



April 28, 2017

Dear Representative:

On behalf of the more than 170,000 bipartisan members and supporters of the American Association of University Women (AAUW), I write to urge you to oppose the Working Families Flexibility Act (H.R. 1180). AAUW is committed to, “greater availability of and access to a high standard of benefits and policies that promote work-life balance,” which are critical, “to achieve economic self-sufficiency for all women.”¹ The Working Families Flexibility Act would erode longstanding overtime protections and create a “comp time” law that would offer hardworking people a false choice between time off and money in their paychecks.

The past fifty years have seen substantial changes in the composition of the American workforce. Two-thirds (about 64 percent) of women with children under six are in the labor force.² Nationwide, 48.9 million individuals provide care for an adult family member or friend, and more than 70 percent of those care recipients are over the age of 50.³ Unique solutions are necessary to meet the demands of families and the obligations of work. Traditional scheduling and inflexible practices are often detrimental to the balance most employees need. AAUW supports flexible work policies that take many forms including job sharing, telecommuting, and career flexibility. Further, policies such as affording employees greater control over their own work schedules, including start and end times; the right to request schedule adjustments and flexible work policies from their employers; and the right to part-time parity in wages, benefits, and government protections, are important improvements working families need.

The Working Families Flexibility Act

The Working Families Flexibility Act claims to offer flexibility to employees by allowing them to convert overtime work into paid time off (comp time) for family responsibilities. There are several major flaws with the legislation:

- Workers who decide to convert their overtime into comp time would still have their requests for time off left entirely to the discretion of their employers. That makes it difficult for employees to use these accumulated days for an emergency, or even to plan for things like parental leave or caregiving leave.
- There is no remedy for employees who request time off and are denied their request, except to be paid out for their accrued time. This does nothing to increase flexibility for that employee. Instead, employees will have worked additional hours without any additional time off.
- Under this proposal, overtime becomes cheaper for employers. Employees effectively “lend” employers their overtime in the hope that they will get it back in the form of time off or by cashing it out eventually but at their regular wage rate.
- Employers are unilaterally permitted to pay out any overtime converted to comp time over 80 hours. This undermines employees’ ability to accrue and plan for the responsibilities they need the leave for.

- For female employees in particular, overtime paid at time-and-a-half may be the only way they can add to their earnings to compensate for a persistent gender pay gap. Asking them to choose between the paycheck they need and the flexibility they also need is no choice at all. Employers should be looking for ways to be more flexible in addition to overtime opportunities they already provide.
- **Nothing is currently stopping employers from offering more flexible schedules.** We do not need the problematic Working Families Flexibility Act for employers to implement things like more certainty and predictability in hours and schedule, or to permit employees flexibility.

Policies that Support Working Families

AAUW feels strongly that the Working Families Flexibility Act is not the solution to employees' needs for time off for family responsibilities. To truly support working parents and caregivers, Congress would be better off considering legislation that ensures all employees have access to paid sick days, to paid family and medical leave, and to pay equity.

For example, at some point, most workers will need time away from work to deal with a serious personal or family illness, or to care for a new child. The Family and Medical Leave Act (FMLA) makes this possible for some workers but not all.⁴ Expanding FMLA coverage to more workers would be beneficial; however, even when covered, many workers cannot afford to take unpaid leave without endangering their economic security.⁵ As a result, many families forgo time off for serious personal or family illnesses or when they need to care for a new child. If they had access to paid parental leave, health outcomes for parents and children improve thanks to adequate time for recovery after childbirth, breastfeeding, bonding, and immunizations for the infant.⁶ In addition, paid medical leave ensures employees time to recover from major medical events and the ability to care for an immediate family member during a serious illness.⁷ Without access to paid leave, workers (especially women) face the continuing economic disadvantage of lost wages and are forced to prematurely return to work.⁸ The Working Families Flexibility Act does nothing to address these challenges that workers face. AAUW supports passage of the Family And Medical Insurance Leave (FAMILY) Act, which would establish paid parental leave for most of the U.S. workforce. We also support provisions to expand FMLA and ones that provide paid family and medical leave for public employees.

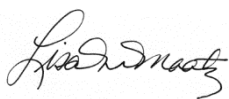
In addition to lacking paid family and medical leave, at least 41 million private sector workers – 36 percent of the workforce –cannot earn paid sick days.⁹ This means that when they fall ill with the flu or have a sick child who needs to stay home, workers have to make tough decisions – jeopardize their employment or go to work sick. Low-wage workers are especially hard hit.¹⁰ These low-wage workers often must go to work sick and contagious. For those that work in industries, such as food service, their attendance at work while ill endangers public health. Furthermore, over 22 million working women do not have paid sick days.¹¹ As a result, more than half of working mothers report that they must miss work and often go without pay when caring for a sick child.¹² Women disproportionately bear the economic opportunity cost of taking children or elderly family members to the doctor.¹³ By ensuring that hard working Americans have access to a minimum number of earned sick days that can also be used to care for sick family members, working parents and caregivers will no longer have to make the difficult choice between caring for loved ones—or themselves—and losing much-needed income. For a family without paid sick days, 3 days of pay lost to illness can be the equivalent of their monthly health care or food budget.¹⁴ The Working Families Flexibility Act does not fix this problem, requiring preapproval from employers for use of comp time, and allowing employers to reject employees' requests based on business needs. AAUW supports federal legislation such

as the Healthy Families Act, which will provide seven accrued paid sick days for full-time employees and a pro-rated number for part-time employees.

