


 STATE  
PLAY  
BOOK

FOR GENDER EQUITY

# SEIZE THE MOMENT: STATE PLAYBOOK FOR GENDER EQUITY

Across the country, women, girls, and all people who face gender-based discrimination are standing up and speaking out, whether raising their voices in the Me Too movement, calling their elected officials, running for office, or taking to the streets. What they want is to knock down barriers to success and put in place policies that help them achieve their potential throughout their lives – at school, at work, at home, and in their communities.

State legislators can seize this moment by advancing broad-based agendas that would remedy discrimination, ensure accountability, and provide key supports for women and girls. This could include:

- **A Working Families Agenda** with measures to raise the minimum wage, expand access to health care including reproductive health care, promote fair work schedules, guarantee paid family and medical leave and paid sick days, increase access to affordable, high-quality child care and early education, and help families through a fair tax code.
- **A Workplace Equality Agenda** with measures to end discriminatory pay practices, ensure pregnant workers are treated fairly, stop and prevent sexual harassment, and stop employers from firing workers because of reproductive health decisions like using birth control or having an abortion.
- **A Young Women and Girls Agenda** with measures to address sexual harassment and assault in schools, end discriminatory school discipline policies, support pregnant and parenting students, raise the minimum wage and end abusive work schedules for students and young workers, and ensure access to reproductive health care on college campuses.
- **A Preventing Sexual Harassment Agenda** with measures to stop and prevent workplace sexual harassment, prevent sexual harassment and assault in schools, end school discipline practices that blame girls for the harassment they experience, and ensure patients are protected from sexual assault and harassment
- **A Put Patients First Agenda** with measures to protect patients seeking care, protect abortion providers from discrimination, and repeal religious exemption laws that allow health care providers to deny patients health care.

For help crafting legislation, talking points, fact sheets, and for state-specific policy research and data, please contact us at [playbook@nwlc.org](mailto:playbook@nwlc.org).



The National Women's Law Center can help you craft a legislative agenda for women and girls that is specifically tailored to your state.

### **The National Women's Law Center can:**

- Provide research to identify specific needs or gaps in policies;
- Assist in crafting legislation;
- Provide state level data analysis;
- Help connect you with other advocates, legislators, and experts;
- Create supporting resources including:
  - Sample graphics and tweets;
  - Talking points; and
  - Fact sheets.

If you are interested in pursuing a policy agenda to promote policies that will support women and girls in your state, please contact Andrea Johnson, Senior Counsel for State Policy at the National Women's Law Center by e-mail at [ajohnson@nwlc.org](mailto:ajohnson@nwlc.org) or by phone at 202-588-5180.





FOR GENDER EQUITY

# SET WORKING PARENTS —AND THEIR CHILDREN—UP FOR SUCCESS IN YOUR STATE

It's tough to support a family in today's economy. Wages have stagnated for most working people, while the cost of raising children continues to increase. It's especially tough for women, who face a gender wage gap that has not budged in nearly a decade and who make up the vast majority of single parents, as well as the majority of people in low-wage jobs. For parents in the low-wage workforce, even a full-time job may not be enough to lift their children out of poverty. Their employers may give them only a few days' notice of their work schedules, which can have too few hours one week and too many the next, wreaking havoc on child care arrangements. And despite the Affordable Care Act's important advances, some working families may still lack health insurance and may face other barriers to accessing health care, especially reproductive health care. This denies women good health, the economic security that comes with it, and the opportunity to control their lives at the most basic level.

Working families need policies that will set them up to earn a good living and thrive. They are looking for advocates and legislators to advance policies that will level the playing field, promote equal opportunities for everyone, and ensure that the next generation can succeed.

## Working Families Need Policies that Will Work for Them

The jobs of too many working parents in effect set them up to fail: meeting both their work and family obligations becomes an impossible juggling act. And despite parents' best efforts, low wages and unfair work conditions can undermine their children's chances for success as well. Achievement gaps between poor and low-income children and their higher-income peers emerge in the earliest years of life. Other features of low-wage work that increase parents' stress—including constantly fluctuating work hours and a lack of any paid time off—can also adversely affect children's well-being. High-quality early care and education can help ameliorate the effects of poverty and instability and support children's healthy development—but parents with limited incomes and volatile schedules have tremendous difficulty finding and affording this care, and child care assistance is often unavailable for these parents or not designed to meet their needs.

To achieve economic stability, working families need higher wages, income supports such as family tax credits, and affordable access to the full range of reproductive health care. They also need support to balance roles as breadwinners and caregivers, including expanded access to child care assistance and early education, fair work scheduling practices, and access to paid sick days and paid family leave.

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Together, these policies can ensure working families in your state are set up to succeed.

Policies that will work together to ensure working parents and their children can thrive include:

**Raising the Minimum Wage.** People working hard to support their families should be able to make ends meet. But in most states, working full time at the minimum wage still leaves a mother with two children in poverty—and women are especially likely to hold jobs that pay the minimum wage (or close to it). A higher minimum wage can help working people support themselves and their families, allowing them to better afford necessities like housing, child care, reproductive health care, and groceries. States can make a difference for working families by gradually raising the minimum wage to \$15 per hour, then indexing it to keep pace with rising wages overall, and phasing out lower minimum wages applicable to tipped workers, youth, workers with disabilities, and others to arrive at one fair minimum wage for all working people.

**Helping Families through a Fair Tax Code.** In nearly every state, low- and middle-income families pay a larger share of their income in state and local taxes than higher-income people do, because most states and localities rely heavily on regressive taxes (like sales taxes) to raise revenue. States can make their tax codes fairer and improve economic security for families by establishing and/or strengthening state-level tax credits that enhance the benefits provided by the federal Earned Income Tax Credit, Child Tax Credit, and Child and Dependent Care Tax Credit. State credits that are calculated as a high percentage of the federal credit and are refundable offer the most help to families.

**Expanding Access to Affordable, Comprehensive Health Insurance Coverage.** Access to affordable and comprehensive health insurance coverage is vital for working families. Health insurance coverage makes people healthier and protects them from going into debt to get the health care they need. Affordable and comprehensive health insurance coverage must be available to those who need it. And to be comprehensive, health insurance coverage must include birth control, abortion, prenatal care, childbirth, and post-partum care. Yet, far too many working women and those who struggle to make ends meet are denied this coverage. States can ensure access to affordable, seamless, and comprehensive health care coverage by taking actions such as expanding Medicaid for low-income adults and expanding Medicaid eligibility for family planning services, guaranteeing comprehensive birth control coverage without out-of-pocket costs, and ensuring all individuals have insurance coverage of abortion, regardless of their income or how they are insured.

**Increasing Families' Access to Affordable, High-Quality Child Care and Early Education.** Reliable, high-quality child care is essential to enable parents to work and to give children the early learning opportunities that help them get a strong start in school and in life. Yet, many families struggle to find and afford the child care they want and need for their children. At the same time, child care workers—the vast majority of whom are women—earn salaries that are very low and leave them struggling to support their own families. States can help families access the child care they need, and support the people who provide that care, by significantly increasing investments in child care, prekindergarten, and other early learning programs. States can adopt more generous income limits and other eligibility criteria and reduce administrative barriers to make it easier for families to access child care assistance. States can also raise payment rates for providers serving families who receive child care assistance and support child care workers' professional development through scholarships and bonuses. In addition, states can provide grants, loans, and other assistance to help boost the supply and quality of child care, with a focus on infant care, care for children with special needs, and care during nontraditional hours.

