



## **Office of City Council Member Brad Lander**

*Issue Brief*  
*August 2021*

---

### **Introduction**

Clear and consistent academic research shows pervasive bias against people of size in the United States, as well as detailed evidence of weight-based discrimination in many aspects of society. Despite this, there is no federal law that protects individuals against weight-based discrimination. In absence of federal protection, various cities and states have taken legislative action to add weight, height, and/or personal appearance to their human rights laws, affording those discriminated against potential remedy.

New York City has one of the most robust human rights laws in the nation. To protect New Yorkers from weight- and height-based discrimination in employment, education, housing, and access to public accommodation, New York City should immediately pass legislation adding height and weight to its list of protected categories. This law would make weight- and height-based discrimination in New York City unlawful, leading to lower rates of bias and stigma and an increased ability for all New Yorkers to live safe and fulfilling lives.

### **Weight-Based Discrimination and its Implications**

Weight-based discrimination, rampant in the United States and most Eurocentric societies, impedes a person's ability to enjoy equal and fair treatment in education, employment, housing, access to public accommodation, and medical care. Despite the overwhelming stigma, size, like other aspects of personal appearance, is *not* a determinant for a person's health, well-being, intellect, or skill set, and many factors that contribute to a person's size may be out of their control.

The implications of weight-based discrimination are real and severe. The bigger a woman of size is, the less likely she is to be admitted to college.<sup>[i]</sup> In New York City, public school students are required to receive annual BMI report cards,<sup>[ii]</sup> even though such reporting is shown to increase weight-based stigma and bullying.<sup>[iii]</sup> Weight-based bullying, often ignored, at best, or aided, at worst, by teachers and school administrative staff can lead to high rates of depression among school-aged youth.

This type of prejudice also affects job protection and pay. Over 10% of human resources professionals believe it is acceptable to fire an employee for their size.<sup>[iv]</sup> A study that examined the relationship between weight and salary found that for women "gaining 25 lbs produces an average predicted decrease in salary of approximately -\$15,572 at below average weight and

-\$13,847 at above average weight.”<sup>[v]</sup> The existence of weight-based discrimination has serious financial consequences for those who are discriminated against.

Those who experience weight-based discrimination have shorter life expectancies than people of size who do not.<sup>[vi]</sup> Doctors have been shown to give patients of size shorter appointments, on average, than other patients.<sup>[vii]</sup> Women of size have also reported experiencing a variety of obstacles that interfere with their ability to seek out and receive quality health care including but not limited to: disrespectful treatment, embarrassment at being weighed, negative attitudes of providers, unsolicited advice to lose weight, and medical equipment that was too small to be functional.<sup>[viii]</sup> All together, these barriers reduce a person’s ability to receive quality care and live a long and healthy life.

## **Survey Results**

An anonymous online survey conducted by Lydia Green, an organizer and constituent of the 39th Council District, from December 22, 2019 – January 5, 2020 aimed to collect information about weight-based discrimination. The survey received 156 responses. The survey asked respondents to reflect on their personal experiences with weight-based discrimination within a number of different settings.

90% of respondents have personally experienced or witnessed weight-based discrimination, harassment, or bullying by a health care provider; 89% have personally experienced or witnessed it in a public space; 62% in education; and 55% within a workplace environment.

The following quotes, submitted via the online survey, have been edited for clarity and length.

### Employment

**“I have worked for two different employers who outright said they had not/would not hire a fat person.”**

“I work as a lifeguard. My new employer bought new shorts and made it mandatory that we wear them. I don’t know who designed them but I wear a size 16 in jeans but couldn’t fit into a 4XL. I had to go through hell and back to get it OK’d for me to wear my own personal shorts. It was humiliating, especially since I am one of the biggest people at my work.”

### Education

“When I was young, my 5th grade teacher told me and another plus size student that we were doing poorly in class because we were fat. She somehow equated intelligence with body size. She treated us much differently than other students and made us feel horrible about ourselves. This made me feel like I could never do well because I was ‘overweight.’”

**“I, along with all the other fat kids in my middle school, were removed from class to receive a “nutrition class.”** We missed valuable learning time to be taken to the nurse’s office, weighed in front of one another without privacy, then told that we all are obese and need to eat more vegetables (as if most 6th graders are making meal choices at home). I vividly remember walking past a group of people discussing my weight in the school yard. I was crushed and it took me years to not cry after getting on a scale.”

### Eating disorders and health

“My anorexia and binge eating disorder went undiagnosed for 10 years (I am 20 years old now) because doctors and most people around me saw my weight loss as a positive, despite the fact that I was starving myself. They encouraged my [eating disorder] because I am a larger person.”

