

**Testimony of JoAnn Kamuf Ward**  
**Deputy Commissioner, Policy and External Affairs**  
**New York City Commission on Human Rights**  
**Before the Committee on Civil and Human Rights on Int. 134 and the work of the Law**  
**Enforcement Bureau**  
**April 5, 2022**

Good morning Chair Williams and members of the Committee on Civil and Human Rights. I am JoAnn Kamuf Ward, Deputy Commissioner of Policy and External Affairs at the New York City Commission on Human Rights. It is my pleasure to join you today to testify regarding the Intro 134, which would amend the City's administrative code to require certain employers to post salary and compensation on job postings. I am joined today by my colleagues, Deputy Commissioner of the Law Enforcement Bureau, Sapna Raj, and Special Counsel, Katherine Greenberg.

### **Agency Mandate & Structure**

Last month at the Commission's preliminary budget hearing, we had the opportunity to speak in depth about the breadth of our agency's work across New York City, and today I will give a brief overview before we turn to the substance of this hearing. The Commission is the local civil rights enforcement agency that implements the New York City Human Rights Law, one of the broadest and most protective anti-discrimination and anti-harassment laws in the country, with 27 protected categories, and which covers housing, employment, and public accommodations. By statute, the Commission has two main functions. First, the Commission's Law Enforcement Bureau enforces the City Human Rights Law by investigating complaints of discrimination from the public, initiating its own investigations on behalf of the City, and utilizing testing to help identify violations of the Law. Second, through the Community Relations Bureau, the Commission provides workshops and trainings on New Yorkers' rights and the obligations of businesses, employers, and housing providers under the City Human Rights Law, working with community partners and sibling agencies. Seven years ago, the Commission established the Office of the Chair, which houses the agency's policy, legislative, rulemaking, and adjudicatory functions and implements major Commission projects.

This morning, I will start with a discussion of the Human Rights Law's employment protections and Intro 134. My Colleague Sapna Raj will then speak about the work of the Law Enforcement Bureau.

### **Existing Employment Protections**

Since 2015, the NYC Human Rights Law has been amended by the City Council 38 (thirty eight) times. More than a dozen of these amendments are in the area of employment, which is the area

where we see the highest number of filed complaints.<sup>1</sup> I will note a few of the significant amendments to contextualize the discussion of Intro 134.

A number of the Human Rights Law expansions from the past seven years relate to the language that appears in job advertisements, and require employers to take specific steps to comply with the Law.

As a result, the City Human Rights Law:

- Prohibits discrimination on the basis of criminal history, which means employers cannot include language such as "no felonies" or "criminal background check required" in job advertisements. Where making any inquiries regarding criminal history, employers are required to obtain information from applicants, and to conduct a balancing test that they share with an individual if they choose not to hire them after conducting a criminal background checks
- Prohibits discrimination on the basis of credit score, which includes prohibiting employers from including language such as "credit check required" in many job advertisements
- Institutes one of the nation's first bans on salary history inquiries, which prevents employers from asking any questions during interviews or in job applications about an applicant's prior earnings and benefits
- Ensures rights of pregnant and nursing people, including lactation accommodations (both in 2018), including requiring employer to designate physical rooms for employees to express milk and create written policies regarding lactation accommodations, and

Each of these four amendments apply to employers with 4 or more employees. In fact, some provisions of the Human Rights Law apply to all employers, even those with only one employee. This includes prohibitions on sexual harassment and all protections as applied to domestic workers.

Because the NYCHRL's coverage is broader than federal law, which covers only employers with 15 or 20 plus employees, our law provides vital protections for hundreds of thousands of New York City workers who otherwise would have no protections against discrimination, harassment, or retaliation at work.

With that background, I will turn to the subject of today's hearing, Intro 134.

### **Intro 134 (Amending Local Law 32 of 2022)**

In December, the Commission testified regarding pay equity, speaking in support of the intent of what is now Local Law 32, which requires covered employers to include a salary range in job advertisements. Local Law 32 is currently slated to go into effect on May 15, 2022. The Commission has developed a fact sheet to assist employers in complying with this new provision. The fact sheet explains that when employers advertise a job that will be performed in

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<sup>1</sup> In Fiscal Year 21, the Commission received 1373 inquiries related to employment and 924 related to housing.

