LEVEL UP REPORT 2021

PLACING BLACK WORKERS AT THE CENTER OF AN ECONOMIC RECOVERY THAT WORKS FOR EVERYONE
Table of Contents

01 Introduction

02 Invest in immediate relief and job creation in the black community

03 Eliminate barriers to employment

04 Protect workers and eliminate discrimination in the workplace

05 Establish and strengthen government offices that protect workers

06 Conclusion
Introduction

We are Black workers. We built this country. And we’ve kept it running during the COVID-19 pandemic despite disproportionate risks to our health. From the warehouse to the board room, from the Deep South to Silicon Valley, we face discrimination in hiring, promotions, treatment, and pay. We are the “last hired, first fired,” and it shows: Black unemployment remains at nearly 10% and underemployment is between 11 and 12.5%. Black women suffered the largest loss of employment in the current recession, and those who are employed only get paid about 64 cents for every dollar a white man makes. Black youth unemployment, which was nearly twice that of white youth pre-pandemic, peaked at 35% in May 2020 and currently hovers near 20%

We are essential. We are on the front lines even though we are nearly three times more likely to be hospitalized with and nearly twice as likely to die from COVID-19. On top of the devastation of this past year, we, along with Latinx workers, face further disproportionate job losses due to automation. Our employers laud us in the spotlight as heroes, while they sacrifice our safety and dignity behind warehouse doors to boost their profits. As Jennifer Bates, a grandmother and worker at Amazon’s Bessemer warehouse, says, “We’re just like machines.”

We will not be thrown away. We demand a
seat, a say, and security at the table. We already know that the current economy, which is built on structural racism, isn’t working. We know that policies designed without us won’t help us.¹⁴ We have the opportunity to build an anti-racist economy that works for everyone. When we thrive, the entire country thrives. It’s time to Level Up:¹⁵ we offer these demands in the spirit of “Black Women Best”—the theory that when the economy works for Black women, then it will finally work for everyone.¹⁶

We demand a Black Worker Relief Act to undo the legacy of slavery and intergenerational poverty. The Act will support essential and low-wage workers who risk their lives to keep the country fed and functioning but lack the resources and labor protections to support themselves and their families. We propose a federal bill, and state and local government action to start making these demands a reality now. Resolving over 400 years of violence, exploitation, and extraction will require action at every level - private and public sectors. To create and sustain material change for Black lives, we must Level Up! We look forward to a future where all workers thrive in a country that finally achieves the shared prosperity we so desperately need.
Invest in immediate relief and job creation in the Black community

Provide $2400 monthly checks to mothers, with an additional $1,000 per month for mothers who are Black, Indigenous, or other economically disadvantaged people of color.

This policy will address four intersecting challenges that Black women face: high unemployment, low wages, a racial-gender wage gap of 50% for Black mothers, and the unpaid labor of childcare that Black women disproportionately bear. By one estimate, private companies systematically underpay Black women when compared to white men performing similar work, to the tune of $50 billion per year. The pandemic intensified these pressures, creating a she-cession: women as a whole lost 5.4 million jobs, but had to shoulder outsized childcare and domestic duties to compensate for pandemic shutdowns. The federal pandemic response has yet to tackle this race-and-gender inequity with a substantial investment. The $2 trillion infrastructure bill, which invests $400 billion in care for the elderly and disabled, should include a comparable investment in moms, especially Black moms.
Over two-thirds of Black women are the primary or sole providers for our families. However, 60% of Black households in the U.S. reported serious financial difficulties caused by the pandemic, compared to 36% of white households. By supporting Black women, we support Black families, and the entire country benefits. Closing the race and gender gap in Black women’s earnings would create over one million jobs, and raise the annual GDP by up to $450 billion. Closing the Black wage gap overall would add a further $2.7 trillion to the economy.

Provide training in quality jobs of the future

Cities with high unemployment should establish training and incentive programs for high-growth, high-wage fields with intentional tailoring to Black residents. Governments can partner with community organizations and the private sector to offer targeted trainings in financial services, professional services, and IT fields in which Black people are underrepresented. Federal and local governments should offer incentives to companies who then hire Black graduates. On the public sector front, jobs programs addressing our country’s critical need to improve its childcare infrastructure and combat climate change should center around Black and other marginalized communities.

