply with recordkeeping requirements <p><i>See</i> §194-b(5)(b).</p> <p>As per the FAQ and proposed regulations, does not apply to postings that are re-posted or scaped by a third-party website without employer knowledge or consent.</p>
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³ <https://dos.ny.gov/state-register> (September 13, 2023, Vol. XLV, Issue 27, pages 8 to 11).

Job Postings - Equal Pay Transparency Chart by Jurisdiction - Last Updated: October 17, 2023

				<p>an existing job description, but this is not defined – the FAQ and proposed regulations just state that a job description is needed unless the title clearly conveys the duties, such as dishwasher.</p> <p>If employer needs more space, can refer to a company weblink in a posting, as long as that is free and easily accessible.</p> <p>Proposed regulations confirm that if there are multiple geographic locations or the listing is for different levels of seniority, there must be multiple ranges of compensation, i.e., one range or wage for <i>each</i> individual opportunity.</p>	
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Job Postings - Equal Pay Transparency Chart by Jurisdiction - Last Updated: October 17, 2023

<p>New York City⁴</p> <p>Local Law No. 32 amends Sections 8-102 and 8-107 of Title 8 of the NYC Administrative Code</p> <p>NYC Commission of Human Rights (NYCCHR) Fact Sheet</p>	<p>11/1/2022</p>	<p>Four employees (owners and independent contractors count).</p> <p>One or more domestic workers.</p> <p>Employment agencies regardless of size.</p>	<p>Employees need not work in the same location or all in NYC - i.e., it suffices if 1 employee only works in NYC.</p> <p>Exempt from law if the job “cannot or will not be performed, at least in part”, in NYC; <i>see</i> §8-107 (32)(b)(2).</p>	<p>Applies to a new job, promotion or transfer opportunity, whether part-time, full-time, employee, intern or independent contractor.</p> <p>Applies to any written medium publicizing the opportunity.</p> <p>Minimum and maximum salary in place at the time of posting, in good faith. If there is no range, list a specific amount; no open-ended range.</p> <p>Salary: base annual or hourly wage; does not apply to benefits or overtime pay.</p>	<p>Employee or the public can file a complaint with the NYCCHR.</p> <p>Current employee can file a claim in civil court.</p> <p>NYCCHR can start its own investigation based on testing or tips.</p> <p>Monetary damages to the employee or other forms of affirmative relief, such as amending postings, providing notices to employees or providing training.</p> <p>Civil penalty against employer: up to \$250,000 for first violation that <i>remains uncured for 30 days</i> after the notice of violation, or for subsequent violations; <i>see</i> §§8-107(32)(d) and 8-126a.</p>
<p>Ithaca, NY⁵</p> <p>Ithaca City Code Section</p>	<p>9/1/2022</p>	<p>Four employees within the City of Ithaca.</p>	<p>Any job within Ithaca (silent on workers outside Ithaca so does not apply to</p>	<p>Applies to a new job, promotion or transfer opportunity.</p>	<p>Private cause of action, money damages and any other remedy; <i>see</i> §215-9.5.A.</p>

⁴ See <https://www.nyc.gov/site/cchr/media/pay-transparency.page>.

⁵ See <https://www.cityofithaca.org/CivicAlerts.aspx?AID=832>; and <https://ithacavoices.com/2022/05/ithaca-employers-will-be-required-to-list-salary-ranges-as-pay-transparency-move-approved/>.

Job Postings - Equal Pay Transparency Chart by Jurisdiction - Last Updated: October 17, 2023

<p>215-3(F). Ordinance 2022-03</p>			<p>remote positions). Excludes temporary jobs at a temporary help firm as per subdivision 5 of section 916 of article 31 of the New York State Labor Law.</p>	<p>Actual, or minimum and maximum salary in place at the time of posting. Salary: base annual or hourly wage.</p>	
<p>Westchester, NY⁶ Local Law No. 119 Amending local human rights law Section 700.03(a)(9)</p>	<p>11/6/2022</p>	<p>Four employees within Westchester County. Exception where at least 2/3 of employees are children, parents, spouse or close relatives of the employer; <i>see</i> §700.02(6).</p>	<p>Any position, in office or remotely, that must be performed, in whole or in part, in Westchester County. Excludes temporary employment at a temporary help firm as per subdivision 5 of section 916 of article 31 of the New York State Labor Law</p>	<p>Applies to a new job, promotion or transfer opportunity. Posting in writing, print or electronic media. Actual salary, minimum and maximum salary in place at the time of posting, in good faith. Salary: base annual or hourly wage, but not benefits. Does not apply to “help wanted” and similar signs.</p>	<p>Compensatory and punitive damages, and civil penalties up to \$250,000; <i>see</i> §700.11(h).</p>

⁶ See <https://humanrights.westchestergov.com/salary-transparency-amendment#:~:text=Westchester%20County%20Human%20Rights%20Commission&text=Print-Section%20700.03%20of%20the%20Westchester%20County%20Human%20Rights%20Law%20was,signed%20copy%20of%20the%20amendment>.

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<p>Albany, NY⁷</p> <p>Local Law “E” amending Local Law No. 1 for 2013 by adding new subdivision 4 “An Omnibus Human Rights Law for Albany County”</p>	<p>03/09/2023</p>		<p>Any job within Albany County.</p> <p>Excludes temporary employment at a temporary help firm as per subdivision 5 of section 916 of article 31 of the New York State Labor Law.</p>	<p>Applies to a new job, promotion or transfer opportunity.</p> <p>Actual salary, minimum and maximum salary in place at the time of posting, in good faith</p>	<p>TBD.</p>
<p>New Jersey-Jersey City only⁸</p> <p>Ordinance 22-026, later amended by Ordinance 22-045</p> <p>Amending Chapter 148-4.1 (Discrimination) of the Municipal Code</p>	<p>4/13/2022 + amended 06/15/2022</p>	<p>Five employees, (including independent contractors).</p> <p>Employers with a principal place of business in Jersey City; <i>see</i> Chapter 148, §148-4.1.A and B.</p>	<p>Any job within Jersey City.</p>	<p>Applies to a new job, promotion or transfer opportunity, temporary or permanent.</p> <p>Posting in print or digital media, circulated within Jersey City.</p> <p>Actual salary, minimum and maximum salary in place at the time of posting, in good faith.</p> <p>Salary: base annual or hourly wage + benefits.</p>	<p>Anyone can report violation to City Office of Code Compliance (OCC) or Women’s Advisory Board for referral to OCC</p> <p>Fines of up to \$2,000; <i>see</i> Chapter 1, Article III, §1-25 A.</p>

⁷ See <https://www.albanycounty.com/Home/Components/News/News/1940/59>.

⁸ See <https://1057thehawk.com/new-jersey-pay-transparency/>; and https://library.municode.com/nj/jersey_city/codes/code_of_ordinances?nodeId=16093.

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<p>Colorado⁹</p> <p>Equal Pay for Equal Work Act (EPEWA)</p> <p>Equal Pay Transparency Rules (“EPT Rules”), the purpose of which is to exercise the authority to enforce Part 2 of the EPEWA and the Colorado Revised Statutes (CRS), Title 8, Article 5, Part 2 (8-5-1-201 to 8-5-203) + 7 Colorado Code of Regulations (CCR) 1103-13</p> <p>EPEWA Fact Sheet</p>	<p>1/1/2021</p>	<p>One in Colorado, including a remote employee in Colorado.</p>	<p>Employers in CO.</p> <p>Any remote positions in CO, but not an out of state employer with no existing employees in CO yet, even if a CO worker applies for the job.</p> <p>Does not apply to jobs to be performed entirely outside of CO or postings entirely outside of CO; <i>see</i> “EPT Rules” Rule 4.3(B)</p>	<p>Applies for each posting for a new job and must notify current employees of promotion options.</p> <p>For each job opening, must include the hourly/salary compensation or a range + general description of bonus, commissions or other form of compensation + major benefits; <i>see</i> “EPT Rules” Rule 4.1.1.</p> <p>Rate of compensation or range = lowest to highest pay the employer in good faith believes it might pay for the job, depending on the circumstances. (OK if the employer then pays less or more, as long as they use good faith at time of posting); <i>see</i> 7 CCR 1103.13 Rule 4.1.2.</p> <p>Employers must keep job descriptions and</p>	<p>Any person “aggrieved” = any witness or person violated can file a complaint with the CO DOL; <i>see</i> “EPT Rules” Rule 3.2</p> <p>Penalty to employer between \$500 and \$10,000 per violation, <i>see</i> CRS Section 8-5-203(4).</p>
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⁹ See <https://cdle.colorado.gov/equalpaytransparency>.

Job Postings - Equal Pay Transparency Chart by Jurisdiction - Last Updated: October 17, 2023

				wage rate records.	
<p>California¹⁰</p> <p>Senate Bill 1162¹¹</p> <p>Cal. Labor Code §432.3</p>	<p>1/1/2023</p>	<p>Fifteen or more employees (even if only 1 is in CA); <i>see</i> Cal. Labor Code §432.3(c)(3).</p> <p>(*There are additional pay data reporting requirements for employers with 100 or more employees.)</p>	<p>Existing guidance directs employers to include remote employees in the pay data reports if the employees are assigned to a CA establishment, regardless of whether they reside in CA, or the employees reside in CA but are assigned to an establishment in another state.</p>	<p>Applies to any job posting, managed by the employer or a third party; <i>see</i> Cal. Labor Code §432.3(c)(3), (5).</p> <p>Posting must include a pay scale = annual salary or hourly wage that the employer reasonably expects to pay for the position. Unclear if the employer must include bonuses, commissions or benefits.</p> <p>Employers must maintain records of job titles and wage rate history for the duration of employment, plus three years after end, which can be inspected.</p>	<p>Private right of action for injunctive and other relief; <i>see</i> Cal. Labor Code §432.3(d)(2).</p> <p>No civil penalty for first violation if cured by the employer; then, between \$100 and \$10,000; <i>see</i> Cal. Labor Code §432.3(d)(4).</p> <p>No penalty if employer demonstrates that all job postings have been updated to include the required pay scale; <i>see</i> Cal. Labor Code §432.3(d)(4).</p>

¹⁰ *See* <https://www.jdsupra.com/legalnews/california-sb-1162-frequently-asked-7064652/> and <https://www.nbclosangeles.com/news/california-pay-transparency-law-sb-1162/3023547/>.

¹¹ https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB1162.

