

There is a way to solve equal pay discrimination. We know because we've seen it

We work on employment cases where women are routinely underpaid — and we know what happens when a company changes its practices

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A major US university depressed the salaries of its female full professors who worked primarily in non-clinical positions at its medical school. As is custom in academia, when professors held an administrative appointment, such as the chair of a department or committee, they received a significant stipend for their additional duties. Once the women's administrative appointments ended, the school took away their stipends, whereas the men kept their stipends after they left the positions.

A sales company required a woman to meet higher sales quotas, paid her a smaller base salary, and provided her drastically lower commission rates than her male counterpart, even though she had decades more experience than him. Despite her reduced pay, the company required her to cover a sales territory which was twice the size of his. After she opposed the company's pay discrimination, it terminated her employment.

A regional newspaper created gender-specific job classifications where it assigned men to solicit lucrative sales ads, while it had women solicit classified ads, which brought in less money. The newspaper then used the same classifications it had created to justify paying women less than men.

A newspaper chain claimed that it paid a woman less than her male colleague based on his salary history, because he said he had earned more than her at his prior job. Later, he admitted that he had misrepresented his prior salary.

These are only a few examples of the real-world situations that women have faced in their ongoing fight for equal pay.

[Women's Equal Pay Day](#) serves as a stark reminder that American employers do not treat women and men equally. March 24, 2021, symbolizes how far into 2021 the average woman must work to catch up to the salary an average man earned at the end of 2020. As Equal Pay Day

demonstrates, the United States has struggled to close the wage gap, or even pass federal legislation to move in that direction. Recognizing that a federal remedy is not coming soon, states and innovative companies have forged ahead. A closer examination of how these states and businesses have fared emphatically makes a business case for narrowing the wage gap.

Progress toward bridging the gender wage gap in the US has stalled, with the gap lingering around 82 percent. For every dollar a man earns, on average, women earn [18 cents less](#), or \$10,194 less per year. The disparity between the wages of white men and those of women of color are even larger than when compared to white women. In [2018](#), Black women earned only 62 cents, and Hispanic or Latino women only 54 cents, for every dollar a white man earned.

Further compounding the wage gap, women are underrepresented in many of the industries where the gap is the widest. Although women make up [more than half](#) of the workers in the financial services industry, few hold [senior-level positions](#). Women also are extremely underrepresented in the [tech industry](#), where only [53 percent](#) of start-ups have at least one woman in an executive position. Studies have demonstrated that greater female representation at higher levels of corporate leadership relates to a narrowed gender gap with respect to [promotion rates at lower levels](#) and [smaller pay gaps among executives](#).

Although women's salaries often are the product of sex discrimination, many employers rely on an applicant's salary history to set her wages. Finally, in 2020, the Ninth Circuit reaffirmed its prior decision and held that employers could not justify pay disparities by pointing to an employee's prior pay. It reasoned that pay history does not constitute a factor "other than sex" under the Equal Pay Act, and recognized that the use of a female applicant's prior pay to set her wages would perpetuate the gender-based pay gap.

A June 2020 [study](#) confirms that salary history bans have contributed to increases in the pay of white women, Black men, and Black women by 8, 16, and 14 percent, respectively.

However, other courts still allow employers to rely on employees' salary histories to justify pay differentials. To address this problem, more than three dozen states, territories, and local governments throughout the country have outlawed employers' use of pay history to pay women less than men.

A few progressive business owners have stepped into the breach to fix the problem in innovative ways. Gravity Payments Inc., a credit-card processing company in Seattle, jumped into the fray in 2015 and set the minimum wage to \$70,000 for all employees, including the CEO. At the time, the CEO, Dan Price, wanted all employees to earn a living wage, because the cost of living in Seattle is so high. Price's decision to set the minimum wage to \$70,000 for *all* employees, regardless of gender, largely eliminated the wage gap at Gravity, which is at the intersection of the technology and financial services industries. Now, six years later, women earn 98 cents for

<https://www.independent.co.uk/voices/equal-pay-day-women-gravity-startup-b1821778.html>

every dollar men earn (unadjusted pay gap), or \$1.04 for every dollar, after adjusting for job level. In sharp contrast, these figures for other mid-sized financial service companies are 68 cents and 91 cents, respectively.

Other factors too contributed to Gravity's progress. Although Price and his brother initially founded Gravity, women now are overrepresented in the company's top management. While 32 percent of Gravity's overall workforce is female, women comprise 50 percent of the company's executives and 44 percent of its first and mid-level officials and managers. Further, Gravity's pay structure attracted strong female talent including a former Yahoo executive, who worked with the female director of engineering to build a gender-balanced department.

Since Gravity's salary increase in 2015, its business [has tripled](#), its turnover has dropped by half, and its employee engagement has gone up. During Covid-19, the company managed not to lay off a single employee, despite a short-term revenue loss of 55 percent, because nearly all of Gravity's employees volunteered to take temporary pay cuts until financial conditions improved (which they did).

These public and private initiatives show that equal pay makes good business sense. It is time for the federal government to learn the lesson and really support equal pay for women.

Lynne Bernabei and Kristen Sinisi are experts in employee law, with a focus on discrimination