**Promoting Fair Work Schedules.** Hardworking families shouldn't have to constantly sacrifice their families' needs to meet their bosses' demands. But too many employers give their employees little or no input into their work schedules and change those schedules at the last minute, making it incredibly difficult for working people—especially working parents—to care for their families and plan for child care, doctor's appointments, and other obligations. States can help ensure that working people can fulfill their responsibilities on the job and in the rest of their lives by implementing baseline protections to give employees a voice in their schedules and more predictable and stable work hours.

**Guaranteeing Paid Family and Medical Leave and Paid Sick Days.** Everyone needs time to care for themselves and their loved ones—but people working in low-wage jobs, who are least likely to be able to afford to take unpaid time off from work, are also least likely to have access to any paid sick days or paid family or medical leave. States can help ensure that parents are able to take the time they need to bond with a new addition to the family, or to care for themselves or their children when a serious illness strikes, by establishing a program to guarantee at least 12 weeks of paid, job-protected family and medical leave for all working people. And they can enable parents to take their children to doctor's appointments and deal with unanticipated illnesses, without threatening their economic security, by requiring employers to provide an adequate number of earned sick days.





FOR GENDER EQUITY

# ADVANCE WORKPLACE EQUALITY IN YOUR STATE

In the last four decades, women's educational levels and work experiences have increased dramatically. Women are over half of college graduates and nearly half the workforce, and families increasingly depend on their wages to achieve economic security. But although women have better credentials than ever before, discriminatory workplace policies and practices make it difficult for women to keep a job, put food on the table, make decisions about whether or not to have children, and care for their families.

Working people want a fairer workplace and an economy that works for all of us. Working women are particularly concerned about economic stability, ranking equal pay, sexual harassment, and affordable/guaranteed health care as top issues for action in recent national polls. And the freedom to decide whether and when to become a parent is a top value for an overwhelming majority of voters and millennial women in particular.

## Working Women and Families Need Policies That Will Work for Them

Workplace discrimination and harassment based on factors such as a person's sex, gender identity, sexual orientation, race, disability, familial status, or (often) a combination of these, stand in the way of equal opportunity and economic stability. Employers still too often discriminate against women, particularly women of color and mothers, paying them less or forcing them out of jobs. They steer women

towards particular types of jobs, pass women over for advancement or promotion opportunities based on discriminatory stereotypes about women's ability or commitment to the job, or deny women comprehensive benefits on par with their male counterparts'.

Families rely on women's earnings. When women are paid less than their male counterparts, are denied advancement, or lose or are forced to leave a job, they and their families face not only an immediate loss of income but potentially years of decreased earnings, job stability, and economic security.

A legislative agenda to address workplace equality will significantly improve the lives of women and their families. In addition, more equitable workplaces will produce bottom line benefits for business including reduced workforce turnover, more diversity, and increased employee satisfaction and productivity. These policies will also benefit the broader economy by enhancing the buying power of women and their families, and harnessing the full potential, talent, and productivity of the workforce.

Policies that will work together to combat workplace discrimination and promote the economic security of women and their families include:

**Ending Discrimination Because of a Person's Reproductive Health Decisions:** Everyone should be able to make the decision about whether, when, and how to have children

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that is best for them, without fear of unfair consequences at work. But across the country, women are being punished, threatened, or fired by their employers for using birth control, for having or contemplating an abortion, for undergoing in vitro fertilization in order to get pregnant, or for having sex without being married. This type of discrimination undermines a woman's ability to make decisions about starting or growing a family, and threatens her health, wellbeing, and her and her family's long term economic security. States can step up to protect working people from this harm by specifically prohibiting employers from taking adverse actions against their employees because of an employee's reproductive health decision.

**Ensuring Pregnant Workers Are Treated Fairly:** No pregnant worker should have to choose between a healthy pregnancy and keeping her job. Some pregnant workers need temporary accommodations to continue working safely throughout pregnancy, but employers frequently deny even minor accommodations, such as being permitted to sit down during a long shift or drink water at a work station—forcing many pregnant workers to choose between the health of their pregnancies and the job that provides their families economic security. States can ensure that pregnant workers can continue to do their jobs and support their families by requiring employers to make the same sorts of reasonable accommodations for medical needs arising out of pregnancy, childbirth, and related medical conditions that employers are required to make for disabilities.

**Ending Discriminatory Pay Practices:** When women are paid less than their male counterparts their smaller paychecks have long-lasting repercussions for their housing, education, health, and retirement. The wage gap for women of color and mothers is particularly staggering and sets these working women and their families back years, oftentimes decades, in achieving economic stability. States must help level the playing field for working women by strengthening pay discrimination laws through measures such as prohibiting employers from relying on salary history in setting pay, requiring employers to provide

job applicants and employees information about salary ranges, protecting employees who discuss their pay with each other from retaliation, requiring employers to collect and report pay data, closing loopholes that make it harder for employees to prevail in equal pay claims, and fully compensating victims of pay discrimination.

**Stopping and Preventing Sexual Harassment:** Everyone deserves dignity, respect, and safety at work. But as the Me Too movement has clearly demonstrated, sexual harassment is widespread, affecting workers in every state, in nearly every kind of workplace setting and industry, and at every level of employment. Sexual harassment is a substantial barrier to women's equality, economic security, and safety. Longstanding gaps in federal and state law, and judicial decisions undermining existing protections and their enforcement, have stymied efforts to address and prevent persistent workplace sexual harassment. These gaps put certain workers—particularly those in low-wage jobs, women, and immigrants—at increased risk of harassment and retaliation with little or no legal recourse. States can take the lead in protecting more workers, increasing victims' access to justice, promoting accountability, and preventing harassment. These reforms should expand anti-harassment protections to independent contractors and employees of small employers; improve victims' access to justice and ability to hold employers and individual harassers accountable; redress the harm caused by harassment by improving recovery of monetary damages; restrict employers' efforts to impose secrecy regarding harassment, such as through nondisclosure agreements; and emphasize prevention strategies, including mandatory sexual harassment training and ensuring tipped workers are entitled to the same minimum wage as other workers, so women do not have to tolerate harassment as the price of tips.





FOR GENDER EQUITY

# PROMOTE OPPORTUNITY FOR YOUNG WOMEN AND GIRLS IN YOUR STATE

Young women are students, workers, and parents. As young women, they face unique barriers—from school pushout to inability to access healthcare to unfair wages—that make it harder for them to succeed. Unfair and discriminatory policies can keep young women and girls from making the best decisions for themselves about their education, health, jobs, families, and futures. That's why for many young people, it can feel like the system is rigged against them. According to a March 2018 NBC News/GenForward survey, a majority of young adults aged 18 to 34 says that the country is currently on the wrong track (70% of Black, 62% of Asian, 62% of Latinx, and 62% of white people polled).

Young people know it doesn't have to be this way. They are looking for policymakers to stand up for them and enact policies that will help them succeed and create a more just and fair future.