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<p>Washington State¹²</p> <p>SB 5671, amending Washington’s Equal Pay and Opportunity Act (RCW 49.58)¹³</p> <p>Administrative guidance issued by the Department of Labor & Industries (“DLI”) on 11/30/2022.¹⁴</p>	<p>01/1/2023 (there was a different version in effect prior to 01/1/2023)</p>	<p>Fifteen employees, where the employer is engaged in any business, industry, professions or activity in the state.</p> <p>Fifteen-employee threshold includes employees with no physical presence in the state, if at least 1 employee works in the state; <i>see</i> Rule 3.1 of the administrative guidance</p>	<p>“Engaged in business” includes employers with no physical presence in the state, but either are engaged in business in the state OR recruit for jobs that could be filled by a Washington-based employee; <i>see</i> Rule 3.1 of the administrative guidance.</p> <p>Employer may not state that Washington applicants will not be accepted, but law does not cover jobs that can only be done outside of the state, even if the job holders could live in the state and commute to the job.</p> <p>Employer need not disclose salary information in printed hard copy postings made and distributed entirely outside of Washington.</p>	<p>Applies to a new job, promotion or transfer opportunity.</p> <p>Applies to any job posting in print or electronic media, managed by the employer or a third party; Rule 7 of the administrative guidance explains what is not covered, e.g., “help wanted” window sign that does not list the job requirements.</p> <p>Employer must include pay scale or salary range in job postings + “general description” of benefits and bonus; <i>see</i> Rule 5 of the administrative guidance.</p> <p>Employer must keep postings updated.</p> <p>At the 2023 AILA Annual Conference, an</p>	<p>DLI may order the employer to pay damage and other forms of relief.</p> <p>Civil penalties against employers for non-compliance: up to \$500 for first violation; up to \$1,000 or 10% of damages, whichever is higher, for repeat violations.</p> <p>Applicant or employee may also file a civil lawsuit.</p> <p>RCW 49.58.110, citing to RCW 49.58.060, 070.</p>
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¹² See <https://www.mwe.com/insights/washington-states-pay-transparency-law-takes-effect-january-1-2023/>; and <https://www.thenewstribune.com/jobs/article269527742.html>.

¹³ See <https://app.leg.wa.gov/RCW/default.aspx?cite=49.58>.

¹⁴ See <https://www.lni.wa.gov/workers-rights/docs/ese1.pdf>.

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				<p>AILA member advised that the Washington State Labor & Industries department stated in a chapter meeting that if a posting does not include job qualifications or requirements, similar to a mere “help wanted” ad, the posting does not meet the definition of “job posting” for purposes of this law. Hence, if a PERM petitioner does not include job requirements, the posting <i>might</i> be exempt. (This has not been independently verified.)</p> <p>It offers a “consultation” to review ads for compliance.¹⁵</p>	
<p>Hawaii¹⁶</p> <p>Senate Bill (SB) 1057, amending chapter 378</p>	<p>01/01/ 2024¹⁷</p> <p>Just signed into law on</p>	<p>Must have at least fifty (50) employees.</p> <p>Does <i>not</i> apply to</p>	<p>Appears to apply to any employer with a business “establishment” in the state of Hawaii.</p>	<p>Requires job listings to include an hourly rate or salary range that “reasonably reflects the actual expected</p>	<p>Can file a complaint with the Civil Rights Commission to order appropriate remedy, including affirmative action</p>

¹⁵ <https://lni.wa.gov/workers-rights/wages/equal-pay-opportunities-act/consultation-request>.

¹⁶ https://www.capitol.hawaii.gov/sessions/session2023/bills/SB1057_CD1_.HTM and https://www.capitol.hawaii.gov/hrscurrent/vol07_ch0346-0398/hrs0378/hrs_0378-.htm.

¹⁷ <https://www.natlawreview.com/article/hawaii-enacts-pay-transparency-law>.

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<p>Part I, Hawaii Revised Statute)</p>	<p>07/13/2023</p>	<p>public employees where the salary or benefits are determined pursuant to collective bargaining</p>	<p>Cites to California, Colorado and New York City as examples where such laws have “benefited employers, current employees and prospective employees.”</p>	<p>compensation”.</p> <p>Employer must provide the wage rate upon hire, the employee’ request and annually.</p> <p>Does not apply to positions that are internal transfers or promotions within a current employer.</p> <p>Also prohibits discrimination based on “any protected category” established by state law, not just based on “sex,” by paying such employees less for “substantially similar work.”</p>	<p>(e.g., hiring, reinstatement with or without backpay.)¹⁸.</p> <p>Can seek compensatory or punitive damages in civil actions brought under Part 1, section 378 for discriminatory practices.</p> <p>Possible civil penalties: fines between \$250 and \$2,500.</p> <p>Possible criminal penalties: fines up to \$2,500 and/or up to 1 year of imprisonment.¹⁹</p>
<p>Illinois²⁰</p> <p>House Bill (HB) 3129 amends the Illinois Equal Pay Act of 2003</p>	<p>01/01/2025</p> <p>Just signed into law on 08/11/2023</p>	<p>Employers with fifteen or more employees, for whom employees are gainfully employed in</p>	<p>Applies to positions that will be physically performed, at least in part, in Illinois and to positions that report to a supervisor, office or work site in</p>	<p>Employers must include pay scale and benefits information in all job postings. “Pay scale and benefits” mean “the wage or salary, or the wage or salary range,</p>	<p>Any aggrieved person may file a claim and the Illinois Dept. of Labor may initiate investigations at its discretion or after receiving a complaint, within one year of the alleged violation. The IL DOL will</p>

¹⁸ https://www.capitol.hawaii.gov/hrscurrent/Vol07_Ch0346-0398/HRS0378/HRS_0378-0005.htm.

¹⁹ https://www.capitol.hawaii.gov/hrscurrent/Vol07_Ch0346-0398/HRS0378/HRS_0378-0029_0003.htm.

²⁰ <https://legiscan.com/IL/text/HB3129/2023>.

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		Illinois. ²¹	Illinois. ²²	and a general description of the benefits and other compensation...the employer reasonably expects in good faith to offer for the position. ²³ , The inclusion of a hyperlink to a publicly viewable webpage that includes the pay and benefits suffices.	give the employer a certain amount of days to remedy the violation, depending on whether it is a first or subsequent offense. Penalties if violation is not remedied: for first offense, a fine up to \$500; for second offense, a fine up to \$2,500; for a third offense, a fine up to 10,000. ²⁴ . A civil action can be brought up in circuit court.
Connecticut²⁵ H.B. 6273, proposed 01/19/2023 and substitute passed 04/11/2023, to repeal Section 31-40z of the General Statutes An Act Concerning Disclosure of Salary Ranges on Public and	10/01/2023 if signed into law (the authors ask for any updates from CT practitioners)	Definition of employer includes individuals, several types of companies within the state and the state itself, if using the services of at least one employee for pay; <i>see</i> Section 1 (a)(1).	Any job, promotion, transfer or other employment opportunity that (1) will be performed in the state or (2) will be performed remotely outside of the state but requires the individual performing the role to report to a supervisor, office or other work site in the state (similar to NYS	Wage range means the range of wages for a position, set in good faith by reference to any applicable pay scale, previously determine range of wages for the position, actual range of wages for those employees currently holding comparable positions or the	Breadth of the range provided by the employer shall be one factor relevant to the analysis of whether such wage range has been set in good faith; <i>see</i> Section 1 (f). Action to redress a violation may be maintained in any court of competent jurisdiction by any one or more employees or prospective employees; <i>see</i>

²¹ Section 5 of the Equal Pay Act of 2003 (as amended by HB 3129).

²² Section 10, b-25 of the Equal Pay Act of 2003 (as amended by HB 3129).

²³ Section 10, b-25 of the Equal Pay Act of 2003 (as amended by HB 3129).

²⁴ Section 30, c-10 of the Equal Pay Act of 2003 (amended by HB 3129).

²⁵ https://www.cga.ct.gov/asp/cgabillstatus/cgabillstatus.asp?selBillType=Bill&bill_num=HB06273&which_year=2023.

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<p>Internal Job Postings</p> <p>Addition to existing pay equity law from 06/07/2021 HB 6380 related to wage range disclosure to job applicants and existing employees</p>			<p>law); <i>see</i> Section 1 (g).</p>	<p>employer’s budgeted amount for the position; <i>see</i> Section 1 (a)(4).</p> <p>No employer shall fail to disclose in each public and internal posting for each job, promotion, transfer or other employment opportunity, the wage, or wage range, and a general description of the benefits; <i>see</i> Section 1 (b)(9).</p>	<p>Section 1 (d).</p> <p>Employer can be held liable for compensatory damages, or statutory damages of \$1,000 to \$10,000, whichever is greater; attorney’s fees and costs; punitive damages; and such legal and equitable relief as the court deems just and proper; <i>see</i> Section 1 (d).</p> <p>Action must be brought within 2 years after violation; <i>see</i> Section 1 (e).</p>
<p>Washington, D.C.²⁶</p> <p>Several bills introduced in 2023 in the Council of the District of Columbia to amend the Wage Transparency Act of 2014, including:</p> <ul style="list-style-type: none"> - Pay Range Act of 2023, D.C. bill B25-0026 - Pay Scale and Benefits Disclosure Amendment Act of 2023, D.C. bill 	<p>N/A for now</p>	<p>E.g.: Any individual, company or D.C. government who uses the services of at least 1 individual for pay in the district.</p> <p>E.g.: Only those using at least 25 individuals for pay in the district and excluding D.C. government.</p>	<p>Unknown at this time.</p>	<p>E.g.: Employer may not advertise a job, promotion or transfer opportunity without posting the minimum salary or hourly pay range for the position in the advertisement; this means the lowest to highest salary the employer in good faith believes at the time of posting that it would pay.</p> <p>E.g.: Employers are</p>	<p>E.g.: The Worker’s Rights and Antifraud Section of the Office of the Attorney General Public Advocacy Division will issue rules to implement and enforce the Act.</p>

²⁶ <https://news.bloomberglaw.com/daily-labor-report/d-c-explores-pay-equity-law-to-fix-one-of-worst-wage-gaps-in-us>.

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B25-0194				required to provide minimum and maximum projected wages in job listings; position descriptions; and non-wage compensation for positions advertised	
<p>New Jersey²⁷</p> <p>- Assembly, No. 4285, introduced 06/16/2022</p> <p>An Act concerning job postings and supplementing Title 34 of the Revised Statutes</p> <p>- Assembly, No. 3927, introduced 05/12/2022</p> <p>An Act concerning transparency in employment listings and supplementing Title 34 of the Revised Statutes</p>	<p>N/A for now</p> <p>Could take effect immediately</p>	<p>E.g.: At least ten employees over twenty calendar weeks and does business, employs persons or takes applications for employment within the state.</p> <p>E.g.: At least five employees.</p>	<p>E.g.: Physical location is in whole or substantial part, within the state.</p> <p>Job includes any type of work for pay.</p>	<p>E.g.: An advertisement for employment in the state on any platform must include at least:</p> <p>Minimum and maximum salary or hourly wage rate range.</p> <p>Any supplemental compensation.</p> <p>Description of the benefits, including but not limited to paid leave, health care and dental plans.</p> <p>Retirement plans.</p>	<p>E.g.: Civil penalty not to exceed \$1,000 for first violation, \$5,000 for second violation and \$10,000 for each subsequent violation.</p> <p>Collectible by the Commissioner of Labor and Workforce Development in a summary proceeding as per the Penalty Enforcement Law of 1999.</p> <p>Aggrieved person may seek civil action for injunctive relief, compensatory damages, and reasonable attorneys' fees and court fees.</p>
Massachusetts ²⁸	N/A for now	At least fifteen employees in	Unknown at this time.	Pay range means the annual salary range or	AG may obtain injunctive or

²⁷ <https://www.njleg.state.nj.us/bill-search/2022/A3937> and https://pub.njleg.gov/Bills/2022/A4500/4285_I1.HTM.