Lastly, for many families with female wage earners, the pay gap has a meaningful impact – one that can't be solved through the additional comp time available in the Working Families Flexibility Act. While the gap has narrowed since the 1963 passage of the Equal Pay Act (EPA), progress has largely stalled in the 21st century. Women still only make an average of 80 cents on the white male dollar, and it's even worse for moms and women of color.¹⁵ The gender pay gap develops early in women's careers and then compounds through retirement. Controlling for factors known to affect earnings such as education and training, marital status, and hours worked, research found that college-educated women still earn seven percent less than men just one year out of college – even when they have the same major and occupation as their male counterparts.¹⁶ Over time, the gap widens. Women 20-24 years of age take home, on average, 92 percent of what their male counterparts make on a weekly basis. By the time we compare 55-64 year olds, women take home only 76 percent of the wages of their male counterparts.¹⁷ For these reasons AAUW supports passage of the Paycheck Fairness Act. The Paycheck Fairness Act takes meaningful steps to create incentives for employers to follow the law, empower women to negotiate for equal pay, and strengthen federal outreach and enforcement efforts. The bill would also deter discrimination by strengthening penalties for equal pay violations and by prohibiting retaliation against workers who inquire about employers' wage practices or disclose their own wages.

The misnamed Working Families Flexibility Act is not an improvement for working families and AAUW urges Representatives to oppose the legislation. There is nothing stopping employers from currently offering their employees more flexibility at work. Congress should focus instead on the workplace improvements that employees need. Cosponsorship and votes associated with this legislation may be scored in the AAUW Action Fund *Congressional Voting Record for the 115th Congress*. Please do not hesitate to contact me at 202/785-7720, or Anne Hedgepeth, senior government relations manager, at 202/785-7724, if you have any questions.

Sincerely,



Lisa M. Maatz
Vice President for Government Relations and Advocacy

¹ AAUW. (2015). *2015-17 AAUW Public Policy Program*. www.aauw.org/resource/principles-and-priorities/

² U.S. Department of Labor, Bureau of Labor Statistics. (April 22, 2016). Economic News Release: Employment Characteristics of Families Summary. www.bls.gov/news.release/famee.nr0.htm

³ National Alliance for Caregiving and AARP. (2009) *Executive Summary. Caregiving in the U.S.: Findings From the National Caregiver Survey*. www.caregiving.org/data/CaregivingUSAAllAgesExecSum.pdf.

⁴ Department of Labor. "Leave Benefits." www.dol.gov/dol/topic/benefits-leave/fmla.htm

⁵ Ibid.

⁶ The Future of Children. (Fall 2011) *International Perspectives on Work-Family Policies: Lessons from the World's Most Competitive Economies*. futureofchildren.org/futureofchildren/publications/docs/21_02_09.pdf

⁷ National Partnership for Women and Families. (2017) "Paid Leave." www.nationalpartnership.org/issues/work-family/paid-leave.html

⁸ The Future of Children. (Fall 2011) *International Perspectives on Work-Family Policies: Lessons from the World's Most Competitive Economies*. futureofchildren.org/futureofchildren/publications/docs/21_02_09.pdf

⁹ U.S. Department of Labor, Bureau of Labor Statistics (2016). National Compensation Survey: Employee Benefits in the United States. www.bls.gov/news.release/pdf/ebs2.pdf.

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- ¹⁰ U.S. Bureau of Labor Statistics. (July 11, 2012). Employee Benefits in the United States – March 2012. www.bls.gov/ncs/ebs/sp/ebnr0018.pdf
- ¹¹ Institute for Women’s Policy Research. (February 2007). *Women and Paid Sick Days: Crucial for Family Well-Being*. www.iwpr.org/publications/pubs/women-and-paid-sick-days-crucial-for-family-well-being.
- ¹² Institute for Women’s Policy Research (March 2011). *Paid Sick Day Access Rate by Gender and Race/Ethnicity*. www.iwpr.org/publications/pubs/paid-sick-day-access-rates-by-gender-and-race-ethnicity-2010
- ¹³ Kaiser Family Foundation. (May 2011). *Women’s Health Care Chartbook: Key Findings from the Kaiser Women’s Health Survey*. www.kff.org/womenshealth/upload/8164.pdf
- ¹⁴ Economic Policy Institute. (2011). *The Need for Paid Sick Days*. www.epi.org/files/temp2011/BriefingPaper319-2.pdf.
- ¹⁵ AAUW. (2017). *The Simple Truth about the Gender Pay Gap*. www.aauw.org/resource/the-simple-truth-about-the-gender-pay-gap/
- ¹⁶ AAUW. (2012). *Graduating to a Pay Gap*. www.aauw.org/resource/graduating-to-a-pay-gap/.
- ¹⁷ AAUW. (2017). *The Simple Truth about the Gender Pay Gap*. www.aauw.org/resource/the-simple-truth-about-the-gender-pay-gap/