## Young Women and Girls Need Policies that Will Work for Them

Starting as early as preschool, Black and Native American students of all genders are subject to harsh and discriminatory discipline policies that can force them out of school and have long lasting effects on their futures. Sexual harassment and violence is also a pervasive issue for students starting in grade school and continuing into college. And pregnant and

parenting students—whether in secondary school, college, or grad school—may face discrimination or be denied simple accommodations that would allow them to remain in and succeed in school. Many young people also face particular barriers to accessing health care, including college students who may be unable to access necessary reproductive health care services. Young people need fair pay to help support themselves and their families, yet many states allow them to be paid a wage that is lower than the minimum wage and many employers subject them to unpredictable work hours incompatible with school or training or caring for themselves or family.

Schools, health care providers, and employers should not stand in the way of young people working to secure their futures, and government should help eliminate these barriers. Lawmakers and advocates who want to support young people must put forward a progressive policy agenda that tackles these issues to help young people get a good start in life rather than deny them opportunities.

Policies that will work together to support opportunities for young women and girls include:

**Ending Discriminatory Discipline Policies:** Discriminatory discipline policies can push girls out of school with long lasting effects on their education. Black girls and Native American girls, for example, are more likely than white

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girls to be suspended from school, even though they are no more likely to misbehave nor is their misbehavior more severe. Instead, these girls of color are more likely to be suspended for minor offenses like dress code violations, or subjective offenses like “defiance.” This keeps girls out of the classroom, making it harder for them to succeed and increasing their chances of dropping out or being involved with the juvenile justice system. States can reverse this trend by passing laws that urge educators to learn to identify and address the underlying problems that contribute to perceived misbehavior in the classroom, end suspensions and expulsions for minor or subjective offenses, and replace exclusionary discipline with alternatives that keep students in the classroom while building positive social and emotional connections to school.

#### **Addressing Sexual Harassment and Assault in K-12**

**and Higher Education:** Violence starts early. One in five girls age 14 to 18 report being sexually assaulted—similar to the rate of women who are sexually assaulted in college. Thus, waiting until college to talk to students about sexual harassment and violence is too late. To ensure all students have a safe and healthy learning environment, states should enhance legal anti-harassment protections for students. States should also require schools to teach consent and healthy relationship behavior and conduct climate surveys to gauge whether students feel safe in school or on campus.

**Supporting Pregnant and Parenting Students:** Students who are pregnant or parenting often encounter hostile schools and teachers who punish them for missing class because of their pregnancy or because of their child’s illness. States can implement basic protections that enshrine and improve upon federal requirements by requiring schools to excuse pregnancy-related absences and absences to care for children who are ill. This will ensure that pregnant and parenting students are able to take care of themselves and their children while continuing to succeed in school.

#### **Ensuring Access to Reproductive Health Care on College**

**Campuses:** Students should be able to make decisions about their education, careers, and family planning on their own terms and timelines. Yet, students continue to face

significant barriers to accessing many reproductive health care services. States can use their authority to regulate self-funded student health insurance to require coverage of comprehensive reproductive health care, including birth control, abortion, pre-natal care, childbirth, and post-partum care. States can also ensure access to comprehensive reproductive health care services at campus health centers, or referrals to these services when appropriate. Coverage of and access to reproductive health care facilitates the decision-making that empowers college students to take charge of their health, education, and future.

#### **Raising the Minimum Wage and Ending Abusive Work**

**Schedules for Students and Young Workers:** While young people represent a relatively small share of the low-wage workforce overall, most young people who work receive low pay. For example, while teenagers represent just under 10 percent of the working people who would benefit if the federal minimum wage rose to \$15 by 2024, nearly 80 percent of all teens who work would get a raise if the minimum wage went up to \$15 by 2024, because their current wages are so low. Many young people are working to help support their families or to pay for college—but teens and students are often subject to carve-outs that allow employers to pay them even less than the minimum wage. They are also more likely to work in jobs that have unpredictable work schedules, which can lead to unstable income and make it incredibly difficult to succeed in school, participate in extracurricular school activities, or pursue post-secondary education or training. States can improve economic security for young people and their families by raising the minimum wage and eliminating the lower minimum wages applicable to youth, students, tipped workers, and other groups; and by implementing baseline protections to give working people a voice in their schedule and more predictable and stable work hours.





FOR GENDER EQUITY

# PREVENT SEXUAL HARASSMENT IN YOUR STATE

As the Me Too movement has made clear, sexual harassment is widespread, affecting working women in every state, in nearly every kind of workplace setting and industry, and at every level of employment. But sexual harassment, which includes sexual violence, doesn't just happen in the workplace, and it doesn't just affect adults. Too many students experience sexual harassment in schools and in college. And patients of all ages experience sexual harassment at the hands of health care providers. In each of these contexts, sexual harassment holds women and girls back, threatens their safety and economic opportunities, and excludes them from public life. For women of color, immigrants, and LGBTQ people who experience harassment based on multiple intersecting identities, harassment perpetuates inequality along multiple dimensions.

Our communities want policies that prevent and redress sexual harassment so everyone can succeed in school, get good jobs, and lead healthy and productive lives. The demand for change has never been more urgent; the Me Too movement has sparked immense energy and momentum to transform our laws, institutions, and culture. Recent polls show that high percentages of voters, and millennial women in particular, see sexual harassment in the workplace as a serious problem and want leaders who make addressing sexual harassment a priority.

## **Women and Girls Need Policies That Will Allow Them to Live, Learn, and Work Safely and With Dignity**

Sexual harassment stands in the way of equal opportunity and economic stability, and the right to live with dignity and autonomy. Sexual harassment in school and at work makes its targets, the overwhelming majority of whom are women and girls, feel unsafe and unwelcome, interferes with their ability to be productive and successful, and hurts their short- and long-term mental and physical health. Sexual harassment, and schools and employers failing to address harassment or retaliating against victims, contribute to women and girls being pushed out of school and out of their jobs. And it can lead women and girls to avoid or leave a profession or industry altogether—often times higher-paying, male-dominated professions—which perpetuates the gender wage gap. Harassment and assault by health care providers can result in physical and psychological harm and prevent patients from accessing the health care they need.

Gaps in state and federal laws have left many of those most vulnerable to sexual harassment without meaningful legal protections. And the legal protections that do exist have frequently been inadequate to incentivize schools and employers to take steps to prevent and promptly address harassment. Too often, harassers are not being held accountable by schools, employers, or health care

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institutions. Instead, the survivor suffers retaliation for reporting the harassment and is pushed out of school or work or left unable to access health care. This leads high percentages of working people and students not to report harassment.

A legislative agenda that addresses sexual harassment at school, at work, and in health care can harness the energy of the Me Too movement to make real, lasting change. To prevent sexual harassment at work, we must start by addressing it in schools since the treatment and behavior students experience from their peers, teachers, and administrators ultimately shapes workplace norms about gender, race, respect, and accountability. Harassment also can hurt girls' ability to succeed at school, which, in turn, hurts their future economic opportunities, reinforcing gender and racial inequalities in the workforce and making them more vulnerable to harassment at work.

