

**Testimony of JoAnn Kamuf Ward  
Deputy Commissioner of Policy and External Affairs  
New York City Commission on Human Rights  
Before the Committee on Civil and Human Rights  
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**Introduction**

Good afternoon, Chair Williams and committee members. I am JoAnn Kamuf Ward, Deputy Commissioner of Policy and External Affairs at the New York City Commission on Human Rights. Joining me today for questions is Katherine Carroll, Deputy Commissioner of the Law Enforcement Bureau and Hillary Scrivani, Senior Policy Counsel. Thank you for convening today's hearing on employment discrimination. We are excited to speak about the New York City Human Rights Law and specifically the agency's work combatting discrimination in employment. I will briefly talk about the New York City Human Rights Law, and then speak about the five bills that are on today's agenda: Intros. 808-A, 1064, 871, 982, and 984. Three bills relate to the Human Rights Law; two on pay transparency, which is already part of the New York City Human Rights Law, and one that expands upon the Human Rights Law's caregiver protections. The other two bills focus on collection and analysis of private employer pay and retention data, and involve multiple agencies.

The Commission has been enforcing New York City's anti-discrimination protections and raising awareness of these protections for decades.<sup>1</sup> This Administration has also invested significantly in pathways to advance equity for New Yorkers through an array of new initiatives.

**Agency Mandate and Structure**

To fulfill the Commission's dual mandate of enforcement and fostering intergroup relations, the Commission's two largest units are the Community Relations and Law Enforcement Bureaus.

The Community Relations Bureau sits at the center of our prevention efforts, and is responsible for outreach, education, and training. Community Relations reached 142,398 people in FY 24, raising awareness of New Yorkers rights and obligations under the Human Rights Law. The Law Enforcement Bureau conducts testing, launches investigations, initiates complaints, enters into settlements, and takes cases to trial to address individual and structural discrimination.

In FY 24, the Law Enforcement Bureau fielded over 13,000 inquiries from members of the public. The highest number of inquiries and claims are in the area of employment.

**The Human Rights Law**

The New York City Human Rights Law today is one of the most robust civil rights laws in the country. The Law prohibits discrimination in three main areas- employment, housing, and places of public accommodation. The Law includes more than twenty-seven protected categories,

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<sup>1</sup><https://www.nyc.gov/site/cchr/about/commissions-history.page>; <https://www.nyc.gov/assets/cchr/downloads/pdf/Unlocking-The-Power-and-Possibility-of-Local-Enforcement-of-Human-and-Civil-Rights.pdf>.

including age, gender, sexual orientation, gender identity, religion, disability, race, and national origin. Today our teams are also preparing to roll out the fair chance housing act - one of the newest changes to the law, which builds on employment provisions to prohibit discrimination based on criminal legal system involvement in housing.

### **Employment Protections**

The Human Rights Law codifies that employees in New York City have the right to a workplace free from discrimination and harassment in the protected categories I have mentioned, and more. The Law applies to employers with 4 or more employees or one or more domestic workers, as well as independent contractors, and interns.

Notable for today’s hearing, it has been illegal to discriminate on the basis of caregiver status in employment since 2016. Workers have frequently faced a “caregiver penalty” that can include losing pay, losing hours, or losing a job because of responsibilities as a caregiver for children, for adult family members, or for both.<sup>2</sup> Negative consequences are amplified for women-identifying caregivers, particularly women of color, as well as low wage workers.<sup>3</sup> The prospect of reasonable accommodations for caregivers has been explored by the Commission for several years. In a 2019 townhall on pregnancy and caregiver discrimination hosted by the Commission and partners, stakeholders called for such an amendment,<sup>4</sup> and reasonable accommodations for caregivers have been included as legislative priorities for the agency in recent years.

Importantly, in order to foster inclusive workplaces, the Human Rights Law requires employers to provide reasonable accommodations based on four categories: (1) disability, (2) pregnancy, childbirth, and related medical conditions (including lactation); (3) religion; and (4) status as a victim of domestic violence, sexual assault, or stalking. Each of these categories are defined in separate provisions of the Human Rights Law. In any workplace covered by the Human Rights Law, a request for a reasonable accommodation triggers the obligation of an employer to engage in an individualized cooperative dialogue to assess employee needs and limitations and to identify if there are accommodations available to allow the employee to do their job. If an employer can demonstrate an undue hardship, an accommodation does not need to be granted.

Since the start of FY 22, seven amendments to the Human Rights Law’s employment provisions have either taken effect or been signed into law. These include expansion of fair chance employment protections; the addition of the new protected categories of height and weight; the codification of rights of domestic workers; as well as two amendments to the Law regarding pay transparency, and most recently, changes to lactation policy requirements.

The Human Rights Law aims to protect against root causes of discrimination that impact both employees in the workplace and job applicants. Hiring practices that may seem neutral on their face can perpetuate inequity, and lead to the exclusion of qualified candidates. The City’s Human Rights Law strives to ensure that businesses focus on the skillset of an applicant, which in turn

<sup>2</sup>[https://www.nyc.gov/assets/cchr/downloads/pdf/publications/Pregnancy\\_Report.pdf](https://www.nyc.gov/assets/cchr/downloads/pdf/publications/Pregnancy_Report.pdf); [https://www.abetterbalance.org/wp-content/uploads/2021/03/Crisis\\_of\\_Care\\_Report\\_031521.pdf](https://www.abetterbalance.org/wp-content/uploads/2021/03/Crisis_of_Care_Report_031521.pdf).