²⁸ <https://malegislature.gov/Bills/193/HD2814>.

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<p>House No. 1849, introduced 01/19/2023</p> <p>An Act relative to salary range transparency, amending Chapter 149 of the General Laws and inserting new Section 105E</p>		<p>Massachusetts.</p>		<p>hourly wage range or other compensation that the employer reasonably and in good faith expects to pay for such position at the time; <i>see</i> Section 1, Section 105E(a)</p> <p>Must disclose the pay range for a particular employment position within the advertising or posting of the position; <i>see</i> Section 1, Section 105E(b).</p>	<p>declaratory relief.</p> <p>Warning for first offense and not more than \$500 for second offense. Third or subsequent offense subject to section 27C(b)(1) and (2) of Chapter 149.</p>
<p>Maine²⁹</p> <p>Bill HP 583, introduced 03/02/2023</p> <p>An Act to Require Employers to Disclose Pay Ranges and Maintain Records of Employees' Pay History</p> <p>Creates Section 622-A. Pay Transparency</p>	<p>N/A for now</p>	<p>At least ten employees (if fewer, must provide on request to job applicant)</p>	<p>Unknown at this time.</p>	<p>Any posting of employment opening must include a statement that lists the range of pay the employer will offer to a successful applicant.</p> <p>Posting means an advertisement or other listing of an employment opening that is published or placed as a notice or invitation to potential applicants.</p>	<p>Unknown at this time.</p>

²⁹ https://legislature.maine.gov/legis/bills/display_ps.asp?LD=936&snum=131.

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<p>Oregon³⁰</p> <p>Senate Bill 925 amending ORS 659A.357 and 659A.360, prohibiting job advertisements without pay range disclosure apparently shelved over concerns about free speech.</p>	<p>N/A for now</p> <p>Would become effective 01/02/2024</p>	<p>Employer is defined in ORS 652.210 (employment agency also subject)</p>	<p>Positions that will be performed in whole or in part in the state; <i>see</i> Section 4.</p>	<p>Job posting is any written or printed communication, whether electronic or hard copy, that shows an employer is recruiting and accepting applications for a specific employment position; <i>see</i> Section 1(e).</p> <p>Pay range means a range from a lowest to the highest salary or hourly wage that an employer would pay in good faith as compensation in accordance with a predetermined compensation schedule or an allocated budget; <i>see</i> Section 1(f).</p> <p>Employer may not fail to advertise an employment, promotion or transfer opportunity without disclosing in the posting the pay range and a general description of the benefits associated with</p>	<p>Individual may file complaint under ORS 659A.820.</p> <p>Commissioner of the Bureau of Labor and Industries may assess civil penalty, starting at \$1,000 for first violation and then not to exceed \$10,000; <i>see</i> Section 6.</p> <p>Individual may also file civil action against employer within one year of conduct; <i>see</i> Section 7.</p>
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³⁰ <https://www.oregonlive.com/business/2023/04/oregon-salary-transparency-bill-shelved-over-free-speech-concerns.html> and <https://olis.oregonlegislature.gov/liz/2023R1/Measures/Overview/SB925>.

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				the job; <i>see</i> Section 2.	
<p>Federal Bill</p> <p>H.R. 1599³¹</p>	<p>N/A for now</p> <p>(Introduced in House on 03/14/2023 and referred to House Committee on Education & Workforce)</p>	<p>All employers nationwide would be covered.</p>	<p>Any job subject to the U.S. Fair Labor Standards Act (FLSA)³²</p>	<p>Any public or internal posting for an employment opportunity failing or refusing to disclose wage or wage range is a violation. <i>See</i> §8(a)(1).</p> <p>Where failed to disclose in posting, a violation if fail or refuse to disclose wage or wage range to applicant prior to discussing compensation at any time upon applicant’s request. <i>See</i> §8(a)(2).</p> <p>Wage range defined as range of wages, salaries and other forms of compensation the employer anticipates in good faith relying on in setting pay for the position. May include reference to “any</p>	<p>\$5,000 civil penalty for 1st violation increased by \$1,000 for each subsequent up to \$10,000. <i>See</i> §8(b)(f)(1)(A)</p> <p>Liability to each applicant or employee for statutory damages of \$1,000 to \$10,000 or actual damages plus attorneys’ fees and injunctive relief. <i>See</i> §8(b)(f)(1)(B)</p> <p>Private right of action available. <i>See</i> §8(b)(f)(2)</p> <p>(Unclear if (b) should read (c) here.)</p>

³¹ <https://www.congress.gov/bill/118th-congress/house-bill/1599/text>.

³² <https://uscode.house.gov/view.xhtml?path=/prelim@title29/chapter8&edition=prelim>.

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				applicable pay scale, previously determined wage range, actual range for those currently holding the position, or budgeted amount for the position. <i>See</i> §8(b).	
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Chapter 6:

Strategic networking – learning to identify, connect, and benefit your network

By Debbie Epstein Henry, founder, DEH Consulting, Speaking, Writing; and co-founder, Bliss Lawyers

Do you worry that your network has gone stale? That you've let it lapse for too many years? Do you think you need to step up your networking – but you don't know where to start? Do you feel you've exhausted your networking efforts but you haven't had the success you want or need? If the answer is “yes” to one or more of these questions, then you need a new framework to mine your network and unearth your contacts. By getting organized, conducting outreach, applying discipline, and extending yourself generously, you can tap into your network in a way you never could have imagined. You will also help others, finding great reward in reconnecting with old contacts and developing new ones too. Here's how.

Identifying your network

People often tell me they've increased their networking efforts, yet they are still not effective at connecting with the people they want to reach. When I ask them what they are doing to expand their network, I'm often struck by how their networking is based on instinct and episodic efforts. To succeed in networking, you must approach it with the same strategic thought and methodology as you would any other professional goal.

The first step is creating a networking spreadsheet with four or five tabs to ensure you have identified your network. For each tab, list all of the people who fall into the designated category and err on the side of being over-inclusive.

First tab

Childhood friends and family. These include your friends from your schooling through high school, sports, music, summer camp, and any other activities in which you were engaged. This grouping also

includes people up until college from your religious institutions and volunteer work.

Second tab

College and graduate school contacts. This list extends to friends from college and any graduate school(s) you attended as well as professors and people you interacted with during those years in the activities in which you were involved.

Third tab

Former colleagues and professional contacts. These include everyone you worked with or met in the past in a professional context, whether they were colleagues at your workplace as well as competitors and people you knew through professional organizations, industry conferences and networks.

Fourth tab

Current social network and community, as well as your former, post college, or post graduate school social network and community. This may include your current or former neighbors, people you know through volunteering or through your children, religious organizations, etc.

Fifth tab

Current professional colleagues and contacts (for those of you currently employed). This list includes everyone you are currently working with or that you are currently interacting with in a professional context.

Connecting with your network

The next step is finding out where your contacts are and who are doing things of interest to you. The best tool for this is LinkedIn. Before doing any research or outreach, be sure your own LinkedIn profile is updated. Take your bio offline and complete all of the dimensions to your profile. Once you have uploaded your current and complete bio, as well as a current professional photo, begin your research and outreach. In terms of priorities, go through your current and former professional and personal (tabs three, four, and five) networks first. These people are the most likely to be able to vouch for you professionally, personally, or both. They are also your more current networks. There will be others from your childhood friends, family, or schooling who you may want to prioritize too, based on reasons that may be unique to you.

When you look your contacts up on LinkedIn, record their titles, affiliations, and geographies in your spreadsheet. When you identify contacts on LinkedIn who you want to connect to, don't wait. To maximize your efficiency, connect with them right away and record the date and type of outreach in your networking spreadsheet. When you connect with someone on LinkedIn, be sure to do so with a personal note to customize the invitation rather than just sending the default invitation. The personal note is a way to reconnect, remind your contact how you're connected, and inquire about getting together or scheduling a call. It also creates more accountability for the recipient to respond.

Often, people will want to switch to email once they're connected but it's helpful to use the initial LinkedIn outreach to connect, share your background, and assess interest for follow-up. Also, once you're connected, you typically have access to your connection's contact information. If you have your contact's email address and you haven't received a response, it's often better to follow-up by email since it's another medium and one the recipient may be more comfortable responding to than LinkedIn. If you've recorded on your networking spreadsheet the date of initial outreach and someone has accepted your connection but not responded to your inquiry about a call or get together, follow-up about two weeks later. It's also helpful to set up calendar reminders at the initial date of outreach so you can more easily track the best timing for follow-up if you haven't received a response.

Benefiting your network

In addition to the framework above, here are some additional tips that will help you give to, and benefit from, your network.

Like with any other goals you have, set aside time each week to focus on your networking and track your efforts. Establish a target number of hours for research and outreach as well as for in-person and video/phone meetings each week. Also, where possible, integrate your networking into activities you are otherwise interested in attending or pursuing.

In-person meetings are preferable, where possible. When you have the opportunity to set up in-person meetings, make it easy and convenient for your contacts and be flexible and pick up the tab. When scheduling calls, similarly, do it at the convenience and preference of the person you are asking.

In advance of a meeting or call, do your research on the background of the person with whom you're meeting or speaking. Think about how you and those you know can be a resource to your contact and reflect

on how you can help the person you're meeting with, not just how that person can help you. Also, think about commonalities that you can highlight to otherwise make yourself more familiar at the outset. Look into the connections of your contact to see who you have in common as that often serves as helpful credibility and a way to establish a bond. However, if a person you have in common may be complicated or controversial, use your discretion as to whether to raise the name. You also want to be familiar with your contact's connections in case you want to request any introductions.

If appropriate, be prepared to make any Asks (or at least lay the foundation to make any Asks) at the meeting or during the call when you have your contact's attention. A quick re-cap at the end of a meeting or call of what follow-up you will pursue is often a helpful way to solidify a request. Also, if you ask at the end of a meeting or call if there is any additional follow-up that would be helpful or any others who you should contact, it can be another way to anchor a request and ensure that you have made all of the relevant inquiries. Following-up with requests not already introduced during a meeting or call will often result in opportunities lost.

Balance any Asks with being patient. If you are reconnecting with someone you have not been in touch with for a long time or you are meeting someone new through a trusted contact's introduction, take it slow. Invest in the relationship and be careful not to overstep and make requests that would potentially make your contact uncomfortable. Instead, let your contact know what you do and how you can be a resource, giving your contact enough information to inquire should a need arise where you can assist.

Push through the awkwardness of tapping into your personal contacts for professional opportunities. The lines between the personal and professional have become blurred – particularly due to technology – and if you don't consider your personal contacts in a professional context, you will forego lots of opportunities. In my experience, women are particularly loath to think of their personal relationships for professional opportunities. Given that women are often more engaged in their community and volunteerism outside of work, the potential negative professional impact is acute, making it that much more important for women to find ways to get comfortable blurring the lines. This issue can be even more complicated for a woman when, for example, her girlfriend is working in a less relevant field or her girlfriend is a stay-at-home mom while her girlfriend's husband is a strong professional contact. In such cases, a

woman seeking the professional opportunity should be sensitive, transparent, and inclusive to be sure her girlfriend doesn't feel diminished, resentful, or excluded in any way. Also, it is helpful to keep in mind that good personal relationships are based on trust, and trust is the same foundation that makes up strong professional relationships.