Policies that will work together to combat sexual harassment and increase equality and opportunity for women and girls include:

**Stopping and Preventing Workplace Sexual Harassment:**

Everyone deserves dignity, respect, and safety at work. But sexual harassment is widespread—at least 25 percent, and as many as 85 percent, of women surveyed report having experienced sexual harassment at work. Longstanding gaps in federal and state law, and judicial decisions undermining existing protections and their enforcement, have stymied efforts to address and prevent persistent workplace sexual harassment. These gaps put certain workers—particularly those in low-wage jobs, women, and immigrants—at increased risk of harassment and retaliation with little or no legal recourse. States can take the lead in protecting more workers, increasing victims' access to justice, promoting accountability, and preventing harassment. These reforms should expand anti-harassment protections to independent contractors and employees of small employers; improve victims' access to justice and ability to hold employers and individual harassers accountable; redress the harm caused by harassment by improving recovery of monetary damages; restrict employers' efforts to impose secrecy regarding harassment, such as through nondisclosure agreements; and emphasize prevention strategies, including mandatory sexual harassment training and ensuring tipped workers are entitled to the same minimum wage as other workers, so women do not have to tolerate harassment as the price of tips.

**Preventing Sexual Harassment and Assault in K-12 and Higher Education:** Prevention is key to stopping sexual harassment and violence before it becomes an issue.

Learning whether students feel safe, welcome, and valued in school is key to identifying what a school is doing right to prevent a hostile environment and where there is room for improvement.

Students should be taught about consent and healthy relationships from an early age. And because victim-blaming norms may be ingrained in educational institutions, educators must be taught to unlearn certain behaviors and biases. States can help schools prevent harassment and assault by promoting the use of regular school climate surveys, requiring age-appropriate consent and healthy relationship education in K-12, and requiring educators to receive ongoing training to recognize implicit biases and implement trauma-informed approaches in the classroom.

**Ending School Discipline Practices That Blame Girls for the Harassment They Experience:**

No student should have to put up with harassment to get a good education. Yet, too many schools maintain policies that have the effect of punishing students for reporting harassment or that seem to hold girls responsible for preventing others from harassing them. For example, dress codes that regulate clothing based on the assumption that girls' bodies are a "distraction" to boys not only send the message that what students look like is more important than what they think, but also that students that dress a certain way are somehow asking to be harassed or assaulted. States should restrict schools' use of strict and gendered dress codes. States should also ensure schools apply amnesty policies for students who may fear reporting harassment or an assault when doing so would reveal they violated a student code, such as a rule against drinking, or a rule prohibiting consensual sexual contact between students. Finally, states should ensure harassment investigations and disciplinary hearings are fair and equitable for both those alleging harassment and those who are the subject of complaints.

**Ensuring Patients are Protected from Sex Discrimination, Including Sexual Assault and Sexual Harassment:**

All patients should be able to get the care they need free from discrimination, which includes being free from sexual harassment and sexual assault by their health care providers. But across the country, patients are saying Me Too and sharing their stories of sexual assault and harassment. Sexual assault and sexual harassment by health care providers is devastating to patient health and well-being, and also constitutes unlawful sex-discrimination in health care. States can step up and put patients first by enhancing protections for patients and explicitly prohibiting health care providers from sexually harassing or assaulting their patients.





FOR GENDER EQUITY

# ENSURE THAT PATIENT HEALTH COMES FIRST IN YOUR STATE

Across the nation, health care providers are refusing to treat patients seeking health care based on religious beliefs. Because of religion, some hospitals have turned away patients seeking care – including birth control, abortion, and care for a miscarriage – even when their lives are in jeopardy. These practices put religious beliefs over patients' needs and they can – and have – resulted in infection, infertility, and even death.

Voters want policies that put patients first, and they are willing to hold their elected officials responsible for their votes on these issues. A March 2017 nationally representative survey done on behalf of the National Women's Law Center found that 61 percent of voters oppose laws that allow insurers, hospitals, and other providers to refuse appropriate, needed care to patients based on religious objections. And there is strong support among voters for proactive policies that ensure access to care. This includes making sure all hospitals provide a patient with the right care for her situation, including abortion, and ensuring that hospitals, doctors, and nurses provide complete information and referrals to patients about medical services, including abortion. Additionally, there is strong support among voters for measures that protect the rights of doctors and nurses to provide services, information, and advice to their patients without fear of retribution.

## Patients Need Policies That Put Their Health First

Patients are suffering because health care providers are allowing religious beliefs to dictate patient access to care. Hospitals have refused to: provide patients with life-saving miscarriage management; treat a woman who needs an abortion, or even just provide her with information or referrals; provide patients with sterilization procedures at the time of cesarean delivery; and provide care to LGBTQ individuals.

At the same time, doctors and nurses who work for religiously-affiliated institutions are facing discrimination simply because they want to help patients. Doctors and nurses have been: prohibited from helping patients obtain reproductive health care; threatened with demotion or loss of jobs if they speak out about the importance of abortion and other reproductive health care; and prohibited from providing abortion care on their own time at separate clinics.

You can protect patients in your state by passing laws that explicitly require hospitals to provide patients with the right care for their situation. You can also protect health care employees from discrimination if they provide necessary care or speak out about the importance of patient access to care.

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Policies that will help protect patient access to health care include:

**Protecting Patients Seeking Care:** Lawmakers can ensure patients get the care they need by prohibiting any health care entity from blocking a doctor's ability to provide medically appropriate care and medically accurate information to a patient about the patient's health status and medical options. Lawmakers can also require hospitals in the state to provide health and life saving medical services when needed.

**Protecting Abortion Providers from Discrimination:** Lawmakers should specifically prohibit hospitals and other health care employers from taking adverse actions against employees because of the employee's participation in abortion services, including on their own time at separate facilities. Lawmakers should also protect employees' ability to make public statements about abortion without fear of retaliation from their employer.

**Repealing Religious Exemption Laws:** Lawmakers should repeal any state laws that allow health care providers to use religious beliefs to deny patients health care.




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# COMBAT PAY DISCRIMINATION: STRENGTHEN EQUAL PAY LAWS

## The Problem

Fifty-five years after the passage of the Equal Pay Act, women are still paid less than men. In 2016, a woman working full time, year round was typically paid just 80 cents for every dollar paid to a man working full time, year round. The wage gaps experienced by women of color were even larger than the overall gender wage gap—nationally Black women, Native women, and Latinas working full time, year round were typically paid just 63 cents, 57 cents, and 54 cents, respectively, for every dollar paid to their non-Hispanic, white male counterparts. While Asian women working full time, year round were typically paid only 87 cents, the wage gap is substantially larger for some subgroups of Asian women.<sup>1</sup> The wage gap persists in all 50 states and in nearly every occupation. Pay discrimination persists in part because of outdated stereotypes that continue to infect workplace decision making, such as the idea that families do not rely on women's income and that women do not need higher pay, which stand in contrast to the economic reality for women and their families.<sup>2</sup> Stereotypes about appropriate behavior for women also negatively impact earnings for lesbian women and transgender women.<sup>3</sup> Employees, however, lack the tools they need to effectively fight against pay discrimination and employers lack the incentives to proactively reduce pay disparities. Pay discrimination is difficult to detect, in part because 61 percent of private sector employees report that discussing their wages is either prohibited or discouraged by employers.<sup>4</sup> And even when working people discover unfair pay, loopholes in the law make it difficult to hold employers responsible for pay discrimination.

## The Solution

State laws should improve upon existing protections against pay discrimination by protecting employees who share pay information from retaliation, closing longstanding loopholes in pay discrimination laws that make it harder for employees to prevail in equal pay claims, fully compensating victims of pay discrimination, and ensuring that employers who discriminate in pay are held accountable. State laws should also include proactive measures that help stop pay discrimination before it starts by increasing pay transparency and prohibiting employers from relying on job applicants' salary history in setting pay.