<sup>3</sup>[https://www.abetterbalance.org/wp-content/uploads/2021/03/Crisis\\_of\\_Care\\_Report\\_031521.pdf](https://www.abetterbalance.org/wp-content/uploads/2021/03/Crisis_of_Care_Report_031521.pdf).

<sup>4</sup>[https://www.nyc.gov/assets/cchr/downloads/pdf/publications/Pregnancy\\_Report.pdf](https://www.nyc.gov/assets/cchr/downloads/pdf/publications/Pregnancy_Report.pdf).

cultivates dynamic and inclusive workplaces. Specifically relevant to the bills being heard today, the New York City Human Rights Law has required employers to include a good faith pay range in all job advertisements in New York City since November 2022. This amendment built on the Law's protections against hiring practices that have disproportionately impacted the wages and opportunities afforded to women and people of color, such as the salary history and credit history bans.

The Commission is committed to ensuring that the Human Rights Law enables equitable access to job opportunities and that New Yorkers can enjoy workplaces that are free from discrimination. I will turn now to the proposed bills.

### **Proposed Legislation**

For 808-A and 1064, the Administration supports enhancing transparency in pay for prospective and current employees. More transparency can address the information gap between employers and employees and level the playing field on the job market, ensuring that all employees have a fair opportunity for promotion and professional growth. A lack of transparency has long perpetuated differential pay and career trajectories across gender, race, and age.

Intro. 808-A would amend the Human Rights Law's existing pay transparency requirement in several ways. Currently, employers with 4 or more employees must include a good faith pay range in job advertisements. Intro 808-A adds a requirement that employers include a description of the job and non-wage compensation, such as benefits, bonuses, and equity. Intro. 808-A also codifies the factors that employers must take into account factors when determining the pay range, such as qualifications, and the amounts paid by those currently holding equivalent positions. Where employers deviate from the range in the final pay for a position, 808-A requires employers to keep written records of the reasons for doing so. Finally, 808-A includes disclosure provisions: (1) employers that choose not to advertise a job must disclose the pay range and non-pay compensation to prospective candidates at any point in the hiring process; and (2) employers must disclose the current range of pay and non-monetary compensation to employees for their current job or substantially similar jobs upon request, at least once a year. The Administration supports the intent of 808-A and is keen to enhance job seeker information and to balance that objective with the reality of how job postings are created and disseminated. We look forward to further discussions with the Council on approaches to increase pay transparency, and to learning more from stakeholders.

Intro. 1064 is also an amendment to the NYC Human Rights Law. This bill would require employers of 100 or more employees to "make reasonable efforts" and inform all employees of new job opportunities at the same time, and prior to selecting a candidate for a job. Additionally, Intro. 1064 would require such employers to make efforts to inform co-workers of new hires with the name of the individual selected, their job title, and for internal hires, their prior job title. The Administration supports efforts to ensure new job opportunities are known to all qualified candidates, but has some concerns about potential harmful impacts of sharing individual information and creating disincentives for non-traditional hires. We look forward to further discussions about meeting the objectives of Intro 1064.

Intro. 871 would amend the Human Rights Law to require covered entities to provide a reasonable accommodation on the basis of caregiver status. Currently the Law recognizes that in order to fulfill the essential functions of their job, employees are entitled to reasonable accommodations on four bases that were already mentioned.

At present, caregivers are a protected category under the New York City Human Rights Law, but there is no affirmative obligation for employers to provide reasonable accommodations on the basis of caregiving status. The Administration strongly supports the aim of ensuring that New Yorkers are not forced to choose between caring for children or adult family members and working by adding reasonable accommodations to the Human Rights Law, and is committed to addressing the well documented “caregiver” penalty that impacts many careers. Legislation that promotes the ability of caregivers to meet their job requirements without unjust consequences has the potential for significant positive outcomes.

While the Administration supports the intent of 871, there are several elements that warrant further exploration to make an accommodation protection for caregivers workable in the Human Rights Law framework. As currently drafted, the bill would require reasonable accommodations based on caregiver status in employment, housing, and places of public accommodations. Since this is an employment hearing, we are focused on the employment considerations.

As a preliminary matter, the unique considerations regarding persons with disabilities and people that are caregivers warrant creating a standalone section for caregivers, as for the other four areas of reasonable accommodations. This signals that there may be different considerations for employees and employers regarding the basis for an accommodation request. It should be clear for caregivers what their rights are and what the process for an accommodation request would be, and the provisions should be drafted to maximize clarity in an emerging area of legal protections. We look forward to speaking further with Council about this legislation.

Intro. 982 would require employers with over 25 employees to submit to the Department of Consumer and Worker Protection (DCWP) employee information related to pay, location, job title, and identifying information such as gender, race, and birth year. Additionally, these employers would be mandated to submit to DCWP a digital self-certification regarding understanding of, and compliance with, federal, state and local equal pay laws as applicable. Intro. 982 calls on this agency and the Commission on Gender Equity to work with DCWP to develop the affirmations and ways to collect them.

Intro. 984 would require the Office of Data Analytics (ODA), in consultation with DCWP and the Commission to annually collect data and conduct a study of employers with at least 150 employees, with the aim of identifying disparities on the basis of protected categories regarding pay and benefits; employment rates; and retention. In addition to collecting this data, Intro. 984 requires annual analysis of the data, including a description of every statistical methodology used; and recommendations for creating and implementing pay, employment, and retention equity action plans to address the disparities that are surfaced. The bill would require that recommendations be publicized to employers. While the Administration supports the intent of advancing pay equity and employee retention across New York City, these bills raise legal, policy, and operational concerns.

**Conclusion**

In closing, the Commission aims to address discriminatory policies and practices that harm employees in the workplace and job applicants. We appreciate the Council's time and attention and welcome your questions.