Be sure to express gratitude to the people you speak and meet with and to those who introduce you to others. Follow-up with the people who help you and update them to let them know which of their efforts were especially helpful. Handwritten thank you cards are a way to distinguish yourself.

If you are comfortable being active on social media, post relevant content or comment on others' content. I see social media and networking as analogous to the "Rule of Seven" in advertising that typically a consumer needs to see a product seven times before making a purchase. Social media can be a way for your contacts to gain exposure to your profile and your impact on a more frequent basis. Like with many things, though, use discretion and be careful not to over-share or inundate your contacts with content or commentary that is not advancing the conversation or is too self-promotional.

Remember that networking can happen anywhere. Certainly golf courses, cocktail receptions, spectator sporting events, industry conferences, and the like, are typical. However, networking can also happen in other networking settings that have become especially popular for women's professional groups, e.g., workplace book clubs, wine tastings, retreats, spa outings, etc. But, remember that networking also can take place on the playground, at the gym, at your kids' schools, at dinner parties, and countless other venues.

Once you've had a successful initial meeting or call, follow-up promptly and then keep in touch. Send your contacts an invite to an event that is relevant to their interests or an article or book that is apropos of a conversation that you had. You may want to also develop an annual ritual of outreach with a gift or donation that is not at holiday time when your efforts may get lost in the barrage of other people's efforts.

Be careful that your actions are not misconstrued. Some people think that networking can feel like dating and at times, it leads to romantic relationships. If that is not your intention, it is important to be aware of this potential risk, which may be particularly challenging for women. To avoid this sort of awkwardness, it may be helpful to bring a colleague along for an initial meeting. Also, be thoughtful about the time of day and venues of the meetings you are proposing, e.g., breakfast or lunch

instead of drinks or dinner and meetings at the office or well-lit restaurants and public places.

Be responsive to the Asks made of you by your contacts. Be mindful and proactive of bringing value to your contacts in both professional and personal contexts where you may be able to assist.

Take credit where credit is due. While no one likes an obnoxious self-promoter, it is important that you demonstrate your value and are comfortable communicating that you are a contributor. Networking often requires people to vouch for you and if they are not aware of or confident in your abilities, they will be less likely to do so. Many women are uneasy about seeking recognition for their role. This reticence is heightened because women are often judged more harshly when they do take credit. Being creative about demonstrating your contribution and garnering the recognition you both need and deserve is important. To do so effectively, it helps to align your own self-promotion with that of your employer and/or other laudable initiatives. Also, be sure to benefit and credit others along the way, wherever possible.

Get involved and be a leader. If you devote yourself to volunteer work in a professional and/or personal context, it is a great way to give back and also meet interesting people. When you get involved, be selective and devote your time to organizations that are meaningful to you where you can make an impact and ideally seek a leadership role.

Evaluate and track your success and what networking contacts and efforts have been most fruitful. Based on the information you gather, assess whether you should pursue new directions. When appropriate, continue to adjust and improve for the future.

Promise yourself you will not allow your network to lapse again. Be an ongoing resource to your contacts who are in transition or seeking you out for advice or otherwise.

If you follow these suggestions, you will develop your own variation of identifying, connecting, and benefiting your network. If you customize this process, it will be that much more valuable to you. Most important is that you pursue networking with a framework and strategic mindset in the same way you would any other priority in your life. If you do, you will maximize the relationships you have and give back to others, including those who have given to you.

Chapter 6:

Effective networking and increased connection in a remote and hybrid workplace

By Debbie Epstein Henry, founder, DEH Consulting, Speaking, Writing; executive consultant, Axiom

Are you feeling invisible as you try to network in a virtual environment? You're not alone. If you're networking to strengthen your alliances with colleagues, expand your client base, develop new relationships, find a new job and/or build your personal brand, you've likely realized that the skills required to network effectively in a virtual workplace are different. Networking is about investing in relationships by being helpful. In a remote workplace, the need to show your worth is that much more important but also that much harder. The mystery of virtual networking today is compounded by the uncertainty of how long virtual networking will remain the norm. Even recognizing that in-person networking will resume someday, we still have unease, not knowing what networking will look like and how it will continue to evolve.

In this chapter, we will explore how to network effectively and be visible in a remote and hybrid work world. We will address how to strengthen and develop relationships without being face-to-face. We will uncover what outreach is appropriate to pursue and what is the best approach. We will also outline thoughtful and focused communication and how to make sure we are striking the right chord. Additionally, we will share ways to use your online presence, writing, and speaking to maximize your exposure, impact, and success.

Demonstrate your value and be a resource

In a COVID-19 influenced world, many lawyers are anxious. Most are working remotely on a full-time basis for the first time. Some are facing new and different home responsibilities that they are unaccustomed to juggling – taking care of elderly or sick relatives, home-schooling children, coping with limited or non-existent childcare and other services such as house cleaning. For some, these new variables are further

complicated by concerns about job security and/or uncertainty about the continued market need for their employer's goods or services.

What may surprise some of you is that a lot of the advice provided in this chapter is about how to be a good lawyer and communicator as well as how to deliver top-notch client service. That's because so much of successful networking is about demonstrating that you are indispensable and, as a result, you're the one that colleagues and clients seek out when opportunities arise. Effective networking in a remote workplace is ultimately about demonstrating your value and being a resource now more than ever.

Understand your new virtual surroundings

Know the limitations of the medium

The challenges in communicating virtually are important to recognize. With email communications, it's harder to pick up sarcasm, humor, tone, and subtlety. Video communications are better than phone but physical cues may still be harder to detect. While video is the best substitute for in-person, it's important to recognize that it's not the same. You will need to become hyper-aware of when issues are sensitive and need to be addressed one-on-one, by video, by phone, or be delayed altogether.

Recognize that some informality has been lost

If you worked in a traditional office, you may be missing the casual banter at the coffee station or the people you commute with or the people you grab a bite to eat or drink with or the people who attend events with you. You are also not connecting with new people who you might meet at those lunches, coffees, drinks, events and conferences. Think about those opportunities lost and identify which ones could be recreated by video, phone, or email. Also, understand that those encounters are not simply filler-time. They are ways to establish trust, familiarity and comfort so that when a need arises, you're the one that colleague, client or friend calls. So, consider ways you can recoup that connection by touching base on the things you used to do or talk about or finding creative ways to connect virtually by sharing interests or hobbies online.

Heighten your communication skills

Get to know your audience¹

I have always emphasized the need to know your audience in order to be effective at networking. The more you know about someone you want to network with, the more you can help. Yet the needs and preferences

of your colleagues and clients have likely changed since the pandemic. As an effective networker, you need to reassess your contacts' needs. For example, don't presume that everyone wants to communicate by Zoom. Many people are burned out and would welcome a non-video call. Ask your colleagues and clients their new work preferences regarding frequency, mode, and time of communications. Also, when you interact by video, pay more attention to internal cues and emotions to gather any insights on the current receptivity your contacts have to you and your ideas. Now's the time to do more listening and observing and be more generous in giving others the opportunity to speak. Learn their current needs, challenges, and interests, as well as your commonalities. Once you've done this, you will be better able to tailor your communications and, in turn, garner greater receptivity.

Develop video executive presence

When you are interacting with people on video, show the best representation of yourself.² Look at the camera, even though it may feel awkward. Make deliberate contributions to the conversation with confidence. Center yourself on the screen and position yourself close to the camera. Use a professional background and dress professionally. Don't multitask during the meeting. Use the chat window to reference sources and make points of emphasis.

Overcommunicate

Given the limitations of working remotely, become an over-communicator. Part of effective networking is showing you are good at what you do. Along these lines, good client service is not only about delivering a great work product and results but also keeping in touch and being responsive and accessible. When people work remotely, there is concern that they are not doing what they're supposed to be doing. Being responsive and accessible (if only to simply confirm receipt and indicate when a substantive response is forthcoming) is a way to keep your recipients from guessing and make a favorable impression.

Be a smart communicator

Often, people don't take the time to organize their thoughts in advance, even when they have the opportunity to do so. Prepare an outline or script or punch list of the points you want to address on a call or video or share an agenda in advance. If you have differing views on a question, answer first and then qualify to demonstrate ultimately that you are

comfortable making a recommendation and being decisive. Watch out for inflection and up-speak as it often makes the listener question your confidence. Be willing to pause rather than nervously fill any silence. Silence is another way to invite others into a conversation.

Be efficient in your communications

Many people are feeling overtaxed and overburdened. If you are thoughtful and efficient in your networking communications, you will be more likely to get a yes. For example, when you want to connect with someone on LinkedIn and schedule a catch-up call, rather than simply try to connect with the person, send a personal note to ask for that catch-up call while inviting them to connect. This reduces communication from two to one message and also creates more accountability for a response because of the personal touch. Similarly, when communicating by email, use the subject line to indicate why you are getting in touch. By scanning the subject line of an inbox, a recipient should be enticed to open your email and also know right away what it is you're seeking – once again increasing the likelihood of a response.

Demonstrate a high level of self-awareness

Be sensitive to personal lives and circumstances

Many people are struggling, suffering, angry, and sad. The global pandemic, coupled with the killing of George Floyd and its ensuing protests have heightened the focus on racial inequity in the US and our professional and personal lives are more inextricably linked than ever. This linkage requires all of us to think more critically before asking about things we may not have hesitated to inquire about previously. Proceeding with caution, empathy, and humility are important in these challenging times.

Exercise good judgment

Listen to your colleagues and clients and be sure you are current on how they want you to interact and work with them. Try to get an understanding of the status of the business so that any asks and inquiries you make are consistent with what is expected in the current climate. Identify what parts of your work are inappropriate to pursue right now and consider revisiting them at a later date. Be aware of any sensitivities and tensions or shifts in relationships that you are noticing. Typically, when you feel a tension or awkwardness, the other person does too. When you have identified something that is sensitive, try to avoid email. Video, as an in-person

substitute, is best if something sensitive must be dealt with right away. If you are upset or angry, delay responding if at all possible and, at a minimum, try to impose a 24-hour rule before responding.

Details matter

How you network and make an ask is always a challenge but when you do so in a virtual environment, the details matter even more. If it's for something important, opt for video as the best alternative to in-person. Be sure you have the right audience and take the time to tailor and personalize your message to the person and his or her organization. Practice and role play to get the framing, tone, and pacing right. Evaluate to ensure the timing is right for your ask.

Know the uniform

Part of successful networking with colleagues and clients by video is having an appropriate background and knowing the range of acceptable attire for a video meeting. Projecting a professional image while interacting by video can sometimes be even more important given that you don't have the additional context of meeting in an established venue that may lend more credibility to you and the moment. So, anticipate what your contact will be wearing and try to mirror his or her dress code. If you're not sure, err on the side of being more dressed up. You do not want your background or appearance to be a distraction so, when in doubt, you should skip what you are questioning. Pay attention to things like geography, industry, and role, as well as type of meeting, presentation or gathering as these factors are often indicators of the range of appropriateness. While it is important to know the uniform, this is not to say that you should be inauthentic or conform or stifle who you are. Instead, you should understand that you are not working in a vacuum and, whether it's fair or not, part of how we are judged is how we present ourselves. So, make the choice of how you want to represent yourself and your organization thoughtfully.