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## Basic Elements of the Solution

- Provide explicit nondiscrimination protections for employees who share pay information and prohibit employers from retaliating against an employee who does share such information with co-workers.
- Prohibit employers from requiring job applicants to provide their salary history and from relying on past salary to set pay, to ensure that lower pay in one job does not depress pay in future employment.
- Require equal pay for “substantially similar” or “comparable” work to ensure that jobs that are not identical but are similar in terms of skills, responsibility, and working conditions are compensated equally.
- Limit the reasons employers may offer to justify paying different wages to men and women in the same position. Require that employers that pay men and women different salaries for the same job provide a business justification.
- Specify that the time period to pursue an equal pay claim starts over each time an employee receives a paycheck that is lower because of discrimination.
- Allow employees with successful pay discrimination claims to recover compensatory and punitive damages to fully compensate for all their losses.
- Require employers to provide job applicants and employees the salary range for their position to help level the negotiating playing field and incentivize employers to proactively review and evaluate their compensation practices and address any unjustified disparities between employees.
- Require the state to collect data from private-sector employers about what their employees are paid. Ensure this data is broken down by gender and other protected categories, such as race and ethnicity.
- Require all companies that bid for and/or receive government contracts to analyze their pay practices for wage gaps, report race and gender wage gaps, and certify ongoing compliance with pay equity laws and principles.
- Extend equal pay protections to characteristics such as race, ethnicity, or disability, in addition to sex, so employees have the tools to address the full array of pay discrimination, including intersectional discrimination that they may experience based, for example, on their race and gender, or their disability and gender combined.

- Ensure that all employers, including small employers, are covered by equal pay laws and other nondiscrimination requirements.

## Talking Points on the Solution

- Having an economy that works for everyone starts by ensuring that women are paid the same as men when they work in similar jobs.
- Paying men and women the same wage for the same work is about basic fairness. But, 55 years after passage of the Equal Pay Act, the typical woman is still being paid only 80 cents for every dollar paid to the typical man.
- Families suffer when women are paid less. Ending gender discrimination in pay will not just help close the wage gap, but will strengthen families and households. Bringing women’s earnings in line with men’s would typically bring in an additional \$10,086 a year to support a family.
- Equal pay for women would also help ensure that state programs designed to help low-income families serve as a safety net for those who have fallen on hard times—not as a taxpayer subsidy to employers that fail to pay their workers fairly.
- Eliminating the wage gap helps state budgets and reduces public costs. If women receive equal pay, this will move many families out of poverty and reduce the need for public spending on programs that provide support to families for basic needs.
- Equal pay and pay transparency helps employers’ bottom line by increasing employee loyalty, productivity, and performance.<sup>5</sup> Equal pay also helps boost the national economy.<sup>6</sup>
- A national movement to strengthen equal pay laws has been sweeping through the states. In the last three years, California, Connecticut, Delaware, Illinois, New Hampshire, New York, North Dakota, Minnesota, Oregon, Rhode Island, and Vermont have taken steps to close loopholes in their equal pay laws or otherwise strengthen enforcement of those laws.<sup>7</sup> And 18 states and the District of Columbia ban retaliation against workers who talk about their wages.
- A recent poll found that 79 percent of women and 70 percent of men felt equal pay should be a top priority.<sup>8</sup>

1 Nat'l Women's Law Ctr. (NWLC), *The Wage Gap and Asian Women* (Mar. 2017), available at <https://nwlc.org/resources/the-wage-gap-and-asian-women/>.

2 NWLC, *Sex Stereotypes: How They Hurt Women in the Workplace - and in the Wallet* (2013), available at [https://nwlc.org/wp-content/uploads/2015/08/suits\\_fact\\_sheet\\_-\\_sex\\_stereotypes\\_01.30.2013.pdf](https://nwlc.org/wp-content/uploads/2015/08/suits_fact_sheet_-_sex_stereotypes_01.30.2013.pdf).

3 NWLC, *The Wage Gap: The Who, How, Why, and What To Do* (Sept. 2017), available at <https://nwlc-ci49tixgw5lbab.stackpathdns.com/wp-content/uploads/2016/09/The-Wage-Gap-The-Who-How-Why-and-What-to-Do-2017-2.pdf>.

4 Inst. for Women's Policy Research, *Pay Secrecy and Wage Discrimination* (2014), available at [http://www.iwpr.org/publications/pubs/pay-secrecy-and-wage-discrimination-1/at\\_download/file](http://www.iwpr.org/publications/pubs/pay-secrecy-and-wage-discrimination-1/at_download/file).

5 See Andrew Chamberlain, *Is Salary Transparency More Than a Trend?*, Glassdoor (Apr. 27, 2015), <https://www.glassdoor.com/research/stud-es/is-salary-transparency-more-than-a-trend/>; Deborah Thompson Eisenberg, *Money, Sex and Sunshine: A Market-Based Approach to PayDiscrimination*, 43 *Ariz. State L.J.* 951, 1001-15 (2011).

6 Inst. for Women's Pol'y Research, *The Economic Impact of Equal Pay by State* (May 2017), available at <https://iwpr.org/publications/economic-impact-equal-pay-state/>.

7 NWLC, *Progress in the States for Equal Pay* (June 2018), available at <https://nwlc.org/resources/progress-in-the-states-for-equal-pay/>.

8 The Washington Post/Kaiser Family Foundation, *Feminism Survey* (Jan. 2016), available at <http://files.kff.org/attachment/topline-methodology-washing-ton-post-kaiser-family-foundation-feminism-survey>.



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FOR GENDER EQUITY

# ENSURE HEALTHY PREGNANCIES AND JOB SECURITY: TREAT PREGNANT WORKERS FAIRLY

## The Problem

Forty years after the passage of the federal Pregnancy Discrimination Act (PDA), pregnant women still face challenges on the job. While many people will work through their pregnancies without any need for accommodations, some people will need temporary changes at work to continue working safely during pregnancy. These accommodations can be as minor as permission to carry a bottle of water during a shift, or a stool so a cashier can sit instead of standing. However, when pregnant workers have asked for these temporary adjustments, employers too often have denied their requests. Instead of receiving simple accommodations that would allow them to continue working safely, many pregnant workers have been forced onto unpaid leave or out of a job entirely—just at the moment they and their families can least afford it. Women in low-wage jobs are particularly likely to seek and be denied pregnancy accommodations, given the physically demanding nature of many low-wage jobs and a culture of inflexibility in many low-wage workplaces. Women are especially likely to be the primary breadwinner in low-income families,<sup>1</sup> and income loss during pregnancy can impose particularly severe consequences on these families. Women of color and LGBTQ individuals also face additional barriers in accessing pregnancy accommodations as a result of intersecting discrimination. The PDA and subsequent Supreme Court cases interpreting the law have provided important protections for pregnant workers,<sup>2</sup> but too many employers and employees are still confused about when exactly the PDA requires pregnancy accommodations.

## The Solution

State laws should prohibit pregnancy discrimination and explicitly provide that employers must make reasonable accommodations to employees who have limitations stemming from pregnancy, childbirth, or related medical conditions. Such laws would ensure that employees with medical needs arising out of pregnancy are treated as well in the workplace as those with medical needs arising out of non-pregnancy-related disabilities.