Leverage resources to benefit the Black community

Another way to invest in Black communities while stimulating the economy is to provide grants to worker centers with Black leadership, determined by a standard of 85% or higher of Black managers and board members. Worker centers fill an important gap in the community, providing critical support, leadership development, and connections, all of which promote community self-reliance for the low-wage, marginalized workers at the forefront of the pandemic response. What’s more, workers centers can fill in the gaps for undocumented workers, who may not trust government agencies, but
whose precarious status makes them vulnerable to rampant employment law violations.\textsuperscript{27}

State and local governments should also establish contracts and loan programs explicitly for Minority Business Enterprises and those businesses owned by socially disadvantaged people.\textsuperscript{28} These affirmative strategies are legally justified to remedy the effects of discrimination and its genuine physical and economic harm\textsuperscript{29} to Black, Indigenous, and people of color (BIPOC) communities. While the latest COVID-19 relief package has some provisions regarding this, it is not nearly sufficient to address the many years and methods of economic exploitation and harm suffered by Black communities: from slavery and Jim Crow segregation, to our exclusion from the New Deal, to redlining, displacement, and consistent underinvestment.

**Require targeted hiring on publicly funded projects.**

Similarly, development projects often push out Black and brown residents from their neighborhoods, while creating profits for developers and “desirable” neighborhoods for white communities. When these projects are funded by the government, they drive public resources away from Black and brown communities, continuing the legacy of overt discrimination. Governments can instead choose equity by ensuring that the public resources that they administer excluded communities. A targeted hiring program would require contractors on publicly funded projects to hire a percentage of their workers from economically distressed neighborhoods, and set a preference for workers who (a) are of a race or ethnic group that has historically been excluded from worker protections (where permitted by law), (b) are formerly incarcerated, (c) have a disability, or (d) have been long-term unemployed.\textsuperscript{30} To ensure success, community-based organizations with 85% Black leadership should be provided grants to conduct outreach in the most impacted neighborhoods and monitor program compliance. Furthermore, the program should require that contractors provide regular data that shows retention rates for workers hired under the program, to ensure that Black workers are provided jobs that last beyond the program's life.
This way, any time the government decides to spend money on development, it also enlists the residents most in need of good jobs. Cities should seek similar targeting from anchor employers (e.g. cultural institutions, universities, and hospitals) and other major government service contractors. All of these strategies will require authentic and robust community partnerships to connect people to the jobs and maintain connections between governments and residents of economically distressed neighborhoods.

Without proactive efforts, governments will only continue to maintain manufactured inequities. For example, in Tennessee, the state legislature overturned a local hire ballot initiative that Nashville voters had approved by a 16-point margin. This is an illustration of how state preemption laws thwart the rights of workers, and often of voters, to the particular detriment of Black and other BIPOC communities, discussed further below.

**Adopt best practices for equitable employment programs**

Governments should also take these concrete steps to advance Black workers: (a) measure, set benchmarks, and evaluate program outcomes by race; (b) actively recruit participants from communities of color; (c) ensure participants with prior justice involvement are not excluded; (d) offer positions that are accessible to workers with limited prior work experience; (e) avoid requirements that could disproportionately screen out applicants of color; and (d) offer incentives and support for employers to hire employment program participants.
Eliminate barriers to employment

Pass Clean Slate Acts federally and at the state level

While white job applicants with a criminal record are more likely to get interviewed than Black applicants without one, Black applicants with a criminal record find it nearly impossible to get a job. Advocates across the country are pushing for divestment from mass incarceration and the structural racism it upholds, and a critical element that can be adopted federally and by states now is automatic record sealing and clearing. The most promising model legislation is New York’s Clean Slate bill, which provides for automatic record sealing after one year for misdemeanors and three years for felonies, post-incarceration. Pennsylvania, which was at the forefront of automatic record sealing, continues to update and expand its law as well. Any legislation should avoid requiring fees, which pose an undue burden on people returning home from prison. Black communities are disproportionately harmed by the collateral consequences of convictions, which are a driving force in the racial wealth gap. These costs impact the economy as well: just excluding people with convictions from employment costs the economy an estimated $78 billion to $87 billion per year in lost GDP.