Be generous

Make your ask a give³

I've written about the importance of generosity in networking. Being kind and generous is that much important now, when people are uncertain about the future of work and how it will normalize. The concept of "Make your ask a give" is about listening and being informative and inquisitive and, in doing so, figuring out how you can provide a benefit

and be helpful. By being a resource and bringing value, you will find that opportunities will often flow back to you. This is not about seeking a *quid pro quo* but rather you will see that when you help people, frequently, a natural reciprocity ensues. While you can't create a need in someone else, if you demonstrate your value and effectively communicate with people about what you do and how you can help, those people will often call on you when a need arises.

Invest the time

With Zoom fatigue setting in for many, there may be an inclination to shorten or limit meetings wherever possible. While that generally is a good thing, sometimes building in some extra time in meetings to connect goes a long way. For example, in a small team call, set aside 15 minutes for each team member to share a quick story of a treasure from home – a show and tell of sorts that a client suggested to me – as an icebreaker to enable team members to get to know each other better.

Be collaborative and considerate

Be respectful of boundaries

Many who work virtually have greater difficulty delineating lines between work and home. For that reason, be more thoughtful about avoiding weekend communications if a matter is not time sensitive. Also, with more people behind their desks and not traveling, there is a tendency to send more emails. Now's the time to be more considerate and not send excess emails and be careful to avoid unnecessarily copying people on email chains.

Volunteer and ask

Everyone's job descriptions have changed since the pandemic so be inquisitive and ask what are the new challenges that your colleagues and clients are faced with and volunteer to help. However, don't just put the onus on them. Come up with strategies of how you can fill gaps after observing where your skill sets align with their areas of need.

Offer new ideas

There is a whole new landscape to work so this is a time where there may be more receptivity to new ideas. Be the one to offer them and be able to articulate why they're worth a try. Suggest calling it a pilot so it is recognized as a test and less subject to being perceived as a failure if it's not worth pursuing long term.

Check-in and offer to help

This is a modified ask. Remind someone that you're there and how you can help. Share any information, resources, articles, and webinars that may be of interest. Be informative of what you are doing for others and what others' needs are and how your contacts' needs may be analogous. Be mindful if an ask is appropriate or if it should be postponed.

Suggest a collaboration

Offering to take the lead on a co-authored article or presentation is a great way to engage with someone and give the person you want to connect with some visibility while you take on most of the work. Before proposing the collaboration, develop a well thought out plan that you can present about the topic, audience, approach, timetable, impact, reach and benefits.

Get organized

Replace the missing transitions in your day

If you find yourself with extra time on your hands, be thoughtful about reallocating the time before it slips away. If you establish daily rituals and routines, it will help you. It is harder for many to work remotely because it requires imposing a structure that was previously imposed upon you. By creating parameters around your work day – start and stop times, break and meal times, and exercise and fun times – it will naturally bring back those transitions you've been missing. If you schedule your work around your natural rhythms when you are most productive, it will help you stay focused and better able to manage and anticipate distractions.

Repurpose your time

If you have extra time because you're no longer commuting or you've recouped time because you're no longer chatting with colleagues at the office, use that time, at least in part, to network more and/or increase your impact. Write that article you've been wanting to write, prepare that Continuing Legal Education talk you've been wanting to give, develop that webinar you've been wanting to create, get involved in non-profit work, or pick up that pro bono project that will enable you to help a cause you care about and hone a new skill. Articles, presentations and increased engagement in non-profit work are ways to help others while maximizing your exposure and developing or growing an area of expertise.

Be respectful and take charge

Your organizational skills should not only help you apply internal discipline, they should also help you in your interactions with others. When you secure a networking meeting or call, be respectful of your colleagues' and clients' time. Plan, in advance, an agenda of items to cover while being respectful and ready to defer to your audience's preferences. Also, pay close attention to time. Pace the meeting so the most critical topics are prioritized early and the time allocated for each topic appropriately reflects the relative importance of the topic. Try to end the meeting in advance of the time allotted.

Invest in yourself

Develop or reinvigorate your online presence

One of the key advantages of an online presence is your potential reach and impact. Given the lack of in-person interaction, an online presence is more important than ever. So, now's the time to be sure your bio on your employer's website is current and the social media platform bios where you engage are current too. As a minimum, you should have a LinkedIn profile that is current and consider ways you can contribute to the online dialogue and conversation. If this is new to you, observe others' conduct online and adapt the parts you like to your style. You can start small by liking and commenting on others' posts and then share articles, sources, updates, recognitions, or events that you find helpful.

Up your game

Another way to be an effective networker is to always be bettering yourself. Particularly when times are uncertain, it is good to identify gaps in your expertise or skills and develop them. Focus on how you can increase your job security and bring more value to colleagues and clients. Be indispensable, volunteer, and be prepared. Contribute to the conversation. If obtaining new training or certifications or substantive knowledge will improve the contributions you can make, seek out new learnings and enroll. In addition to substantive training, you may want to pursue training on management and leadership skills as well as other areas of personal development.

Relish the clarity of learning what and who is important

For some, working remotely has cut out a lot of the excess in their life and streamlined what and who is important. This can be a helpful refresher and a way to refocus your networking efforts and energy to the people

and things that matter most. Use the moment of clarity to re-evaluate and refresh your approach.

Be deliberate

Self-advocate⁴

To be an effective networker, you need to inspire confidence and be great at what you do. Part of networking entails getting others to vouch for you. Your contacts who are recipients of your asks need to be confident that you will deliver and you are worthy of their backing. This involves effective self-advocacy that may come in different forms. It may involve taking credit where credit is due. One way is to be factual and informative to show how your knowledge, contribution, and experience may benefit a colleague or client. It may also involve aligning your self-promotion with that of your organization or a compelling cause. Once again, you want to be able to demonstrate how you can bring a benefit not only to yourself but also to your organization and causes bigger than yourself.

Be strategic in your networking

Many make the mistake of being unfocused in their networking efforts. Networking requires a systematic approach, just like anything else that is important. In the Strategic Networking chapter I wrote for ARK in 2018,⁵ I talked about the need to make your LinkedIn profile current, organize your contacts, make deliberate, personal, and tailored outreach and set targeted goals for the times and types of outreach. This type of strategic approach is even more important in a virtual environment where your networking efforts will not be reinforced by in-person touch points.

Develop and invest in sponsorship relationships

Sponsors are power brokers who use their influence to back high potential proteges to advance their careers.⁶ At a time where in-person contact is limited, it's essential to have people of influence keeping you top of mind and advocating for you. To shore up these strategic alliances, keep in touch with your sponsors and deliver value to them based on their current needs. Also, be courageous in seeking feedback from your sponsors, asking how you can be more effective in supporting them and your organization. If you don't have a sponsor, identify potential sponsors and see how you can deliver value to them that is unique and indispensable.

Be creative

Do something that is not a compromised version of what you used to do

A lot of people feel frustrated that their work in the pandemic is merely a diminished version of what they would have done pre-pandemic. For example, an in-person presentation in a resort with lots of in-person networking is reduced to a Zoom webinar. Instead, think of work and circumstances that are not compromised by remote work. For example, if you decided to launch a podcast, the medium is audio so hosting a podcast would essentially be the same, regardless of whether you work in a virtual environment. The other frequent complaint I'm hearing from employees is boredom from the monotony of our work communications. Think of ways that you can bolster your work contributions that do not feel constrained or limited by the current circumstances and bring more variety to your interactions.

Use being at home as a way to build trust

Many focus on the negative influence on colleague and client relationships due to remote work because of the lack of ability to connect in-person. But, what about focusing on the benefits of being inside colleagues' and clients' homes to provide more insights into who they are as a way to build trust? Some fun networking activities that people have shared with me that they are doing with colleagues and clients that they would have been less inclined to consider or had less time for when they worked in a traditional office include:

- Virtual walk and talks;
- Cooking and recipe swaps;
- Wine clubs;
- Book clubs;
- Collective exercise, yoga and meditation;
- Movie and TV series clubs;
- Foreign language pen pals and conversational partners;
- Games, contests, challenges and karaoke nights;
- Bridge, Mahjong, Canasta; poker and other card clubs;
- Needlepoint, knitting, crochet, cross stitch and patchwork groups;
- Jamming, bands, orchestras, choral and instrumental groups;
- Community organizing and volunteering groups;

- Gardening and flower arranging clubs;
- Painting and crafts collaborations;
- Pets and animal care groups;
- Literary and journaling clubs; and
- Self-care groups – facials, massages, pedicures, manicures.

Establish new rituals

Some report feeling even more connected as a result of working remotely because they are making greater efforts to be in touch and they have established new rituals to reinforce their efforts. For far-flung relationships, improved technology has brought some people closer because it's often just as easy to reach someone across the world (other than juggling time zones) as it is to connect with someone in the same city. For some, changed work circumstances have been an invitation to try out new routines and pursue new interests and hobbies as well as pilot new ways of work. Embrace the rituals that have created more meaning for you and engagement with others and commit to keeping up those new routines.

Reinvent and reengage

The recommendations shared in this chapter are meant to inspire you to rethink how you are networking and engaging with your colleagues and clients. Now, more than ever, networking is essential to strengthen your alliances with colleagues, grow your client base, develop new relationships, find a new job, and/or build your personal brand. If you welcome the changes that surround us and embrace the new networking opportunities that present, you will be able to bring great value to others as well as yourself.

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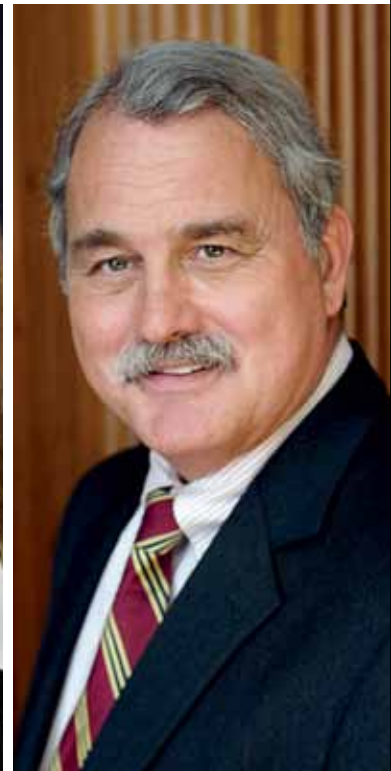
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AMBITION: WOMEN POWERING UP

BY THOMAS L. SAGER
AND DEBORAH EPSTEIN HENRY

Webster's Dictionary defines ambition as "an ardent desire for rank, fame and power."

That is not what senior executives and managing partners should be looking for in identifying future successors. Those who embrace this definition and use it as the lens through which to evaluate potential leaders are limiting, to an employer's disadvantage, its talent pool and leadership pipeline. However, if ambition is defined as "an ardent desire to lead and influence the actions of others," the pipeline opens, especially for women.



We recently participated in a conference that featured four executive women discussing women and leadership.

During the 90-minute panel discussion, there was no mention of ambition or power. When we raised these subjects at the end of the program, the panel and audience were silent.