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## Basic Elements of the Solution

- Prohibit employers from discriminating on the basis of pregnancy, childbirth, or related medical conditions.
- Require employers to treat those affected by pregnancy, childbirth, or related medical conditions as well as they treat those similar in ability or inability to work.
- Require employers to provide reasonable accommodations to employees who have limitations arising from pregnancy, childbirth, or related medical conditions, unless the accommodation would impose an undue hardship on the employer.
- Prohibit employers from discriminating against an employee because she needs a reasonable accommodation because of pregnancy, childbirth, or related medical conditions.
- Prohibit employers from requiring a pregnant employee to accept work changes based on pregnancy when the employee does not have any medical need for the modification and does not want the modification.
- Prohibit employers from forcing a pregnant employee to take leave when another reasonable accommodation would allow her to continue to work. While the employee would remain free to choose to use any leave that she has available, the employee would not be forced onto leave against her will.

## Talking Points on the Solution

- No one should have to choose between a job and a healthy pregnancy. Providing reasonable accommodations to pregnant workers with medical needs is vital to supporting families and our economy.

- While most women can work through their pregnancies without any changes in their jobs, some pregnant workers have a medical need for reasonable accommodations in order to work safely and support their families.
- The right to pregnancy accommodations is too important to take the chance the law will be misinterpreted. Pregnancy accommodation laws would make it unmistakable that pregnant workers are entitled to reasonable accommodations when they need them.
- It benefits our economy when women are able to keep working and continue supporting their families. Department of Labor studies show that workplace policies providing reasonable accommodations improve recruitment and retention, increase employee satisfaction and productivity, reduce absenteeism, and improve workplace safety.<sup>3</sup>
- Ultimately, we are talking about people who simply want to work and provide for their families. Why would anyone want to discourage that?
- Twenty-three states and the District of Columbia have laws that require at least some employers to provide accommodations to pregnant workers: Alaska, California, Colorado, Connecticut, Delaware, Hawaii, Illinois, Louisiana, Maryland, Massachusetts, Minnesota, Nebraska, Nevada, New Jersey, New York, North Dakota, Rhode Island, South Carolina, Texas, Utah, Vermont, Washington, and West Virginia. At least five cities—Central Falls, Rhode Island; New York, New York; Philadelphia, Pennsylvania; Pittsburgh, Pennsylvania; and Providence, Rhode Island—have also passed pregnancy accommodations bills. Many of these provisions have passed within the past five years, with bipartisan and frequently unanimous support.

1 See Sarah Jane Glynn, Ctr. for American Progress, *Breadwinning Mothers are Increasing the U.S. Norm* (Dec. 2016), available at <https://www.americanprogress.org/issues/women/reports/2016/12/19/295203/breadwinning-mothers-are-increasingly-the-u-s-norm/>.

2 Press Release, Nat'l Women's Law Ctr., *Supreme Court Gives Important Victory to Pregnant Workers* (Mar. 25, 2015), available at <https://nwlc.org/press-releases/supreme-court-gives-important-victory-pregnant-workers/>.

3 See Beth Loy, Job Accommodation Network, *Accommodation and Compliance Series Workplace Accommodations: Low Cost, High Impact* (Sept. 1, 2017), available at <https://askjan.org/media/lowcosthighimpact.html>.





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# REMOVE BARRIERS AND EXPAND WOMEN'S ACCESS TO BIRTH CONTROL

## The Problem

Despite enormous advancements in birth control access, women still struggle to get and afford birth control. When women are not able to use birth control consistently and correctly, they face an increased risk of unintended pregnancy, and related threats to their health, the health of their families, and their economic security. Even women who have insurance coverage continue to face barriers in trying to access birth control. Some insurance plans place arbitrary restrictions in their path: for example, some plans limit how many packs of pills a woman may get at one time, and some plans require that, if a woman wants coverage of an over-the-counter product, she must first obtain a prescription. These kinds of barriers can keep women from using birth control correctly or consistently since it may be impossible for a woman to get time off work or school, or to access a pharmacy due to lack of transportation or limited pharmacy hours. In one study, 18 percent of women reported running out of birth control and having problems resupplying.<sup>1</sup> These barriers are especially pronounced for women who rely on public transportation and whose work hours are not predictable.

Moreover, the Trump-Pence Administration is hostile to birth control, and has taken numerous steps to make it more difficult for women to find and afford birth control. Among these threats is the issuance in October 2017 of new rules that allow virtually every employer or university with religious or moral objections to refuse to comply with the Affordable Care Act's (ACA) contraceptive coverage requirement. The ACA's contraceptive coverage requirement has been significant for women's health and economic security, because it requires all plans to cover the full range of birth control methods without any out-of-pocket costs to the individual. It is an incredibly popular benefit, with 62.4 million women who now have this coverage. The Trump-Pence Administration's rules put this benefit at risk for millions across the country.

Additionally, statutory requirements for Medicaid to cover family planning services and supplies without out-of-pocket costs and free of coercion and to allow enrollees to see the family planning provider of their choice ensure that birth control is accessible and affordable for women eligible for Medicaid. In fact, Medicaid pays for 75 percent of all publicly-funded family planning in the country. Yet, some women struggling to make ends meet do not qualify for traditional Medicaid. If they live in a state that has not expanded Medicaid or do not have special Medicaid family planning programs, they are forced to go without contraceptive coverage.

## The Solution

States should pass laws that remove barriers to birth control access, enshrine contraceptive coverage protections in state law, and expand access to birth control through a Medicaid family planning program.

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## Basic Elements of the Solution

- Require coverage and dispensing of no less than one full year of birth control by both private and public insurance.
- Require coverage of over-the-counter methods of birth control without requiring a prescription by both private and public insurance.
- Enshrine the ACA's contraceptive coverage requirement in state law, requiring insurance plans regulated by the state to cover all FDA-approved birth control methods without out-of-pocket costs.
- Expand Medicaid eligibility for family planning services to individuals otherwise ineligible for Medicaid.

## Talking Points on the Solution

- Women should have access to birth control.
- Contraception is basic health care for women.
- Nearly all voters (96 percent) support women having access to birth control.<sup>2</sup> And nearly 8 in 10 voters (78 percent) see contraception as basic health care for women.<sup>3</sup>
- Birth control is such a core part of women's lives that 99 percent of sexually active women have used birth control at some point.
- Removing barriers to birth control so that women can plan, space, and prevent pregnancies is critically important for women's economic security. Access to birth control is linked to women's greater educational and professional opportunities and increased lifetime earnings.
- A woman's chances of unintended pregnancy increase considerably when barriers prevent her from using birth control consistently and correctly.
- Arbitrary barriers, such as limits on how many packs of birth control a woman can pick up at one time or unnecessary prescriptions, shouldn't keep women from accessing birth control.
- Access to a full year's supply of birth control can help women avoid gaps in using it and improve its effectiveness. When women were able to obtain a full year of birth control at one time, their odds of pregnancy decreased by 30 percent and odds of abortion decreased by 46 percent.<sup>4</sup>

