



COUNTY OF ERIE

MARK C. POLONCARZ

COUNTY EXECUTIVE

April 8, 2014

Chris Johnston, Chair
Erie County Industrial Development Agency
95 Perry Street, Suite 403
Buffalo, New York 14203

Re: Pay Equity Requirement at ECIDA

Dear Chairman Johnson,

In 1963, President John F. Kennedy signed into law the Equal Pay Act ("EPA").¹ The EPA makes clear it is a violation of the Fair Labor Standards Act for an employer to discriminate against any person in the pay and benefits they receive if such discrimination is based upon gender. Furthermore, the EPA imposes a strict liability standard on any employer: no intent to discriminate needs to be proven, only that a wage differential exists for employees performing substantially equal work under similar working conditions. Differential pay levels are permitted based upon seniority, merit and other similar factors, but cannot be based upon gender.

Regrettably, 51 years later, gender based pay discrimination is still pervasive in the American workplace. According to the U.S. Census Bureau, the median earnings for women are just 77% of men's, creating a wage gap of 23% in America today.² Although the figures are better for women in New York State, where median earnings are at 84% of men's, the gap still exists and is unacceptably large.³ According to the 2010 Pathways to Progress Report, prepared by the WNY Women's Foundation, this figure translates into \$9,000 less per year in office jobs and \$20,000 less in management occupations for working women in Erie and Niagara Counties.

¹ U.S. Pub. L. No. 88-38, 1963.

² U.S. Census Bureau (by Carmen DeNavas-Walt, Bernadette D, Proctor and Jessica C. Smith), Income, Poverty, and Health Insurance Coverage in the United States: 2012, September, 2013.

³ U.S. Census Bureau: State and County QuickFacts. Data derived from Population Estimates, American Community Survey for New York as of 2012.

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On a national level, these statistics are worse for African-American women and Hispanics. The National Women's Law Center recently reported that African-American women are paid only 64%, and Hispanic women only 54% for every dollar paid to a white, non-Hispanic male.⁴ Sadly, recent cases, particularly the matter of Lilly Ledbetter which eventually resulted in the passage by Congress of the Lilly Ledbetter Fair Pay Act of 2009, prove beyond any doubt that pay discrimination is still with us—occurring even at large, national companies.

Unfortunately, these aggregate figures somewhat obscure the real impact of this problem on families having a working woman at the head of their household. The basic fact is that lower wages for women cause thousands of families to live below the poverty line. Furthermore, women who earn a lower than average wage throughout their working career than men suffer the inevitable outcome of having saved less for their retirement. This fact contributes to a very high rate of poverty for female senior citizens. These disparities also contribute to many of the social problems that confront and overburden local governments today, including driving up taxes. Thus, these problems affect not only the individuals involved, making their lives increasingly more difficult, but also afflict and damage the whole of society.

As efforts at the national level continue to attempt to strengthen pay equity laws and their enforcement, we can and must also wage a similar effort here in Erie County. To that end, in my State of the County address on February 26th, I called upon the Erie County Industrial Development Agency ("ECIDA") to establish an equal pay policy for all companies that come before it seeking assistance in the form of tax incentives. I believe it would be unconscionable for our community to provide tax breaks or other incentives to any company that engages in pay discrimination based on gender, especially when it is estimated 51.7% of all Erie County residents are females.⁵

I now call upon you, as Chair of the ECIDA, to develop, through the Policy Committee, an Equal Pay Policy for the ECIDA, including appropriate reporting and enforcement mechanisms. I will soon expect all companies seeking to obtain assistance from the ECIDA to agree and be bound by contract to observe gender pay equity standards with regard to all employees that hold similar job titles.

Today, across America and in Erie County, this April 8th is Pay Equity Day—the day that represents how many extra days, weeks and months women must work during a year to earn

⁴ National Women's Law Center, [Fact Sheet – Closing the Wage Gap is Crucial for Women of Color and Their Families](#), November 2013.

⁵ U.S. Census Bureau: [State and County QuickFacts](#). Data derived from Population Estimates, American Community Survey for Erie County, New York as of 2012.

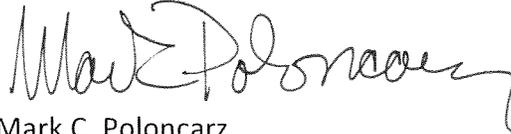
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what a man makes in the same job. Unfortunately, this date has not changed in recent years. It is time for us all to do what we can to move this date back to January 1st.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Mark Poloncarz", written in a cursive style.

Mark C. Poloncarz
Erie County Executive

MCP/rt

Cc: Members of the Board of Directors of the ECIDA
Steven Weathers, President and CEO, ECIDA