



September 18, 2019

Dear Representative,

On behalf of the more than 170,000 bipartisan members and supporters of the American Association of University Women (AAUW), I urge you to support the Forced Arbitration Injustice Repeal (FAIR) Act (H.R. 1423) when it comes to the floor for a vote. This important piece of legislation would protect millions of people from forced arbitration clauses, which deny workers, consumers and small businesses a fair process for adjudicating violations of their rights. Specifically, this bill would ban pre-dispute mandatory arbitration clauses in cases involving consumer, civil rights, employment, or antitrust violations, and would ensure that federal and state laws enacted to protect legal rights in those cases are properly enforced.

Forced arbitration clauses have become ubiquitous in contracts governing employment, bank accounts, student loans, small business merchant accounts, and even nursing home admissions. They require employees, consumers, and others to waive their right to pursue their claims in court before a dispute even arises, mandating processes that are often expensive, favor employers, and lack transparency and due process. As an organization committed to gender equity and women's economic security, we are particularly concerned about forced arbitration in the civil rights and employment discrimination context. Employees often have little or no meaningful choice about the process to handle a claim after experiencing discrimination in the workplace and are often unaware that they have given up their rights when signing or accepting boilerplate language in forms as a condition of securing employment. And if employees are forced to waive their rights as a condition of employment, if problems do arise at work, they are pushed into a process that lacks due process and the full range of rights and protections available in court.

In recent decades, forced arbitration clauses have proliferated. A report from the Economic Policy Institute found that since the early 2000s, the portion of the workforce subject to forced arbitration more than doubled, now over 55 percent.¹ They have also become commonplace in consumer contracts, where consumers obtain relief in less than 10 percent of disputes.²

Several states have sought to address this problem with state-level legislation to ban forced arbitration, but many have been preempted by the Federal Arbitration Act (FAA) and struck down. That is why we need a federal law to rein in the overly expansive interpretation that courts have given to the FAA. And the public agrees—a national survey found that 84 percent of voters support federal legislation that ends the practice of forcing workers, consumers and small businesses into arbitration.³

Stopping companies from using forced arbitration clauses would restore the rights Congress enshrined in law for workers and consumers. I urge you to support the Forced Arbitration Injustice Repeal (FAIR) Act (H.R. 1423) when it comes to the floor for a vote. Cosponsorship and votes associated with this bill may be scored in the AAUW Action Fund *Congressional Voting Record* for the 116th Congress. Please do not hesitate to contact me at 202/785-7720 or Anne Hedgepeth, Director of Federal Policy, at 202/785-7724, if you have any questions.

Sincerely,



Deborah J. Vagins
Senior Vice President, Public Policy and Research

¹ Alexander J.S. Colvin, “The Growing Use of Mandatory Arbitration” (Economic Policy Institute, September 2017), <https://www.epi.org/files/pdf/135056.pdf>

² Heidi Shierholz, “Correcting the Record” (Economic Policy Institute, August 2017), <https://www.epi.org/files/pdf/132669.pdf>.

³ Guy Molyneux and Geoff Garin, *National Survey on Required Arbitration* (Hart Research Associates, February 2019), <https://www.justice.org/sites/default/files/2.28.19%20Hart%20poll%20memo.pdf>.