



Family Friendly Workplaces: Expand Family and Medical Leave and Paid Sick Leave

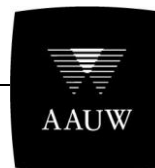
The American Association of University Women believes that creating work environments that help employees balance the responsibilities of work and family is good public policy—good for workers, good for families, and good for business. AAUW’s 2007-2009 Public Policy Program supports “greater availability of and access to benefits and policies that create a family-friendly workplace environment,” which are critical for women for “equitable access and advancement in employment.”¹ AAUW efforts in this area include long term advocacy from 1983 to 1992 to pass the Family and Medical Leave Act, which was finally signed into law in 1993.

Despite the FMLA and a patchwork of state laws and employer-based benefits, family and personal sick leave remain elusive to many working Americans. And despite the relative wealth of the United States, family-oriented workplace policies in this country lag dramatically behind those in much of the rest of the world, including all high-income countries and many middle- and low-income countries as well. For example, of the 173 countries surveyed by Harvard and McGill University researchers, the U.S. is one of only five countries that do not guarantee some form of paid maternity leave, a distinction it shares with Lesotho, Liberia, Swaziland, and Papua New Guinea.² Further, of 21 high income countries reviewed in a 2008 report by the Institute for Women’s Policy Research, 17 countries have statutes that allow parents to move to part-time work or adjust their working hours, 12 have statutes to help workers adjust work hours for training and education, and five allow schedule adjustments for those with family care-giving responsibilities for adults. The United States offers none of those family friendly policies.³ Clearly, there is still much room for improvement to make our workplaces more family friendly.

What is Family and Medical Leave?

FMLA helps employees balance the increasing demands of work and family at little or no cost to employers. FMLA allows eligible women and men who work for employers with 50 or more employees to take up to 12 weeks of unpaid leave each year for certain family and medical purposes. Specifically, employees may use FMLA leave when they are seriously ill or when they must care for a newborn or adopted child or a seriously ill member of their immediate family. Employees receive continued health insurance benefits while on leave and are guaranteed the same or an equal position to the one they held prior to their leave. Under FMLA, employees are eligible if they have worked for an employer for at least 12 months and worked for 1,250 hours over the 12 months before leave is needed.

More than 60 million covered and eligible employees have used FMLA to take care of themselves and their families during times of critical need without jeopardizing their health insurance benefits or job security.⁴ In 2005 alone, over 7 million employees took some type of family medical leave.⁵ In January 2001, the bipartisan Commission on Family and Medical Leave released a study reporting that almost 90 percent of covered employers said that



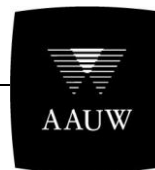
complying with FMLA brought no or minimal increase in their administrative costs.⁶ Further, while the vast majority of employers reported the FMLA had no impact on business practices, productivity, and outcomes, some employers reported cost savings associated with lowered employee turnover, as well as improved morale.⁷

Despite the law's clear success, in the fifteen years since the law's passage, some clear areas for improvement have emerged. One of the biggest challenges in FMLA coverage clearly arises from its unpaid status. For example, 78 percent of eligible employees who have needed FMLA-covered leave have not been able to take it because they could not afford it.⁸

More of a Good Thing: Expanding the Family and Medical Leave Act

To build on the success of this law, members of Congress have discussed a variety of proposals to expand the FMLA to cover more Americans and more family and medical needs. AAUW supports the following FMLA enhancements, which have appeared in a variety of legislative proposals since the FMLA was enacted.