How could these subjects not be addressed when the designated topic was women and leadership? In a comparable program discussing male leadership, would it be possible not to talk about ambition and power? What else would the men have discussed?

Once the women panelists pondered how ambition and power factored into their roles as leaders, their conclusions were simple: These pursuits were not relevant. When pressed, they attributed most of their success to good luck and happenstance. These explanations are consistent with the research.

According to Anna Fels, a psychiatrist who has written broadly about women in the workplace, ambition is essen-

tially a dirty word among women. Fels reports that mastery of a special skill and recognition from an appreciative audience are needed to cultivate ambition. Thus, the well-documented lack of recognition that women receive for their accomplishments is a significant contributor to their stalled progress.

Fels' research also finds that women tend to cede or deflect ambition for a number of reasons including societal views of femininity, which result in women being punished for exercising ambition. For these reasons and others, many women abandon their ambitions during childrearing or when the challenges in pursuing their professional goals become particularly great.

Complicating matters is that ambition is a prerequisite to power that needs to be consciously sought and developed. The constraints that women face, coupled with many women's discomfort with self-promotion or proudly accepting credit for their accomplishments, result in women trailing their male competitors to the top.

So perhaps it is time to change the conversation and redefine

what ambition should mean in light of what an inclusive, collaborative, and empowering work environment demands and needs. In fact, most male and female senior executives, general counsel, and managing partners today would more readily identify with being ambitious if it were defined as "an ardent desire to lead and influence the actions of others" rather than "an ardent desire for rank, fame and power."

What is at stake? A limited leadership pipeline devoid of talented women

The current prescription for ambition and power results in many lost opportunities for women and, in turn, their employers, who do not benefit from the transformative and performance-elevating leadership these women may bring to their organizations. For women approaching the upper echelons, they may not reach their full potential because they are fearful to articulate and pursue their higher aspirations. Mid- to senior-level women could support each other's ambition but their failure to be

The constraints that women face, coupled with many women's discomfort with self-promotion or proudly accepting credit for their accomplishments, result in women trailing their male competitors at the top.

public is likely inhibiting their ability to do so. And, junior women suffer the most as they lose the opportunity to benefit from role models. How can junior women position themselves for leadership when no path has been communicated or demonstrated to them? Additionally, the silence inhibits women leaders from becoming a critical mass, perpetuating the isolation and failure of many women to progress to the higher levels.

What can employers do to stop women's silence about ambition and power?

CHANGE the rules of engagement by redefining the landscape so that ambition is thought of in terms of one who aspires to positions of leadership and influence—and not power in the conventional sense. It is no longer the stripes on the sleeve that matter—it is the ability to positively influence others through one's leadership, actions, and words.

IDENTIFY women with leadership potential early and ensure they have the proper exposure to influential clients and colleagues and the right assignments that will give them the experience needed to be elevated to the next level.

GROOM women leaders by placing them in influential leadership positions that give them the platform to exercise their ability to lead and develop a comfort level in this and other ambitious pursuits.

RECOGNIZE the successes of ambitious women leaders and make

their accomplishments public by encouraging women leaders to tell their stories.

PROFILE the paths of successful women and create a "leadership timeline" of the chronological steps they took and roles they played to get there.

Encourage women to **BUDDY UP** and promote each other's successes. The "independent" endorser lends

credibility and helps women who struggle with self-promotion or rightfully earned credit.

HOST open forums to discuss and debate ambition and power so women can have a safe place to air their reluctance and overcome it.

Develop a **SPONSORSHIP** program where high-potential women are aligned with senior sponsors who are willing and able to advocate for their next promotion, facilitate connections through senior leaders, and inform them about career opportunities.

PARTNER with outside organizations that can provide the opportunities for women to effectively develop their leadership skills.

Provide **NETWORKING** training and venues specific to women, enabling them to build the support and skills to leverage their contacts.

Create greater **TRANSPARENCY** and openness in the leadership pipeline, career development and compensation processes so that women clearly understand what's expected of them.

CELEBRATE ambitious mothers who have overcome work/life balance challenges as well as erroneous assumptions that seeking greater levels of professional responsibility and being a mother are inconsistent.

ENGAGE men in the process of supporting high-potential women and educate men about the business case of why their employer needs women to succeed.

Provide **EXECUTIVE COACHING** to high-potential women to enable them to set goals and develop a robust developmental plan. An effective executive coach will give them the support and individual attention to develop self-promotion skills, overcome fear of failure and risk-tak-

In today's competitive marketplace, employers can no longer afford to have half of their talent pool underutilized or not utilized at all.

ing, and gain comfort in exercising leadership skills and the power of persuasion.

SEEK recognition of your women leaders from outside organizations to celebrate them and promote their increased stature.

Provide **TRAINING** in the important skills that make up an ambitious and successful leader, including a focus on collaboration, competition, leadership, and teamwork.

CONVEY to women the many benefits that can be achieved through ambition and power, debunking the notion that these are dirty words to be avoided. Instead, demonstrate how ambition and power can be used positively:

- to provide service and give back;
- to gain independence—financial and otherwise;
- to create meaningful opportunities and security for one's family;
- to donate to meaningful causes and provide opportunities for others;
- to change policies that are detrimental to others; and,
- to enrich one's life through travel and diverse experiences.

It is not enough for employers to create a more supportive work environment for women to exercise their ambitions and positions of influence. Women also need to work individually and collectively with others to overcome the traditional obstacles they have faced. However, an employer's effort to create an infrastructure for women to thrive is an essential step to position women for success. This is in every employer's business interest. In today's competitive marketplace, employers can no longer afford to have half of their talent pool underutilized or not utilized at all. The time is now to facilitate in women an ardent desire to lead and influence the actions of others and provide an environment in which women are able to thrive and better contribute to the strength and success of their organizations. **D&B**

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Developing a Healthy Appetite for Risk in Your Career

By Deborah Epstein Henry

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Introduction

It was 1993. I was a newlywed and in my third year of law school. One weekend, my husband, Gordon, and I were at our favorite New York City diner and I began seeing opaque spots, like the ones you see when a flash photograph is taken of you. It was a strange sensation and I began feeling increasingly out of sorts. We rushed back to our apartment. The spots intensified as did a feeling that my mind was racing and I could not keep track of my thoughts. Then came a *grand mal* seizure. Next thing I remember is hearing Gordon on the phone as I regained consciousness, asking my parents to meet us at the hospital.

The emergency room diagnosis was a brain tumor. But a couple of days later, we found a specialist and what he discovered was quite heartening. He said that while I had a lesion in the back of my brain, he thought it came from a rare parasite, *Cysticercosis*, typically found in Latin American countries. The parasite usually multiplies so that when a brain scan is done post-seizure, the brain looks like Swiss cheese. In my case, there was only one lesion. To be sure it was a parasite and not a brain tumor,

he would need to operate. Five days after the seizure, I underwent brain surgery. My parents recount the magic moment post-surgery of seeing the brain surgeon jog down the hospital hall yelling, "It was a parasite!" My vision was blurry for about a month after the surgery and I took steroids and anti-seizure medication for a few months more, but I was told I would soon be as good as new.

Brain surgery as a 26-year-old, newly married law student changed my life. The emotional swing from breakfast at my favorite diner, to a seizure, to thinking I was going to die, to a bright prognosis five days later was

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overwhelming. But the seizure, the conflicting diagnoses, the brain surgery, and the experience of having family and friends rally around me not only made me grateful but also, it gave me an unusual perspective. It gave me confidence not to defer important choices and not to be as concerned with keeping all my options open. I felt inspired to start taking smart risks in my life by figuring out what was important to me and what would give me greater satisfaction. Had I not had this experience, I doubt I would have had my first child at age 27. I probably would have waited the two years to see if I could secure the partnership title at the law firm where I worked before electing to leave to start my consulting firm. Or maybe I would not have had the guts to start a consulting firm and leave law practice in the first place. And, then I doubt I would have had the wherewithal to co-found a second company five years ago. But when faced with the prospect that life may end abruptly, time and choices never looked quite the same.

The likelihood of an American getting Cysticercosis is about one in 319,000. Pretty low odds. That is the reason why I tell you this story. I do not want you to wait for an experience like this to begin living your life. So, I ask you: 1. What is standing in your way of taking smart and calculated risks in your career?; 2. What are you risking by not taking these risks?; and 3. How do you gain the confidence to start taking the risks that will propel your career and your life?

Risk Parameters

Risk is often defined as a situation involving exposure to danger. However, risk means different things to different people. One person's risk is often another person's opportunity. People also seem to have different risk thresholds. Some gain more confidence to take risks as they age while others become more risk averse.

Some believe that risk taking is a financial luxury while others see risk as a necessity. When I ran an event focused on risk in New York with Chieh Huang, a corporate lawyer turned successful entrepreneur, he disagreed with the notion that risk-taking is a financial luxury. As the primary breadwinner in his family, he felt he still had the freedom and flexibility to take risks and was confident that if the risk he took did not work out, his skills would enable him to find something else to support his household. He also expressed, with humility, that he was not too proud to "flip burgers" and do whatever was necessary to support his family.

Many believe that gender plays a role in risk aversion. When women appear to be more risk averse, I believe it is for two related reasons. One is how they are raised. As Katty Kay and Claire Shipman report in their book, *The Confidence Code*,¹ girls are often raised to be "good girls" and follow the rules. They are then rewarded for their compliant behavior. I also see women less inclined to take risks because they have not historically been rewarded

for going outside of the conventional path. In turn, women are often not expected to take risks and when they do, there is less societal and workplace support for their risk taking.

Whether or not you are supported for taking smart risks, risk-taking is important. *The Confidence Code* research and countless other studies increasingly support the value of risk taking and failure in order to gain greater confidence and success. Indeed, inaction (not taking a risk) can often be a bigger risk than taking the risk a person is contemplating. There are many who have regrets about risks not taken, especially because often there is no subsequent opportunity to recover from failing to take the risk.

Some believe that the risks they are considering will enable them to have more passion in their career and gain greater happiness. And, some question whether happiness and passion are legitimate career motivators. I would argue that happiness and passion in your career are aspirations you should strive for but you need to balance these desires with finding career paths that are practical and viable. Often, it does not have to be one or the other.

Risk Reluctance

Despite the research that supports the idea that risk taking is critical to advancing a person's career forward, many people are still reluctant to take risks. Some of these individuals have taken risks that have not panned out and they are afraid to try again. For those who have gained success and status, they may become even more risk averse for fear of what they might lose. In asking hundreds of people about risk reluctance over the years, I have found that most attribute their reticence to a variety of factors including a fear of failure, rejection and competition as well as a lack of confidence or knowledge. Among these fears, the fear of failure is overwhelmingly the most common. Yet most would acknowledge that it is not healthy to build a life around fear.

Often, a triggering event like my brain surgery is a significant driver to push a person over his or her risk threshold. For others, it may be a natural course of events or transition due to a geographic move, marriage, maternity leave, graduation, retirement, etc. However, when there is no triggering event and no natural transition before you, the question becomes how do you develop the courage to take smart risks?