- It can be difficult for women to pick up their birth control or see their health care provider when they need it. Women may not be able to get time off from work, have a ride to a pharmacy or clinic, or be able to get to a pharmacy or clinic when it is open.
- Putting the ACA birth control benefit in state law will protect our residents in the face of the Trump-Pence Administration's efforts to undermine the federal benefit.
- Women need coverage of all birth control methods without a co-pay so that they can use the specific birth control that is right for them without cost being an obstacle. Seven in 10 voters (71 percent) support the ACA provision that requires insurance plans to cover birth control without a co-pay.<sup>5</sup>
- Women who are uninsured and struggling to make ends meet shouldn't be left without birth control coverage.
- At least 12 states have passed laws requiring coverage of 12 months of birth control dispensed at one time (CA, CO, DC, DE, IL, ME, MA, MD, NV, NM, NY, OH).
- At least 7 states have passed laws requiring coverage of over-the-counter methods of birth control without requiring a prescription (CA, DE, IL, MD, MA, NV, OR).
- At least 12 states have passed laws requiring coverage of all FDA-approved birth control methods without out-of-pocket costs (CA, DC, DE, IL, ME, MD, MA, NV, NY, OR, VT, WA).
- In 2018, the Utah legislature passed a bill requiring the state to apply for a Medicaid family planning expansion with the Centers for Medicare and Medicaid Services. When approved, Utah will become the 27th state with such an expansion.

1 Kate Grindlay and Daniel Grossman, Prescription Birth Control Access Among U.S. Women at Risk of Unintended Pregnancy, 25(3) J. of Women's Health 249 (Dec. 14, 2015).

2 Results from a National Survey of Voters on Federal Policy Around Contraceptives. Views on Birth Control, PERRY UNDEM RESEARCH/COMM. (Dec. 1, 2017) <https://view.publitas.com/perryundem-research-communication/views-on-birth-control-report-pdf/page/3>

3 *Id.*

4 Diana Greene Foster et al., Number of oral contraceptive pill packages dispensed and subsequent unintended pregnancies, 117(3) Obstetrics & Gynecology 566 (March 2011).

5 PERRY UNDEM RESEARCH/COMM., *supra* note 2. <https://view.publitas.com/perryundem-research-communication/views-on-birth-control-report-pdf/page/3>



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FOR GENDER EQUITY

# PROTECT AND ENSURE ACCESS TO ABORTION

## The Problem

Every woman, no matter where she lives, should have access to abortion when she needs it. Abortion is an essential part of comprehensive reproductive health care, and 1 in 4 women will experience abortion in her lifetime. Yet, our constitutionally protected right to abortion is under constant attack. Since 2011, states have enacted 401 abortion restrictions, including bans on abortion, medically unnecessary and burdensome regulations on abortion providers meant to shut them down, measures intended to judge and shame women, prohibitions on insurance coverage of abortion, and laws allowing health care providers' religious beliefs to override patient access to abortion.<sup>1</sup> At the same time, the current federal Administration has taken a number of steps to restrict access to abortion, including nominating Supreme Court justices with demonstrated hostility to abortion who could shift the balance of the Court against women's constitutional right to abortion. Abortion restrictions create unnecessary and harmful barriers that can delay and otherwise make access to care burdensome. Some women may be unable to overcome these barriers and will be forced to carry an unwanted pregnancy to term. Women of color, young people, and LGBTQ communities are disproportionately affected by restrictions on access to abortion.

## The Solution

States should be working towards a future where all families thrive, which means ensuring that all people are able to make decisions about pregnancy and parenting, however much money they make, however they get their health coverage, or wherever they live. States must act now to protect and expand abortion access by repealing existing state abortion restrictions and enacting policies that protect access to abortion.

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## Basic Elements of the Solution

- Repeal any existing abortion restrictions, including:
  - o Laws that ban or criminalize abortion, including those that pre-date *Roe v. Wade*;
  - o Medically unnecessary and burdensome restrictions on abortion providers such as admitting privileges requirements;
  - o Measures meant to shame and judge women who have decided to have an abortion, such as mandatory delays and biased counseling requirements;
  - o Restrictions or bans on insurance coverage of abortion in private or public insurance;
  - o Refusal of care laws that allow health care providers to use religious beliefs to override a patient's access to abortion.
- Enshrine abortion protections in state law, including measures that:
  - o Protect the right to abortion;
  - o Forbid government interference in the right to decide whether to have an abortion;
  - o Ensure public and private insurance coverage of abortion as part of comprehensive health insurance plans;
  - o Prohibit discrimination against those who want to provide abortion or those who have an abortion.

## Talking Points on the Solution

- Voters overwhelmingly support access to abortion.
  - o Seventy-one percent of voters believe that *Roe v. Wade* should not be overturned.<sup>2</sup>
  - o According to a 2016 poll, voters believe that once a woman had decided to have an abortion the experience should be: Safe (93 percent), Legal (76 percent), Affordable (72 percent); and Available in her community (72 percent).<sup>3</sup>
- Abortion is an essential part of comprehensive reproductive health care that nearly one in three women will experience in her lifetime.<sup>4</sup>
- Unless women can make the decision about whether and when to have children, they are not able to participate equally and fully in society.
- Abortion restrictions harm women by delaying access and creating barriers to abortion.
- A woman's zip code should not determine her access to abortion.
- We must advance measures that reduce the difficulties that women currently face in accessing reproductive health services, including abortion, and repeal those that create barriers.
- In 2017, five states—Delaware, Illinois, Idaho, New York, and Oregon took actions to expand access to abortion.<sup>5</sup>

1 Elizabeth Nash et al., *Policy Trends in the States*, 2017, GUTTMACHER INST. (Jan. 2, 2018), <https://www.guttmacher.org/article/2018/01/policy-trends-states-2017>.

2 Carrie Dann, NBC/WSJ Poll: *Support for Roe v. Wade hits new high*, NBC NEWS (July 23, 2018), <https://www.nbcnews.com/politics/first-read/nbc-wsj-poll-support-roe-v-wade-hits-new-high-n893806>.

3 *Abortion is a Common Experience for U.S. Women, Despite Dramatic Declines in Rates*, GUTTMACHER INST. (Oct. 19, 2017), <https://www.guttmacher.org/news-release/2017/abortion-common-experience-us-women-despite-dramatic-declines-rates>.

4 *Analysis of Voters' Opinions on Abortion Restrictions and Affirmative Policies*, PERRY UNDEM RESEARCH/COMM. (Jan. 20, 2016), [https://www.nirhealth.org/wp-content/uploads/2016/01/Memo-NIRH-Poll\\_Final\\_3.pdf](https://www.nirhealth.org/wp-content/uploads/2016/01/Memo-NIRH-Poll_Final_3.pdf).

5 Nash, *supra* note 1.




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# #MeTooWhatNext: STRENGTHEN PROTECTIONS AGAINST WORKPLACE SEXUAL HARASSMENT

## The Problem

As the Me Too movement has made clear, sexual harassment is widespread, affecting working women in every state, in nearly every kind of workplace setting and industry, and at every level of employment. Sexual harassment holds women back, threatens their safety and economic opportunities, and excludes them from public life. And for women of color, immigrants, and LGBTQ people who experience harassment based on multiple intersecting identities, harassment perpetuates inequality along multiple dimensions. Gaps in state and federal laws have left many of those most vulnerable to sexual harassment without meaningful legal protections. Court-imposed standards have made it difficult for victims to hold employers and individual harassers accountable, and federal law and many state laws have failed to prevent the proliferation of employer-driven agreements that help hide the true extent of sexual harassment and shield serial harassers from accountability. Federal law and most state laws also focus largely on remedying harassment after the fact, with little emphasis on preventing harassment in the first instance.

