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January 26, 2023

Testimony on Impact of COVID-19 on Women in the Workforce NYS DOL Testimony Before the New York State Department of Labor

Submitted by Seher Khawaja, Legal Momentum, The Women's Legal Defense and Education Fund

Good morning and thank you Commissioner Reardon and the Department of Labor for convening this critical panel that examines the impact of the pandemic on women in the workforce.

My name is Seher Khawaja, I am the Deputy Legal Director and Senior Attorney for Economic Empowerment at Legal Momentum, The Women's Legal Defense and Education Fund. As the longest serving women's civil rights organization dedicated to gender equality, Legal Momentum has spent more than 50 years advocating for workplace and economic equality for women and families.

I want to start by applauding New York State for taking a number of meaningful steps over the past years to enact some of the strongest workplace and pay equity protections across the county, steps which should serve as a national model. Through our Helpline, our litigation, and our advocacy, we have seen first-hand how these laws are making a difference for women in New York.

Yet with a large number pushed out of the workforce since the start of the pandemic and with others struggling to make ends meet on fulltime work, we all know that there is more to do. One of the few positive outcomes we witnessed from the COVID-19 pandemic is that it shined a light on longstanding gender inequities that have plagued us for too long.

Our first task is to use that visibility and to act with a sense of urgency to implement reforms we have sought for decades. Towards that end, I want to briefly highlight three overlapping priorities: (1) uplifting the disproportionate number of women in low-wage work; (2) addressing the harms of unpaid and underpaid care work; and (3) meaningfully advancing pay transparency.

Women in Low-Wage Work

First, it is essential that we center and prioritize women in low-wage work across the many sectors and industries where they remain overrepresented. In line with national trends, women in New York represent over 60 percent of the low-wage workforce.¹ Despite some progress on the overall wage gap, Black and Latina women in New York

¹ Jasmine Tucker & Julie Vogtman, National Women's Law Center, *When Hard Work is Not Enough: Women in Low-Paid Jobs (MAP)* (Apr. 2020).

continue to be left behind, making 64 cents and 56 cents, respectively, for every dollar a White man makes.² Much of this striking disparity can be attributed to the fact that a disproportionate number of women of color continue to work in essential yet minimum wage or tipped-wage jobs, where they are more likely to make poverty-level wages and receive few to no benefits.

During the pandemic, women working in essential jobs across the state, including as nurses, cashiers, restaurant workers, homecare workers, and daycare providers, took on heightened health risks without adequate pay, paid sick time, paid family leave, or healthcare to address these risks. Unfortunately, increased recognition of these injustices has yet to result in sufficient action to support those workers who put their lives on the line to sustain our communities.

The persistence of a lower tipped wage and the failure of the minimum wage to keep up with the rising cost of living have contributed significantly to wage inequality and heightened economic insecurity for women and people of color. As a result, women of color face higher levels of poverty and are often caught in inescapable cycles of financial precarity.

One of the most impactful actions we can take is to enact legislation that is being reintroduced this session to eliminate the tipped wage for all industries, including hospitality, and to increase and index the minimum wage to cost of living and worker productivity. These actions will go a long way towards reducing women's economic insecurity and reducing structural inequities, including the gender and racial pay gaps. When women are more economically secure, they are in a better position to safeguard themselves against common abuses like sexual harassment, retaliation, and wage theft.

Moreover, it is essential that going forward, our antidiscrimination and labor protections cover all workers and do not carve out problematic exemptions that create safe havens for exploitation of those who are most vulnerable, namely, lower wage women workers. We also are supporting sectoral worker-led efforts to improve standards in industries where women are particularly vulnerable in challenging violations individually, such as the Nail Salon Minimum Standards Council Act.

Care Work

With respect to care work, we know that women are disproportionately tasked with unpaid caregiving and are thus more likely to experience workplace interruptions that negatively impact their earning potential or ability to work. As a result, mothers are less likely to be hired, receive lower starting salaries, are paid less over time, are less likely to be promoted, are perceived as less competent, and are more likely to be pushed out of the workforce. Based on these ongoing dynamics, women continue to earn less and build less wealth overtime. As the pandemic hit and schools closed, it was women who were forced to leave the workforce to care for children because they were typically the ones earning less, perpetuating what has become a vicious cycle of women singlehandedly bearing the costs and burdens of care for our families. At the same time, we saw a disproportionate number of women carrying out in-person paid care work during the pandemic, working long difficult hours and struggling to make ends meet, once again making clear how little we value this work that serves as the foundation of our economy.

² National Women's Law Center, *The Wage Gap, State by State* (Mar. 16, 2021), <https://nwlc.org/resources/wage-gap-state-state/>.

If we want equality for women, we must invest in a sustainable universal childcare infrastructure that ensures that 1) high quality childcare is available for all and that 2) our workforce of caregivers is compensated fairly for carrying out this invaluable work.

Pay Transparency

Lastly, I want to emphasize the importance of pay transparency to achieving pay equity. We are proud to have worked in coalition with some of my colleagues who are here today to help enact laws in New York City and New York State that mandate most employers to disclose pay ranges up front in job postings. For too long, our laws have placed the onus on women to identify and challenge pay discrimination. In creating some measure of accountability, New York's pay transparency law shifts some of that onus on employers to be more conscious and thoughtful about how they set pay.

In disclosing critical salary and wage information, the law also gives workers basic tools to push back against occupational segregation, to better advocate for themselves during the hiring process, and to make better decisions about which jobs and industries they pursue. This law has the power to be transformative, but our work begins now to ensure that employers recognize its benefits and comply in good faith. We look forward to working with the DOL to ensure that this important law is meaningfully implemented and enforced come September. At the same time, we are already assessing the best ways to advance transparency further through pay data reporting and by demanding broader disclosures of compensation, benefits, and of current pay ranges to existing employees, which were removed from the original bill.

I want to close by again recognizing New York's commitment to addressing gender discrimination in the workplace. For these laws to have an impact we must continue to work together to ensure that all workers and employers are educated about these vital protections and that they are enforced, particularly with respect to communities we know are underserved. I want to again thank the Commissioner and the DOL for the opportunity to share our thoughts and for your leadership on this issue. We hope you will continue to rely on us a resource going forward. Thank you.