Protect workers and eliminate discrimination in the workplace

Pass Just Cause Firing laws federally and at the state level

The default of at-will employment is failing America’s low-wage and marginalized workers, enabling employers to subject them to unlawful workplace harassment, discrimination, unequal pay, and retaliation with little to no recourse. These dynamics disproportionately harm Black workers, particularly those with meager resources, barriers to employment, lack of immigration status, and/or language barriers. A just-cause firing law that codifies the seven-part test utilized in collective bargaining agreements would rebalance the scales so that workers can perform their jobs with security and confidence, in a system that upholds their dignity. This policy should be pursued at the federal, state, and local levels—the federal policy should establish a just, base standard on which state and local governments are able to build depending on their unique needs. Because it will likely take some time for a federal law to pass, cities and states should lead the way now with just-cause policies, as some have already done. New York City just enacted a bill requiring just cause to fire fast food workers, and Philadelphia has similar protections for parking employees.
Repeal laws allowing state interference in pro-worker laws

Across the country, but particularly in the South, preemption laws ban cities from implementing ordinances that benefit the community. For example, in a state with minimum wage preemption, a city with a high cost of living cannot enact a higher local minimum wage law (when compared to the state minimum wage) that might fairly compensate workers struggling to make ends meet. The Economic Policy Institute traces the history of this practice to the post-slavery Reconstruction and Jim Crow eras, when newly freed Black Americans had won federal, state, and local elections and were just beginning to exercise their power. Racist white southerners reasserted their position through intimidation and violence, including massacres of Black people. Southern states with predominantly white legislatures beholden to corporate lobbyists continue to pass reactionary laws that reverse progressive policies adopted by predominantly Black and brown cities. In addition to the minimum wage and local hire laws mentioned above, state legislatures have banned local paid sick leave, fair scheduling, rent control, and many other measures.

The sordid history of preemption echoes especially in the era of COVID-19; Black people have been forced to return, unprotected, to business as usual, when white governors in states with the highest concentrations of Black people forbade local public health safety measures due to vocal protests from mostly-white residents who refuse to wear masks. In a similarly repugnant parallel to Jim Crow-era political suppression, Republican lawmakers’ response to the 2020 election’s record voter turnout in the South is hundreds of bills to restrict voter access and participation. These policies disproportionately harm Black voters. A sweeping voter suppression bill just passed in Georgia, the state where unprecedented Black and brown turnout helped change the balance of power in the U.S. Senate.
Local governments are best situated to determine what their community needs. Marginalized Black and brown residents without the resources to lobby state legislatures can more easily make their voices heard with their local elected officials, demand change, and hold them accountable. Preemption tramples this, and it’s no coincidence that the communities who suffer the most are Black, brown, and low-income.

Promote equal pay

Ban employers from asking about salary history

Studies indicate that questions about salary history lock in the inequitable pay that white women, women of color, and men of color earn across industry, controlling for education and achievement. In the states that have already implemented a ban, Black workers earned about 13% higher pay and female workers about 8%. Black women earned 16% more. Importantly, all workers earned approximately 5% more. The rest of the country can promote higher pay for all workers and take major steps to eliminate the racial wage gap, simply by enacting a salary history ban.

Update equal pay laws

Black workers make about 73 cents for every dollar a white worker makes, and Black women earn only 64 cents for every dollar a white male worker makes. Unequal pay deprives Black workers of
their due compensation, and entrenches already struggling families into poverty. Congress and the states should adopt New Jersey’s model equal pay legislation, which prohibits pay discrimination for “substantially similar” work not just based on gender, but based on any protected classes, as defined by state law. Furthermore, the legislation effectively discourages pay discrimination by allowing workers to include up to six years of discriminatory wages in their back pay claims, and permitting judgments that triple any monetary damages awarded. In a step forward for pay transparency, the legislation also requires state contractors to report their demographic and wage data to the state labor department.

Federal and state laws should also prohibit employers from retaliating against, threatening, or firing employees who discuss their pay, also covered in New Jersey’s legislation. All levels of government must also commit resources to better enforcement of existing federal and state laws.

**Transparency on pay, hires, and leadership**

State, city, and county departments of labor should follow New Jersey’s lead and require contractors to report on wages and demographics for their employees, including management or senior leadership demographics. Governments as employers must advance workplace equity to benefit the Black and brown communities that are the furthest from opportunity and wealth—or else they risk further entrenching those inequities.