- *Lower the eligibility threshold for employers from 50 or more employees to 25 or more employees.* Currently, the FMLA covers just 11 percent of all establishments⁹ and only about two in three employees.¹⁰
- *Allow covered and eligible employees to take up to 24 hours of leave per year to participate in their children's academic school activities or literacy training.* Currently, FMLA allows leave for serious health needs of family members, but it does not give parents unpaid leave and job protection to address their children's educational needs, such as attending parent-teacher conferences or visiting new schools.
- *Include FMLA benefits for victims of domestic violence.* In addition to devastating emotional and physical effects, victims of domestic violence often suffer economic consequences of their abuse. In a Centers for Disease Control and Prevention survey, an estimated \$727.8 million of productivity was lost annually due to domestic violence with more than 7.9 million paid workdays lost each year.¹¹ Victims of domestic violence often require time away from work to get medical treatment, obtain legal assistance, go to court for a protection order, seek documentation of their injury, or find new housing or child care. FMLA benefits for battered women can help prevent victims from losing their jobs and possibly turning to welfare or returning to their abuser for financial support.
- *Expand the definition of family member under the FMLA to include siblings, domestic partners, and adult children.* Current FMLA protections apply only to spouses, parents caring for minor children, and adults caring for elderly parents. As a result of changing family situations, there are a significant number of women who are not married and have no children. The U.S. Census reports that 44 percent of women ages 15 to 44 are childless, and 43 percent of women in the same age group have never married.¹² An expansion of the FMLA to cover an employee who is a caregiver would allow him or her to use FMLA to take care of their loved one. Documentation showing caregiver status would be relatively easy to provide. Those who make sacrifices to care for loved ones deserve FMLA protections regardless of the caregiver's legal relationship to the person

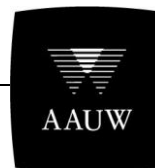


needing care.

Threats to the Family and Medical Leave Act

Despite the important achievements of the law and the evidence of its benefit to workers, AAUW and other organizations continue to fight attacks on these significant gains.

- In 2003, the Bush administration repealed a regulation instituted under the Clinton administration that allowed states the option of using their unemployment insurance (UI) fund to help parents take time off to care for their newborn babies. This repeal prevents the 16 states that have already proposed paid leave legislation from utilizing part of the UI funds and prevents other states who might have been interested in exploring this option in the future.
- Most business groups opposed the FMLA, and even state governments tried to shrink from their responsibilities under the law. In May 2003, the U.S. Supreme Court affirmed (6-3) that states must comply with the FMLA, in *Hibbs v. Nevada Department of Human Resources*.¹³ The Court ruled that state employees are fully covered under the FMLA and are entitled to monetary damages if they are deprived of leave to recuperate from a serious illness or to care for a sick family member or new baby. AAUW believes that state employers should not be immune from liability for damages when they violate employees' rights to care for a seriously ill family member or new baby. State employees are entitled to the same family leave rights as other working Americans. AAUW signed on to an *amicus* brief in support of *Hibbs* and applauded the Court's ruling.
- In 2005, opponents of the FMLA called on the U.S. Department of Labor to narrow the definition of what constitutes a serious health condition and restrict the use of intermittent leave. The sought-after regulatory changes also would force employees to take leave for no less than a half-day at a time. This in effect would disproportionately harm employees who have illnesses that require shorter treatments such as radiation or chemotherapy, and cause them to use up their leave time more quickly than necessary. As a result of these threats, AAUW and two hundred other organizations signed a letter to the U.S. Department of Labor urging them to preserve the current provisions of the FMLA.
- In 2007, the U.S. Department of Labor issued a "Request for Information" on the FMLA, soliciting public comments about employer and employee experience with the law. More than 15,000 comments were submitted and published. AAUW and FMLA advocates were concerned that this move was a prelude to the U.S. Department of Labor proposing damaging regulatory changes. As feared, on February 11, 2008, the Department of Labor released a notice of proposed rulemaking and request for comments. The rule changes do little to expand the law but rather do many things to limit the provision of leave, complicate the process of obtaining leave, and place unnecessary burdens on the employee when requesting leave. The regulations are expected to be finalized before the end of 2008.



State and Local Efforts to Improve Upon the Family and Medical Leave Act

States and municipalities have also been building on the success of the FMLA. In 2006, 21 states introduced a range of proposals that would provide partial paid leave for workers, allowing them to balance their work and family responsibilities.¹⁴

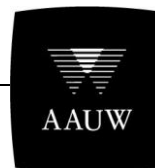
- California became the first state to pass a paid-leave bill into law. In September 2002, Gov. Gray Davis (D-CA) signed legislation that allows employees to take time off from work to care for a newborn, a newly adopted or newly placed foster child, or a seriously ill family member. Employees would have access to up to six weeks of partially paid leave per year, during which time they would be able to earn up to 55 to 60 percent of their wages. This program expanded the state fund that provides insurance for disabled workers, and is funded by employee payroll deductions.
- In November 2006, voters in San Francisco passed a first-of-its-kind ballot measure that sets a minimum standard of paid sick days for workers in that city.¹⁵