**“Weight bias is why I had an eating disorder.** I was bullied all my life and turned to obsessively counting calories and restricting my intake tremendously. People would applaud my weight loss but I would feel physically and mentally worse and worse. My weight bounced back eventually and now people think I'm unhealthy even though I eat pretty healthy with normal sized portions. I have PCOS so food has never been the reason for my weight but people won't listen.”

### Health care access

“My daughter was not even examined by [her] doctor, who lectured her on eating and exercise without even first ASKING her about her eating and exercise habits.”

**“A dentist complained that I was so fat he'd be wasting his pain killers on me and I had to ask him twice for more.** He said he used a deliberately smaller dose as 'fat people don't feel so much pain.'”

“I can't get doctors to take my health issues seriously until I bring up how often I go to the gym. I had a doctor tell me swimming and losing weight would cure everything wrong with me. I had another doctor refuse to address my chronic fatigue until I started bringing my gym bag to appointments.”

### Athletics

“I’m a fat fit person, my whole life as an athlete people have questioned my ability to compete and my coaches have tried to size me down even though as an endurance athlete my size is not a bad thing. I have always exceeded people’s expectations and the surprise I see in their faces when I win feels horrible every time. **I have injured, stagnated, and impeded my ability because I was focused on losing weight instead of being the best athlete I could be.** I am slowly working back to finding a balance

between being an athlete for the love of movement and having a healthy relationship to my body, and I want to encourage fat people to do sports- movement is for ALL HUMAN BODIES and everyone should feel welcome!”

### Harassment and abuse

**“I expect to be shoulder checked, laughed at or assaulted/spat at at least once anytime I go out on my own.”**

“Threatened, photographed without consent, followed, groped, shouted at, sexually harassed.”

### Public spaces and inaccessibility

“One area where I see weight bias or inaccessibility is seating in many public places, theatres, airplanes, restaurants.”

**“I get heckled, refused service, [and] denied seats on transport”**

## **Legislative Action to Combat Weight-Based Discrimination**

Currently, there are no federal laws protecting an individual from weight-based discrimination, leaving local laws the only recourse for those discriminated against. As early as the 1970s, [municipalities have taken legislative action](#) to combat weight-based discrimination, including Binghamton, NY, Madison, WI, San Francisco, CA, Santa Cruz, CA, Urbana, IL, and Washington DC. Studies have shown that laws banning weight-based discrimination, like the ones in place in the above-listed localities, are wildly popular: a 2015 representative sample of adults nationwide found 79% support, with no difference in support by political orientation. [\[ix\]](#)

Michigan enacted the Elliott-Larsen Civil Rights Act in 1976, which prohibits all employers in the state, regardless of number of employees, from committing weight-based discrimination. The existence of that law, the first-in-the-nation to outlaw weight-based discrimination, has been found to have reduced rates of discrimination based on weight. A 2013 survey of state residents found lower rates of self-reported weight-based employment discrimination, particularly for women, compared to states without such a law. [\[x\]](#)

Cities have also taken action, typically in the form of standalone local ordinances or by adding “weight, height, and personal appearance” to their existing human rights laws. San Francisco’s 2000 ordinance [reads](#), “It is the policy of the City and County of San Francisco to eliminate discrimination based on race, color, [...], weight or height within the City and County.” The ordinance also states that “such discrimination poses a substantial threat to the health, safety and general welfare of this community. Such discrimination foments strife and unrest, and it deprives the City and County of the fullest utilization of its capacities for development and advancement.”

Over four decades since Michigan’s landmark law and two decades since the passage of San Francisco’s ordinance, it is high time for New York City to take action and expand its existing human rights law to address height- and weight-based discrimination in employment, housing, and access to public accommodations. The New York City Council should promptly pass our office’s bill, introduced alongside Council Member Danny Dromm, to prohibit weight-based discrimination in employment, housing, and access to public accommodations.

In 2018, a bill to prohibit weight-based discrimination in employment was introduced in the New York State Legislature by State Assembly Member Linda Rosenthal. The bill has been reintroduced for three successive legislative sessions and the [2021 version](#) remains in committee.

### **Potential Impacts of Legislative Action**

Respondents to the online survey on weight-discrimination were asked, “Would a bill outlawing weight-based discrimination make a difference in your life? How?” A selection of responses, detailed below, illustrate how immediate and far-reaching the impact legislative action would have on those who are subject to weight-based discrimination.