Private employers must also be willing to lead. Many are already under pressure to prove their commitment to racial equity after publicly supporting the protests for racial justice of 2020. In their annual diversity reports, alongside data on the demographics of hires and leadership, employers should also report on the demographics of applicants and the likelihood of Black men and Black women successfully applying. This is a missing element of the data needed to realize workplace Diversity, Equity, & Inclusion.
DEI goals. DEI goals deserve scrutiny as well—rather than committing to negligible increases in Black hiring and leadership, companies should aim to at least reflect the population of the local community. Thus, in a region with 50% Black residents, the company’s goal should be that 50% of its workforce is Black, and they should create action plans to ensure that 8% hold meaningful leadership roles.

Establish and strengthen government offices that protect workers

Federal Government

Government agencies can choose to uphold the racist status quo, or actively seek to dismantle it—there is no middle ground. The Biden Administration should continue to lead the way, and make good on its promise to promote racial equity by establishing a Black Worker Office devoted to advancing full, quality employment for Black workers. The Office should be charged with resetting the baseline for Black workers so that we are on equal footing regarding employment rates, wages and salary, benefits, career advancement, and experience of harassment or discrimination. To this end, the Office will help coordinate policy between federal agencies and with the various levels of government across the country. A Black Worker Office will complement the Administration’s existing efforts to prioritize racial equity in stimulus disbursement. The Office will help ensure that racial equity drives other key decisions and offer guidance and technical support to state and local governments to do the same.

Another key avenue for executive action is the Equal Employment Opportunity Commission (EEOC), which investigates and sometimes files employment discrimination claims, but is beset with high caseloads and a years-long backlog. The Administration should increase funding to double EEOC staff, provide effective anti-racist trainings, and task the agency with taking a proactive role in resolving workplace discrimination. This should include setting goals to pursue an explicit number of cases, with particular emphasis on race discrimination and harassment claims, along with intersectional claims (those involving claims of race and gender, race and LGBT status, etc.).

State and Local Governments

City, county, and state governments should immediately set up companion offices devoted to Black workers. Furthermore, they must establish or strengthen offices that can address workers’ rights violations, which cost workers an estimated $50 billion in lost wages per year. Even with new laws to protect and advance workers, every level of government must ensure that it: (a) conducts proper outreach both to workers and small businesses so workers are aware of their rights and businesses understand their obligations; (b) enforces existing labor laws, investigates unfair labor practice claims, wins remedies for workers, identifies repeat violators, and deters further violations; (c) acts as a community resource to curb the undue influence of wealthy businesses, and supports workers and small businesses. A city Office of Labor Standards, for instance, adds a layer of resources to state labor departments and can better meet these needs. Without public resources, low-wage workers are unlikely to afford or
have access to lawyers, and may not know that they are entitled to remedies such as stolen wages.

State, regional, and local governments should also take the Administration’s lead and set up coordinating equity officers for each stream of stimulus funding. This move signals that agencies are taking the Administration’s equity commitment seriously, and are as devoted to eliminating the disparities that affect Black and other BIPOC residents.
Conclusion

In the wake of the 2020 racial uprisings, countless individuals, companies, and elected officials proclaimed their support for Black Lives. Now it’s time to Level Up from words to actions: Hire us. Promote us. Follow our lead. Learn from us. Pay us a living wage so we can support our families.

We have overcome centuries of exploitation. It is time for equity. As our country seeks to reinvent itself once again, let’s finally place Black workers at the center of an economic recovery that works for everyone.

Notes


Level Up is an initiative by the National Black Worker Centers Project to provide more support, more knowledge, and more resources to organize and build up Black worker power. Black workers have been ready to destroy the systems that keep all workers in chains, and we're leveling up so that we can take on larger more impactful campaigns to end discrimination in the workplace—because our people deserve it.


A similar program in Alameda County lists a strategic outcome as: “Under-representation of [target businesses] shall be eliminated as a result of participation and an increase in the number of economically and culturally diverse individual community contractors shall be realized.” See Alameda County, “Small, Local, & Emerging Business Program,” https://www.acgov.org/auditor/sleb/faq.htm#13.

31 Governments should stop contracting out public services, but until then, they can at least ensure their contractors are providing living wage jobs to Black and brown communities. https://black2thefuture.org/wp-content/uploads/2020/02/BlackAgenda2020.pdf
36 https://www.law360.com/articles/1290968/how-pa-is-setting-the-pace-on-clean-slate-reform
Author: Sumayah Waheed, JD, Policy Consultant
Prepared By: NBWC
Visit us at www.nbwc.org
Or Call (919) 874-1003