Paid Sick Leave

AAUW has long supported flexible workplace policies to address the family responsibilities of employees. Offering workers the option of taking time off when they are or a family member is sick is not just good for families, it's good for business. At least 145 countries worldwide provide paid sick days, with 127 providing a week or more annually. More than 79 countries provide sickness benefits for at least 26 weeks or until recovery.¹⁶ But many hardworking Americans do not have access to the important benefit of paid sick leave. In fact, just under half (43 percent) of the private sector workforce has no paid sick days.¹⁷ Low-wage workers are especially hard hit, with about half receiving no paid sick days.¹⁸ Further, 27 percent of low income women put off getting health care because they cannot take time off from work and 18 percent of women at all income levels face this situation.¹⁹ More than 22 million working women do not have paid sick days,²⁰ and as a result half of working mothers report that they must miss work and often go without pay when caring for a sick child.²¹ Lastly, with more than a third of Americans already experiencing significant elder care responsibilities,²² coupled with the aging of the baby boomers, the problem is likely to worsen in the years ahead.

Without sick days, employees often come to work ill, decreasing productivity and infecting coworkers. Further, families with children are often confronted with difficult choices. For the 86 million Americans who do not have paid sick days,²³ a decision to stay home to care for a sick child or family member could jeopardize their job or family income. Elder care responsibilities also affect nearly four in ten adults, and this number is likely to grow higher as nearly two-thirds of Americans under age 60 expect to be responsible for the care of an elderly relative by 2008.²⁴

For these reasons, AAUW supports legislation like the Healthy Families Act, which has been introduced in Congress every session since 2003. The bill provides full-time employees with seven paid sick days a year to be used for their own medical needs or to tend to the medical needs of a child, spouse or parent. Part-time employees would receive a pro-rated share of paid sick days.



Conclusion

AAUW will continue to oppose all efforts to weaken Family and Medical Leave Act protections, which would limit women's opportunity in the workplace. AAUW will also work to advance policies that will improve workplaces for employees with family responsibilities of all kinds. Such protections and improvements are critical to breaking through educational and economic barriers for women.

For more information, call 202/785-7793 or e-mail VoterEd@aauw.org.

**AAUW Public Policy and Government Relations Department
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¹ American Association of University Women. (July 2007). *2007 – 09 AAUW Public Policy Program*. Retrieved December 6, 2007, from http://www.aauw.org/advocacy/issue_advocacy/upload/2007-09-PPP-brochure.pdf

² The Institute for Health and Social Policy. (2007). *The Work, Family, and Equity Index: How Does the United States Measure Up?* Retrieved January 15, 2008, from <http://www.mcgill.ca/files/ihsp/WFEIFinal2007.pdf>.

³ Hegewisch, Ariane and Janet Gornick. (May 2008). *Statutory Routes to Workplace Flexibility in Cross-National Perspective*. Institute for Women's Policy Research. Retrieved May 29, 2008 from <http://www.iwpr.org/pdf/B258workplaceflex.pdf>.

⁴ National Partnership for Women and Families. (February 2007). *Where Families Matter: State Progress Toward Valuing America's Families*. Retrieved January 15, 2008, from http://www.nationalpartnership.org/site/DocServer/Final_2006_Round_Up.pdf?docID=2161.

⁵ The Family and Medical Leave Act of 1993, Proposed Rule, 73 Fed. Reg. 7875. (2008) (to be codified at 29 C.F.R. § 825)

⁶ National Partnership for Women and Families. (2001) *Highlights of the 2000 U.S. Department of Labor Report*. Retrieved January 20, 2008 from <http://www.nationalpartnership.org/site/DocServer/2000DOLLaborReportHighlights.pdf?docID=954>.

⁷ U.S. Department of Labor, Bureau of Labor Statistics. (January 2001). *Balancing the Needs of Families and Employers: Family and Medical Leave Surveys*, Tables A2-6.12 and A2-6.19. Retrieved January 15, 2008, from <http://www.dol.gov/esa/whd/fmla/fmla/APPX-A-2-TABLES.htm>.