Courageous Risks

Over the years, I have learned valuable lessons that have helped me and others take strategic risks and, in turn, make a difference in our careers and our lives. What follows are highlights of these learnings:

- **Analyze the pros and cons of your choice.** Anticipating the possible setbacks and potential gains as well as the pros and cons of the risk you are con-

templating is critical. In anticipating the setbacks, it is also helpful to think through contingency plans and potential strategies to effectively bounce back. By preparing in advance a recovery for a risk that may not ultimately be successful, you will gain the confidence to take the risk without allowing the pros and cons to paralyze you.

- **Consult with trusted advisors.** Lack of confidence and fear of exposure or embarrassment often prevent us from sharing the risk we are considering, even with our trusted advisors. But, do not keep the risk you are contemplating a secret. If you keep it to yourself, you are unlikely to benefit from those around you who may help you critically think through the opportunities and challenges as well as identify and connect you with others who may help inform your decision. These trusted advisors you consult with should include people who know you personally and professionally so that they can assess both your professional aptitude as well as your social composition. Your trusted advisors can also help you anticipate the reactions that colleagues, friends and family may have and advise you on how to respond to their reactions.
- **Identify additional information or support needed.** You may ascertain additional information needed to make an informed decision. Or, you may realize that there are others with whom you should consult to reach the right decision. You may also identify others from whom it is important to gain support to maximize the likelihood of success in your risk-taking choice.
- **Consider the impact on others.** While you may think the risk you are contemplating is only about you, more often than not it becomes clear that others will also be impacted. It may be helpful to confer with these people to get their buy-in and support as well as their feedback on whether the choice you are considering is a good one.
- **Contemplate modifying the risk.** People will often pilot the risk they are considering by pursuing it on a volunteer basis, testing it out or doing it on the side before fully committing to it. If you can pursue your risk on a trial basis, it can help give you the confidence in your decision to pursue the risk more fully. It will also inform you whether the risk you are contemplating should be modified based on the information you have gleaned.
- **Anticipate the obstructers.** Anticipate what and who may stand in the way of your risk decision and why they may do so. Assess whether there is any legitimate basis for their discouragement and if such a basis exists, work to resolve those concerns. If you do not believe there is a legitimate basis for their concerns, see if you can convert these potential obstructers into allies. If not, then anticipate how

you will best pursue your risk-taking without their support and whether you will need to take any additional steps to contain the damage from any possible attempts to thwart your efforts.

- **Make the ask.** Many are fearful of asking for help or asking for what they need. We are often good at nurturing relationships but we fall short of enlisting others or making that final request that will make the difference. You can often overcome this hurdle by making small and specific asks or seeing if you can make your ask more of a give. If you are generous and helpful, the person receiving the request will likely be more receptive to wanting to help you.
- **Consider ways to build up your risk tolerance.** Determine if there are smaller risks that you can take or less intimidating venues to take these risks to help build up your confidence. More frequent risk taking may also help you develop a greater tolerance for disappointment. Assess whether the risk you are considering can be staged and paced to make the overall risk less intimidating and less damaging if it is not successful. Additionally, contemplate the worst case scenario of taking the risk you are considering and how you would overcome it. If the worst case scenario is something you can tolerate without much hardship, it may help you build up your risk tolerance.
- **Seek out risk-taker inspiration.** Ask others you know who have successfully taken risks about their thought process and how they went about taking the steps that they did to take a risk, as well as the impact of their risk-taking. Seek out books and articles, attend lectures and listen to talks and identify other resources that feature people whose risk-taking approaches and paths are inspirational to you. You may even undertake physical challenges yourself as a means to give you the confidence to take professional risks. For example, some report that after successfully completing a marathon or engaging in challenging ropes courses, white water rafting or other physical adventures, they are more confident in taking risks in their professional lives.
- **Evaluate prior risk-taking successes and experiences.** Look at your prior risk history and assess what factors you previously considered that helped you overcome your fear of taking risks. Consider whether your prior choices made sense and were helpful and what you can do differently or better to achieve a more favorable result. Analyze what has held you back the most in taking risks in the past and what your greatest fears are in taking the current risk you are considering.
- **Be thoughtful about how you frame prior risks.** Rather than see prior unsuccessful attempts as failures, see if you can learn from them and incorporate those lessons into your next effort. When I

ran an event on risk with well-known restaurateur Alison Barshak, Founder of Absolutely Lobster® and former chef of Striped Bass and other esteemed restaurants, she relayed that she did not see the bankruptcies that her companies went through during her career as failures. While she underscored that filing bankruptcy is not a decision to be taken lightly, she also knew that the filings were the best options at the time and they led her to make better choices and achieve greater successes in her future ventures.

- **Assess the best timing.** Your readiness to take a risk and the timing you choose may have a significant impact on your success. If there is no triggering event or natural transition that will motivate you to take a risk you have been contemplating, consider setting goals or targets that will institute a timeline for getting there.
- **Consider the risk of inaction.** Often what propels someone to take a risk is not as much the confidence to do so, but instead, the fear of not doing so. Indeed, the risk of inaction is, at times, greater than the risk of failure. So, it is important to evaluate not only the impact of the choice you are considering but also the impact if you do not make that choice.
- **Recognize it is normal to feel uncomfortable.** Taking risk involves stretching yourself, which is uncomfortable for many of us. By recognizing that pushing yourself out of your comfort zone is often an awkward and scary feeling, it may help you adjust to it more readily. The corollary to this discomfort is a fear that you are being reckless and have gone too far. However, in taking the steps outlined here, you can assure yourself that your decision has not been rash or thoughtless. Without feeling uncomfortable, you will not be able to dream bigger and learn more. Falling short of those efforts and aspirations will prevent you from achieving and pursuing all that is available to you.
- **Focus on resiliency and perseverance, not perfection.** Pursuing a risk that may have some challenges or results in you going in another direction does not mean that you have failed. Focusing on resiliency and perseverance and how to be agile and responsive to challenges and unanticipated scenarios is a healthy framework. Perfection is not a realistic or productive pursuit.
- **Go with your gut.** After all of your thoughtful analysis and consultation, you will need to make a decision. Big decisions are seldom neat and crystal clear. Do not get caught up in the lack of precision in your choice. Ultimately, you will have to go with your gut and a leap of faith that you will be able to confront the unanticipated challenges as you see them and embrace the obstacles as they come.

Conclusion

For nearly 20 years, I have seen that most people who are risk averse are fearful of losing what they have and being unable to get back to where they were if their risk-taking is unsuccessful. However, people often discover that there is not as much finality in the risk they are considering as they initially thought. So the door that you thought you were closing is often still open, at least partially, and the surprise is that once you take the risk you are considering, you realize that the biggest thing preventing you from opening that door again is yourself.

I have found that a significant impetus for successful risk-takers is their appreciation of unanticipated and unintended benefits. That is, that one risk begets another opportunity. Successful risk takers understand that once they take a smart and calculated risk and it delivers a positive result, the outcome is often not one they expected and it subsequently led to more opportunities than they could have dreamed. After thorough analysis, weighing of options, consultation with others and additional contemplation, I hope you will ultimately be buoyed by the unknown rewards in your exciting journey ahead. ■

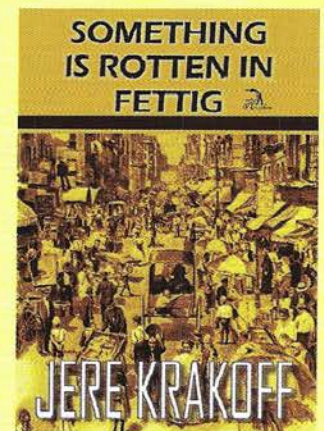
1. Katty Kay & Claire Shipman, *The Confidence Code: The Science and Art of Self-Assurance—What Women Should Know* (2014).

Something Is Rotten in Fettig

A satire about the law by Jere Krakoff

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Make Your Ask a Give
Debbie Epstein Henry

Every movement reveals us.
– MICHEL DE MONTAIGNE

Asking is uncomfortable. Many of you may be natural at developing relationships, but when it comes time to making an “ask” – whatever that ask may be – you fall short. Part of it may be a fear of failure that you ask for something that you don’t deserve, or someone else deserves it more, or you can’t deliver on it. It also may be a concern about jeopardizing relationships or trying to translate personal relationships into professional ones. Or, perhaps you are shy and not comfortable developing relationships in the first place, let alone making an ask for something that you want or need. Yet, not being able to ask – for that opportunity to represent a client, go on a pitch, or be considered for a job, promotion, leadership role or increased compensation – can impede your success. So how do you get there? Follow these tips and you should be on your way to mastering the art of the ask.

1. **Listen.** Before you ask anyone for anything, get to know them and their needs, interests and challenges. The more you know, the greater your ability to help them.
2. **Make Your Ask a Give.** By getting to know someone’s needs and interests, you learn if what you can offer aligns with what they need. So, rather than frame your ask as a favor, see instead if you can offer to be a resource.
3. **Be Generous.** Extend yourself. Whether it’s taking someone out, sending them a relevant article, helping their child get a job or giving them advice, be there to help. It’s much easier to ask when you’re a giver. And, importantly, if you help someone, be sure it is not a *quid pro quo*. Instead, you should be helpful with no condition or expectation of a return.
4. **Be Informative and Inquisitive.** People need to know what you do so that you can be helpful to them and they can be helpful to you. Often social acquaintances are unaware of each other’s jobs and interests. Let people know what you do and be inquisitive about what they do.
5. **Be Visible.** Get involved. If you have visibility, you will be a natural resource to others. Provide advice and direction to people who seek you out for guidance. If you are available to address needs that your contacts have, you will likely be more comfortable asking for help in the future.
6. **Be a Problem Solver.** If you are a problem solver, people will come to you when they face challenges. Say yes to requests for calls and meetings. If you’re not the one who can solve the problem, direct them to someone who can.
7. **Be a Connector.** It’s important to share your network. If you know people who are amenable and can be helpful to your contacts, make those introductions. That said, when you facilitate introductions, remember that your contacts become an extension of you. Be sure that you are comfortable vouching for the people you recommend.
8. **Be Worthy.** When you make an ask, be sure you are up to the task. Don’t put anyone in a compromising position to advocate or create an opportunity for you. Also, once you make an ask, be sure to deliver. Be responsive, considerate, humble and flexible in how you respond to someone who is willing to help.
9. **Blur Professional and Personal Lines.** Making an ask of a friend or family member can be particularly hard. But social media is blurring the lines between professional and personal, and if you are unwilling to access your personal network, you will pay too high a professional cost. If you are making an ask of friends and family, focus on being generous as well as being a point-person, problem-solver, connector and overall resource. In most relationships, a natural reciprocity will ensue. As you continue to extend yourself, you will become more comfortable asking for help when you need it too.