New York City, they have to include a good faith wage range.<sup>2</sup> Here, “good faith” means the range that the employer honestly believes they are willing to pay at the time of posting. As our fact sheet indicates, salary refers to the base rate of pay, be it hourly, annually, or paid at any other frequency. The fact sheet further clarifies that salary does not include other benefits or incentives that may be part of a compensation package, such as commissions, tips, bonuses, stock, or the value of employer-provided meals or lodging

In addition to developing written materials, the Commission is getting the word out to potential employers and employees about these new protections. Commission staff have already been speaking with business owners and attorneys about these new protections. Earlier this month, the Commission presented at a workplace compliance consortium webinar, with over a hundred attendees. We are joining several training sessions for lawyers this month, including one this afternoon, and one later this month, alongside the Department of Consumer and Workplace Protections.

There has been significant public interest and media coverage of Local Law 32, and a quick search this week resulted in more than a dozen alerts about New York’s salary transparency law, including legal alerts as well as in trade publications. Forbes magazine has covered the law in two pieces since December, and recently a piece in Newsweek. CBS New York did a segment on Local Law 32 in February as well.

Looking ahead, the Commission plans to ensure comprehensive outreach in the business corridors in each borough, and to collaborate with chambers of commerce and BIDs, as well as professional associations to share information on salary transparency legislation. The new protections will be built into our human rights law training, and information will be shared at the resource fairs, and roundtables we attend- pathways in which we engage with tens of thousands of New Yorkers annually.

As the City Council contemplates Intro 134, which amends Local Law 32 of 2022, the Commission again offers wholehearted support for measures that advance pay equity, including efforts to foster transparency in hiring, and other measures that level the playing field for employees and aim to tackle existing disparities.

This is consistent with the Commission’s commitment to ensure that all New Yorkers can live and work with dignity, free from all forms of discrimination, and our ongoing efforts to advance racial and gender equity more broadly.

The Commission believes that laws and policies that intentionally seek to eradicate the root causes of discrimination and inequity are pivotal. Each of us have seen or experienced, discrimination that is overt and intentional. However, every day discrimination occurs as a result of practices and policies that disproportionately disadvantage particular individuals and groups. In the employment context, hiring practices that seem neutral on their face can perpetuate, and even exacerbate inequity.

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<sup>2</sup> See N.Y.C. Comm. Hum. Rts., *Salary Transparency in Job Advertisements* (Mar. 22, 2022), at <https://www1.nyc.gov/assets/cchr/downloads/pdf/publications/Salary-Transparency-Factsheet.pdf>

Discrimination in pay or terms of employment can be difficult to detect, as employees are often hesitant to share salary information with colleagues, and often do not realize – and are unable to know – that they are being compensated at lower rates for comparable work. Recognizing this reality, local and state governments, including in New York, are taking steps to advance pay equity.

Salary transparency is a tool that can level the playing field for employees, and for women, people of color, and other New Yorkers who have historically been – and continue to be – harmed by wage disparities. Wages can be determinative of quality of life - they define what is affordable in the short term, and can impact the ability to accrue inter-generational wealth. Action to address pay inequity today can yield long term benefits.

In 2019, the Commission convened a public hearing on pay equity, working with the sibling agencies, the Commission on Gender Equity, and the Department of Consumer and Worker Protection, as well as members of the New York City Bar Association.<sup>3</sup> This hearing, and our work in this area, have emphasized that federal, state, and local legislative and policy changes are needed to foster fairness and equity.

Testimony during the 2019 hearing underscored a range of recommendations to address wage disparities, which include the need for increased transparency surrounding pay, such as posting salary ranges.<sup>4</sup> Additionally, there was support for employer reporting of pay data and demographic information, as well as periodic audits.<sup>5</sup>

Testimony also suggested that there is a need for greater services and supports for individuals that have been most impacted by wage disparities and underpayment, including raising the minimum wage, and expansion of access to affordable childcare, as well as outreach and training programs that enhance career development and workplace readiness. The Commission looks forward to working with the City Council, as well as sibling agencies to promote gender and racial equity and advance pay equity in New York City.

Thank you again for the opportunity to speak today. My colleagues and I look forward to continuing to discuss Intro 134.

I will now turn the floor over to Deputy Commissioner Sapna Raj, for the second topic of this morning's hearing, the Commission's work enforcing the Human Rights Law through pre-complaint interventions, complaints filed by members of the public, and Commission initiated investigations.

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<sup>3</sup> See generally Challenges in Obtaining Pay Equity in the Workplace: A Report on New York City's 2019 Public Hearing on Pay Equity (2020),

[https://www1.nyc.gov/assets/genderequity/downloads/pdf/pay\\_equity\\_report\\_2020\\_final.pdf](https://www1.nyc.gov/assets/genderequity/downloads/pdf/pay_equity_report_2020_final.pdf).

<sup>4</sup> *Id.* at 35.

<sup>5</sup> *Id.* at 33.