⁸ U.S. Department of Labor, Bureau of Labor Statistics. (January 2001). *Balancing the Needs of Families and Employers: Family and Medical Leave Surveys*, Table A1-2.17. Retrieved January 15, 2008, from <http://www.dol.gov/esa/whd/fmla/fmla/APPX-A-1-TABLES.htm>.

⁹ U.S. Department of Labor, Bureau of Labor Statistics. (January 2001). *Balancing the Needs of Families and Employers: Family and Medical Leave Surveys*, Table A1-3.1. Retrieved January 15, 2008, from <http://www.dol.gov/esa/whd/fmla/fmla/APPX-A-1-TABLES.htm>.

¹⁰ National Partnership for Women and Families. (February 2007). *Where Families Matter: State Progress Toward Valuing America's Families*. Retrieved January 15, 2008, from http://www.nationalpartnership.org/site/DocServer/Final_2006_Round_Up.pdf?docID=2161.

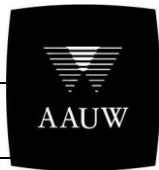
¹¹ Centers for Disease Control and Prevention. (March 2003). *Costs of Intimate Partner Violence Against Women in the United States*. Retrieved January 15, 2008 from http://www.cdc.gov/ncipc/pub-res/ipv_cost/IPVBook-Final-Feb18.pdf.

¹² U.S. Census Bureau. (June 2004). *Current Population Survey, Fertility of American Women*. Retrieved January 15, 2008 from <http://www.census.gov/population/socdemo/fertility/cps2004/tab02-01.xls>

¹³ *Hibbs v. Nevada Department of Human Resources*. 538 U.S. 721 (2003).

¹⁴ National Partnership for Women and Families. (February 2007). *Where Families Matter: State Progress Toward Valuing America's Families*. Retrieved January 15, 2008, from http://www.nationalpartnership.org/site/DocServer/Final_2006_Round_Up.pdf?docID=2161.

¹⁵ San Francisco Human Services Network. (November 2006). *San Francisco Sick Leave Ordinance*. Accessed January 20, 2008 from http://www.sfhsn.org/documents/hsn_iss_mco_sickleave_11-16-06.pdf.



¹⁶ The Institute for Health and Social Policy. (2007). *The Work, Family, and Equity Index: How Does the United States Measure Up?* Retrieved January 15, 2008, from <http://www.mcgill.ca/files/ihsp/WFEIFinal2007.pdf>.

¹⁷ U.S. Department of Labor, Bureau of Labor Statistics. (August 2007). *National Compensation Survey: Employee Benefits in Private Industry in the United States, March 2007*, Table 19. Retrieved January 16, 2008, from <http://www.bls.gov/ncs/ebs/sp/ebsm0006.pdf>.

¹⁸ U.S. Department of Labor, Bureau of Labor Statistics. (August 2007). *National Compensation Survey: Employee Benefits in Private Industry in the United States, March 2007*, Table 19. Retrieved January 16, 2008, from <http://www.bls.gov/ncs/ebs/sp/ebsm0006.pdf>.

¹⁹ Salganicoff, Alina, Usha R. Ranji, and Roberta Wyn. (2005) *Women and Health Care: A National Profile*. Kaiser Family Foundation. Retrieved January 15, 2008 from <http://www.kff.org/womenshealth/7336.cfm>.

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²² National Partnership for Women and Families. (June 2004). *Get Well Soon: Americans Can't Afford to Be Sick*. Accessed January 24, 2008 from <http://www.nationalpartnership.org/site/DocServer/GetWellSoonReport.pdf?docID=342>.

²³ Lovell, Vicky. (May 2004). *No Time to be Sick: Why Everyone Suffers When Workers Don't Have Paid Sick Leave*. Institute for Women's Policy Research. Accessed January 5, 2008 from <http://www.iwpr.org/pdf/B242.pdf>.

²⁴ National Partnership for Women and Families. (June 2004). *Get Well Soon: Americans Can't Afford to Be Sick*. Accessed January 24, 2008 from <http://www.nationalpartnership.org/site/DocServer/GetWellSoonReport.pdf?docID=342>.