- 10. Do Your Homework.** When you ask someone to do something on your behalf, be sure you've done the legwork in advance. You should know precisely what your ask is and how the person you're asking can be helpful.
- 11. Make it Easy.** If someone is doing you a favor, minimize the work for them. So, draft the email, have the resume ready to go, know the best point of contact, make the time and location convenient, and attend to any other details so the person you ask is only doing what you actually need them to do.
- 12. Practice and Role Play.** If asking is hard for you, practice. Role playing can help you think through unanticipated issues and project more confidence when you make an ask.
- 13. Make Specific and Small Asks.** Build up your "ask tolerance" by starting with specific and small asks. This is a good way to test out a person's receptivity to assist. It will also get you more comfortable making bigger asks.
- 14. Consider the Venue.** Where you make an ask may determine the outcome. Be sure the person you are asking is in a comfortable place when you make your request. Also, be sensitive if anyone is witness to your ask in case someone else's presence would create an awkwardness.
- 15. Watch Your Physical Stance and Tone.** Think critically about whether your ask should be made in person (which is typically preferable) or by phone or email. If in person, make eye contact and be thoughtful about having an open physical stance. How you frame your request and your tone of voice is important too.
- 16. Evaluate the Timing.** A person's receptivity to an ask can vary based on when an ask is made. Time of day, week, month or year may impact the response. These considerations should be factored in to maximize the likelihood of a yes.
- 17. Ensure You Have the Right Audience.** Be sure you are not making an ask of the wrong person. Also, make your ask personal and tailored. Take the time to address someone individually if you're asking that they do something on your behalf.
- 18. Say Thank You.** Obvious right? But people often do not take the time to thank the people who have helped.
- 19. Be Prepared to Ask Again.** If you make an ask and the answer is "no," assume it means "not now." Ask the best way to follow up, the timing and if there are others whom you should contact. Your ability to ask and the types of asks you make will change as your relationships evolve and deepen over time.
- 20. Report Back.** Follow-up with the people whom you asked, ideally with a personal note or call. Share with them the results of their efforts, what worked and who else was helpful to you.

If you are still reticent to make an ask after reviewing these tips, think about what will happen if you don't make the ask. Remember—the risk of inaction (not making an ask) is often greater than the ask contemplated.

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10,000 lawyers. From there, in 2011, she co-founded Bliss Lawyers, a company that employs high-caliber attorneys to work on temporary engagements for in-house legal department and law firm clients.

Debbie has received numerous awards including being named among the Philadelphia Business Journal "Women of Distinction." She is also the recipient of the Anne X. Alpern Award. Debbie volunteers her time with several nonprofits including the Forum of Executive Women where she is a member of the board and Co-Chair of the annual Leadership Symposium. Debbie is Chair of Brooklyn Law School Women's Leadership Circle which runs a national women's law student and alumnae initiative. She received her B.A. from Yale University and her J.D. cum laude from Brooklyn Law School. A native New Yorker, Debbie lives in the Philadelphia suburbs with her husband; they have three sons. Learn more about Debbie at www.debbieepsteinhenry.com.



Focus on the Chicago Chapter

Striking the Self-Promotion Balance: Demonstrating your Value Without Being the Obnoxious One in the Room

Debbie Epstein Henry, Bliss Lawyers

By **Debbie Epstein Henry**[\[1\]](#)

You know those people at the office meetings and cocktail parties who tell you how great they are. You remember those instances of people bragging and how off-putting it was. In fact, you are struck by how vivid those impressions are and how those moments stay with you. The idea of coming off that self-serving, arrogant or entitled is embarrassing to you. You've sworn to yourself to never be those people.



So why read an article on self-promotion? Perhaps because instinctively you know that it's important. Whether you are aspiring for a promotion, leadership opportunity, or to get credit for managing a team or client matter, self-promotion is a critical skill you need to hone. That's because self-promotion, when done effectively, is not about aggressively seeking credit for something you don't deserve and offending people along the way. It's about demonstrating your value and opening yourself up to opportunities without being transparent or manipulative. Bottom line is if you are not able to communicate your value, you run the risk of being overlooked.

Yet even if you are convinced that self-promotion is justified and necessary, it doesn't mean you are comfortable doing it. Many people are afraid to self-promote. They worry it is obvious and awkward. They don't want to be perceived as bragging. They may feel unworthy. Or, even if they know they have to do it, they may be too self-conscious to claim their contributions. Some worry that by self-promoting, they are demanding too much and it may be an imposition on others to enlist them for help. They also don't want to battle their colleagues for a position or recognition. Others worry they are not savvy enough to navigate the internal politics of self-promoting in their workplace or network.

Women, in particular, often think their accomplishments should speak for themselves. This belief, however, comes at a cost. "Success, it turns out, correlates just as closely with confidence as it does with competence."[\[2\]](#) In other words, it's not enough to be good. Your projected confidence is just as important in how you are evaluated in the workplace as your actual competence and ability to deliver top notch work.

But even if you know that you need to more effectively convey your value, how do you get there? How do you strike that balance between demonstrating your contribution while not being that obnoxious person in the room? Here are the steps that should help:

Be Great. If you are going to self-promote, you want to be sure that you have a legitimate basis for doing so. It requires you to be indispensable to your colleagues and clients. It also is important that you understand your value and know how it will bring a significant benefit to others.

Be Prepared. Know your stuff cold. Be practiced and ready to communicate your value. Perfect an elevator speech. Be prepared to track your contributions and communicate them. If that is at an annual review, go to that review with your own agenda and punch list of what you have done and what you hope to do next. But don't wait for an annual review because it will be too late. Regular communication and solicitation of feedback is critical in demonstrating your value. Pre-meetings help with preparation too. These informal, smaller meetings allow you to assess your colleagues' inclinations before you are in a larger group.

Observe Others. Knowing and reading your audience is critical to effective self-promotion. Study up on who will be in the room in advance. Assess commonalities and areas that may create tension to position your recommendations so they will be received in a favorable way. Evaluate what makes others' effective, what they do that would work for you and what you don't like and why. Assess self-promoters who you think are effective, ask them directly what they do and how they cultivated their skill.

Credit Others. It is important to acknowledge others' contributions. An audience is more receptive to someone seeking self-recognition when that person acknowledges the expertise and contributions of others. Citing others' work is a way to do that and it should not matter if that person is a competitor. In fact, citing a competitor may demonstrate not only proper attribution but also a generous spirit and important prioritization to aspire to a larger goal or cause, beyond yourself. That said, you don't want to fawn or come off as disingenuous or someone who is seeking some sort of *quid pro quo* acknowledgement.

Benefit Others. If you have the ability to align your self-promotion for the benefit of your employer or another organization or individual, all the better. Forward your boss a congratulatory email from a client and accompany the email with a cover note indicating that you think now is the time to grow the relationship with the client. You will be seen by your boss as someone who is thinking about the larger goal of the company's success rather than simply sharing an accolade. Pair self-promotion with being a helpful resource. So, if you want the exposure to appear before a client and you can provide an expertise that is valuable to them, it will be an opportunity for you to self-promote as well as be a resource. Promote others where you can too. But, be sure these individuals are worthy of your praise because you are putting your reputation on the line in promoting them. Sometimes, promoting others will result in that person becoming what I call a "promotion buddy" who can in turn recommend you for opportunities as well. Promotion by others is often better received as more legitimate and not seemingly self-interested.

Get Help. Seek out sponsors and mentors who can help with your promotion. They may provide advice about how to self-promote effectively. If they know your work and your organization, they will be more helpful in enabling you to navigate the right tone and approach. If the people you seek out for advice are ones who can promote on your behalf, that is an added benefit. However, be careful not to ask for too much, especially when involving personal contacts for a business purpose. You need to be willing to tap

into your personal network yet be sensitive to avoid any awkwardness if the business opportunity does not come to fruition.

Own It. An important part of self-promotion is simply taking credit where credit is due. Many people have trouble doing this and when they are acknowledged, they deflect the compliment or redirect it in some other way. While it is gracious to acknowledge other contributors, it is also important to unapologetically say “thank you”. If you are in a setting where you are being recognized and the custom is for someone to share your accomplishments, follow protocol and allow that information to be shared. If you are asked to explain why you are suited for an opportunity, take a factual approach. Rather than say “I am a great leader”, provide an example, with demonstrated facts, of when you led a team successfully.

Take Risk. Self-promotion involves taking some professional risks. For example, you may have to be confrontational with a colleague who is diminishing your contribution or take a stand on an important project that is being sidelined. Evaluating whether it is appropriate to take these risks is often a separate process in and of itself.^[3] But when contemplating the risk in self-promotion, you must also consider the risk of inaction.

Make the Ask. Effective self-promotion may require making an ask of someone. As a junior person, maybe you will want to ask to shadow a senior leader you admire to gain learning and exposure. Asking often involves understanding the challenges a person or group is facing and determining how you can be helpful. Then it may involve offering yourself as a resource and in turn, self-promoting by being the one to address the need. Practice and role play before making an ask. An initial ask may need to be small and specific. Expect that your request and effort to self-promote may be declined. You will then need to learn how to ask again. Evaluate whether and when it is appropriate to make another ask and consider factors including new circumstances, passage of time, change in decision-makers, etc.

- **Show Initiative.** Often the best way to self-promote is to stand out. This may involve volunteering for a project when no one else is raising their hand. Or, maybe it is preparing a presentation or punch list of recommendations when it’s not expected or requested. Showing initiative may result in you becoming a point person in an area where you have been struggling to distinguish yourself or perhaps it will get you one-on-one exposure with a senior leader with whom you’ve been trying to establish a rapport.
- **Pay Attention to the Details.** When you are self-promoting, just like any other form of communication, the delivery and how you convey your message is critical. You need to frame your request to maximize the likelihood of it being received positively. Be aware of your physical stance and be thoughtful about your tone. You want to convey a commanding presence but also one that is inviting and friendly. Make eye contact and demonstrate sincerity and directness. Be sure you have the right audience – decision-makers who can evaluate your desire to advance or seek a new opportunity. Also, ensure that you are in the right venue. Your audience should be comfortable and open to receiving your information. Consider the timing too. Make sure your audience has the time to reflect on the information you share.
- **Understand You Will Mess Up.** You are not perfect and you will make mistakes in attempting to self-promote. You may even jeopardize a valuable relationship that you won’t be able to reconcile. Recognize and apologize when you have gone too far. Be honest and show humility when you have over-stepped. Also, acknowledge shameless self-promotion and self-interest. Solicit feedback on how you are doing in striking the self-promotion balance. This may take the form of anonymous written evaluations. If you have a small circle of trusted advisors who can provide candid feedback, seek it out.

- **Develop a Signature.** In the end, the best way to demonstrate your value is to be original. For some of you, that may mean telling stories. For others, it may be natural to use humor or self-deprecation. Ideally, you want to be likeable and fun. And, the bottom line is you want to be memorable and make it personal.

The goal of effective self-promotion is to master the elusive challenge of being a team player while seeking recognition for your role. If you are able to identify techniques that are unique to you that demonstrate your contribution, you will gain the recognition you both need and deserve.

[1] Debbie Epstein Henry is an internationally recognized expert, consultant and public speaker on careers, workplaces, women and the law. She has written two ABA Flagship best-selling books and is also Co-Founder and Managing Director of Bliss Lawyers, a firm that employs high caliber lawyers to work across the country on in-house and law firm temporary engagements that, at times, convert into permanent positions.

[2] Katty Kay and Claire Shipman, The Confidence Gap, *The Atlantic* (May 2014).

[3] See generally Deborah Epstein Henry, *Developing a Healthy Appetite for Risk in Your Career*, Inside, A publication of the Corporate Counsel Section of the New York State Bar Association (Fall 2016, Vol.34 No.2).