“YES! The importance of making sure that everyone feels welcome and comfortable in spaces matters. I’ve watched family have their health concerns be ignored because they “just need to lose weight”, or be shamed publicly for enjoying a meal out. [Banning] weight-based discrimination means people can comfortably use public spaces, have protections for employment discrimination, and have all-around access to a more equal existence.”

“Removing stigma from body weight/size/shape is important, and the first step is to acknowledge that it’s a reality. **Having it written into law [admits] that weight-based discrimination is a real occurrence, and that it deeply affects people, their access to services, and their quality of life.** Sometimes the law can be used - or is the only way - to bring issues such as these to the forefront of awareness, discussion, and correction. Social change can occur in many ways, this is one valid one that would ensure legal protections for a vulnerable group - and this is the best use of laws, for protecting and uplifting.”

“I feel like it would open more opportunities for jobs and greatly decrease the harassment received in the work field and the education system.”

“Yes because I wouldn’t have to worry as much about financial insecurity in the future due to weight discrimination in the workplace. Also I would feel more empowered to stand up for what I need and deserve both in terms of accessibility and respect. No law is perfect but legal acknowledgment of weight bias and discrimination would mean so much to me.”

“Legal protection would be amazing. It [would] bring awareness to those that experience weight discrimination issues. **I would feel less invisible and better able to advocate for myself and others.**”

“We have to begin to grapple with, on a legislative and policy level, the normalized fatphobia and weight discrimination that is exhibited in all areas of society. This is a challenge that intersects with so many issues including accessibility, mental and physical healthcare, housing and employment access, and more, with a particular impact on women, people of color, trans folks, and persons with disabilities. A cultural shift, albeit insufficient, is underway, but we must embed this into our institutions and ensure strong protections against this very real and consequential form of discrimination.”

## **Conclusion**

Weight-based bias can be seen everywhere: from television ads, to clothing stores, to doctor’s offices, to public transportation. However, by failing to prohibit weight-based discrimination at the federal level and preventing individuals from being able to take action against discriminatory actors, our society has given weight-based discrimination an implicit endorsement.

Weight-based discrimination has severe, life-altering implications, restricting one’s ability to gain an education, become gainfully employed (and paid a fair wage), receive quality medical care, and navigate public infrastructure. New York City can follow in the footsteps of over a dozen municipalities in acknowledging that weight-based discrimination is real and pervasive by adding height and weight to its already-robust human rights law, affording countless New Yorkers to live free from harassment, humiliation, and harm.

## **Acknowledgements**

The Office of Council Member Brad Lander would like to thank Anna Messer for her research and contributions to this report. We would also like to thank Lydia Green for conducting a thoughtful and comprehensive survey, sharing so much of her personal story, and urging our office to take action to combat weight-based discrimination. We are grateful for her advocacy.

## Endnotes

---

- [i] Swami, V., & Monk, R. (2013). Weight bias against women in a university acceptance scenario. *The Journal of general psychology*, 140(1), 45-56.
- [ii] Almond, D., Lee, A., & Schwartz, A. E. (2016). Impacts of classifying New York City students as overweight. *Proceedings of the National Academy of Sciences*, 113(13), 3488-3491.
- [iii] Hunger, J. M., & Tomiyama, A. J. (2014). Weight labeling and obesity: a longitudinal study of girls aged 10 to 19 years. *JAMA pediatrics*, 168(6), 579-580.
- [iv] Wann, M. (2009). *Fat studies: An invitation to revolution. The fat studies reader*, ix-xxv.
- [v] Judge, T., & Cable, D. (2011). When It Comes to Pay, Do the Thin Win? The Effect of Weight on Pay for Men and Women. *The Journal of Applied Psychology*, 96(1), 95-112.
- [vi] Sutin, A. R., Stephan, Y., & Terracciano, A. (2015). Weight discrimination and risk of mortality. *Psychological Science*, 26(11), 1803-1811.
- [vii] Hebl, M. R., & Xu, J. (2001). Weighing the care: physicians' reactions to the size of a patient.
- [viii] Amy, N. K., Aalborg, A., Lyons, P., & Keranen, L. (2006). Barriers to routine gynecological cancer screening for White and African-American obese women. *International journal of obesity*, 30(1), 147-155.
- [ix] Puhl RM, Suh Y, Li X. (2016). Legislating for weight-based equality: national trends in public support for laws to prohibit weight discrimination. *Int J Obes*
- [x] Roehling, M.V., Roehling, P.V. & Wagstaff. (2013). Sex Differences in Perceived Weight-Based Employment Discrimination When Weight Discrimination is Illegal. *Employ Respons Rights J* 25, 159-176.