



April 17, 2012

The Honorable Barack Obama
President of the United States
White House
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Re: Equal Pay Day 2012 - We Can't Wait for Fair Pay

Dear President Obama:

On behalf of the American Civil Liberties Union (ACLU), a non-partisan organization with more than a half million members, countless additional activists and supporters, and fifty-three affiliates nationwide, we are writing to thank you for your leadership on issues surrounding pay equity and women's economic security, including your signing the Lilly Ledbetter Fair Pay Act into law and your strong support of the Paycheck Fairness Act. We write today, on Equal Pay Day, to urge you to continue your critical leadership on this issue by signing an executive order to protect people employed by federal contractors from retaliation for disclosing or asking about their wages.

Almost 50 years after the passage of the Equal Pay Act of 1963, women still, on average, make only 77 cents for every dollar earned by a man. Among women of color, the pay disparity is even more dramatic – in 2010, African-American women only earned approximately 62 cents and Latinas only 54 cents for each dollar earned by a white man.¹

Despite these persistent inequalities, research indicates that nearly half of all workers are either forbidden or strongly discouraged from discussing their pay with colleagues.² The pernicious impact of punitive pay secrecy policies is that there is often no way for women to find out if they are being paid less than their male co-workers, without fear of punishment, making it impossible for them to challenge discriminatory practices.

¹ NAT'L WOMEN'S LAW CTR., FACT SHEET, CLOSING THE WAGE GAP IS ESPECIALLY IMPORTANT FOR WOMEN OF COLOR IN DIFFICULT TIMES 1 (Apr. 2012), available at <http://www.nwlc.org/sites/default/files/pdfs/womenofcolorfactsheet.pdf>.

² FACT SHEET, INST. FOR WOMEN'S POLICY RESEARCH, PAY SECRECY AND WAGE DISCRIMINATION (June 2011) available at <http://www.iwpr.org/publications/pubs/pay-secrecy-and-wage-discrimination>.

As you know, the Paycheck Fairness Act, which was reintroduced in Congress on Equal Pay Day last year, would help close some of the loopholes in the Equal Pay Act of 1963, which have made that law less effective over time. Among its many provisions, it would prohibit retaliation against employees who disclose their wages or inquire about their employers' wage practices. In the 111th Congress, the Paycheck Fairness Act passed overwhelmingly in the House of Representatives, but fell just two votes short of moving forward on a procedural vote in the Senate, even though a majority of Senators – and your Administration – supported the legislation.

We applaud your support for the Paycheck Fairness Act, and will continue to work with your Administration to ensure its passage in Congress. However, in the interim, parts of the legislation can be implemented through administrative action. In particular, an executive order banning retaliation against the employees of federal contractors for disclosing or inquiring about their wages could provide immediate relief to the roughly 26 million people in America who work for federal contractors—over 20 percent of the entire U.S. workforce. By allowing them to discuss their salaries without fear of losing their jobs, you would be putting an important tool in the hands of millions of women, giving them the power to find out whether or not they are being treated equally in the workplace.

For over 70 years, presidents of both parties have used executive orders to lay the groundwork for later legislation that expands civil rights and employment protections, such as creating equal opportunity or banning discrimination in federal contracting. By exercising this well-established authority to issue an executive order that covers federal contractors, your Administration would be leading the way for expanded protections for all workers when passage of the Paycheck Fairness Act can be secured.³

Overwhelming majorities of Americans support federal policies that give women more tools to get fair pay in the workplace, including majorities of self-identified Democrats, Republicans and Independents.⁴ This important step towards pay equity is particularly critical in today's economy, where approximately 40 percent of women are acting as the primary breadwinners in their households and more than 60 percent are breadwinners or co-breadwinners.⁵ Giving women more tools to help them take home every dollar they earn is crucial not only to families' economic security, but also to the nation's economic recovery.

Again, we thank you for all you and your Administration have done to fight for pay equity. Because women can't wait for fair pay, we hope you will take immediate action to advance equal pay by signing an executive order banning retaliation against federal contract employees for discussing their pay.

³ OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS (OFCCP), *History of Executive Order 11246*, U.S. DEP'T OF LABOR, http://www.dol.gov/ofccp/about/History_EO11246.htm.

⁴ Paycheck Fairness Act Coalition, National Polling Research on the Paycheck Fairness Act (conducted May 21-24, 2010 by Lake Research Partners), available at http://www.aclu.org/files/assets/PFA_Poll_Data_Colored_Graphs.pdf.

⁵ Heather Boushey, *The New Breadwinners*, in THE SHRIVER REPORT: A WOMEN'S NATION CHANGES EVERYTHING 32 (2009), available at <http://www.americanprogress.org/issues/2009/10/pdf/awn/chapters/economy.pdf>.

Please feel free to contact any of us if you have questions or would like to discuss this matter further. You may also reach Deborah J. Vagins, ACLU Senior Legislative Counsel, at dvagins@dcaclu.org or (202) 675-2335 for any follow-up. Thank you so much for your consideration.

Sincerely,

Handwritten signatures of Anthony D. Romero and Laura W. Murphy. The signature of Anthony D. Romero is on the left, and the signature of Laura W. Murphy is on the right.

Anthony D. Romero
Executive Director

Laura W. Murphy
Director, Washington Legislative Office

Handwritten signature of Deborah J. Vagins.

Deborah J. Vagins
Senior Legislative Counsel