## The Solution

This is a critical moment to advance key policy initiatives to better protect workers, promote accountability, and prevent harassment. States should expand anti-harassment and anti-discrimination protections to greater numbers and types of workers, improve victims' ability to hold employers and individual harassers accountable, redress victims' harm by improving recovery of monetary damages, restrict employers' efforts to impose secrecy regarding harassment, and emphasize prevention strategies. Importantly, these policy initiatives must not only address harassment based on sex (which includes sexual orientation and gender identity), but also harassment and discrimination based on other characteristics, like race or disability, because they often intersect and together reinforce gender, racial, and other forms of inequality.

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## Basic Elements of the Solution

- Amend anti-harassment and anti-discrimination laws to apply to independent contractors, interns, graduate students, and guestworker recruits. Reduce the employer size thresholds for such laws so that workers in all workplaces with at least one employee are protected.
- Prohibit employers from requiring employees, as a condition of employment, to sign nondisclosure or nondisparagement agreements that prevent employees from speaking about harassment and discrimination in the workplace.
- Limit the use of nondisclosure clauses in settlements that impose secrecy regarding harassment and discrimination and can insulate harassers from accountability. Any legislative proposal regarding nondisclosure clauses should be carefully calibrated to ensure survivors have the power to decide what information about their claims should be confidential, while not discouraging employers from entering into settlements, as settlements will often be the best way for victims to obtain some level of justice.
- Require employers bidding on state contracts to disclose information regarding forced arbitration agreements that require employees to address discrimination or harassment claims through arbitration.
- Require employers to regularly report to a state or local enforcement agency the number of claims, lawsuits, and settlements involving harassment and discrimination and the amounts paid, to alleviate secrecy around harassment and discrimination and encourage employers to implement prevention efforts proactively.
- Clarify that employers are to be held vicariously liable for harassment committed by supervisors, including not only those empowered to hire and fire employees, but those with the authority to undertake or recommend tangible employment actions or with the authority to direct the harassed employee's daily work activities.
- Extend the statute of limitations on harassment and discrimination claims to three years, so that victims dealing with the trauma of harassment and/or the fear of reporting do not lose the opportunity to seek justice because of a short statute of limitations.
- Allow complete redress of the harm caused by harassment and discrimination by removing caps on the amount of compensatory and punitive damages a plaintiff can recover in a case.
- Address the judicially created “severe or pervasive” liability standard for establishing a hostile work environment claim so as to correct and prevent unduly restrictive interpretations by the courts.
- Protect all workers from retaliation, including managers, human resources personnel, or other EEO advisors. Make clear that workers are protected from retaliation for reporting workplace harassment even before it becomes actionable, that retaliation includes threats to report an individual to immigration authorities, and that an employer may be held liable for retaliation when a worker demonstrates that protected activity was a motivating factor for the employer's adverse action.
- Ensure employers adopt a comprehensive harassment and discrimination prevention program. Require employers to administer biennial anonymous climate surveys of employees to help management understand the nature and scope of workplace harassment.
- Eliminate the tipped minimum wage to ensure tipped workers are entitled to the same minimum wage as other workers, so women do not have to tolerate harassment as the price of tips.

## Talking Points on the Solution

- Sexual harassment affects women in every state and at every level of employment, holding women back, threatening their safety, health, and economic opportunities, and excluding them from public life.<sup>1</sup>
- Sexual harassment not only harms women, it harms businesses and the broader economy. Sexual harassment leads to reduced employee job satisfaction, increased absenteeism, and deterioration of coworker relationships.<sup>2</sup> Harassment and retaliation can push women out of their jobs, or lead them to avoid or leave a profession or industry altogether—often times higher-paying or male-dominated professions, like construction or STEM. This, in turn, exacerbates the gender wage gap and limits women's ability to build wealth and plan for the future.<sup>3</sup>
- Eighty-one percent of voters, and millennial women in particular, see sexual harassment in the workplace as a serious problem, and 52 percent of voters would not vote for a leader who did not prioritize addressing sexual harassment.<sup>4</sup>
- States are at the forefront of addressing the issue of harassment in the workplace. In 2018 alone, at least 6 states have enacted legislation that closes loopholes in existing harassment laws or creates new protections for victims of harassment and discrimination, including Oregon, Maryland, New York, Tennessee, Vermont, and Washington.

1. Amy Blackstone, Heather McLaughlin, & Christopher Uggen, *State of the Union 2018, Workplace Sexual Harassment*, STANFORD CTR. ON POVERTY AND INEQ. 39–40 (2018), [https://inequality.stanford.edu/sites/default/files/Pathways\\_SOTU\\_2018\\_harassment.pdf](https://inequality.stanford.edu/sites/default/files/Pathways_SOTU_2018_harassment.pdf).

2. *Id.* at 40.

3. Amy Blackstone, Heather McLaughlin, & Christopher Uggen, *The Economic and Career Effects of Sexual Harassment on Working Women*, *Gender & Society* (3)3, pp 333-358 (June 2017), <http://journals.sagepub.com/doi/full/10.1177/0891243217704631>.

4. BARBARA LEE FAM. FOUND., *Voters, Candidates, and #MeToo* (2018), <http://www.barbaraleefoundation.org/research/voters-candidates-and-metoo/>.



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# HELP PARENTS EARN WHILE CHILDREN LEARN: INVEST IN CHILD CARE AND EARLY LEARNING

## The Problem

Child care and early learning opportunities help children get the strong start they need to succeed and enable parents to work so they can support their families and/or go to school to attain the skills they need to improve their economic circumstances. Yet, many families—particularly low-income families, families with infants or children with special needs, and parents working nontraditional hours (evenings, nights, weekends, or irregular schedules)—struggle to find and afford child care. The average annual cost of child care for one child ranges from nearly \$3,000 to over \$20,000, depending on where the family lives, the age of the child, and the type of care.<sup>1</sup> The Child Care and Development Block Grant (CCDBG), the major federal child care program, is aimed at helping low-income families afford these costs, but it falls far short of meeting the need. Fewer than one in six children eligible for federal child care assistance receives help.<sup>2</sup> Many children—particularly low-income children who stand to benefit the most—also lack access to high-quality preschool. Some support for prekindergarten is provided through federal and state programs, but these programs serve at most 43 percent of four-year-olds and just 16 percent of three-year-olds, and most state programs lack sufficient quality standards.<sup>3</sup> In addition, the child care and early education professionals who care for and teach our children typically earn low wages that leave them straining to support themselves and their own families.

## The Solution

States should significantly expand their investments in child care and prekindergarten. Child care and prekindergarten policies should be designed to ensure that children have healthy, safe, stable environments that promote their growth and learning. Policies should also be designed to meet the varied needs of families, including those who work non-standard hours or have other special circumstances that can make it difficult for them to access child care and early education programs. In addition, states should support initiatives that increase professional development opportunities and compensation for the child care and early learning workforce.

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## Basic Elements of the Solution

- Provide help in paying for child care to additional low-income families.
- Ensure parents who work non-traditional and unpredictable hours have child care options that meet their needs.
- Increase payment rates to child care providers that serve families receiving child care assistance, and offer additional incentives and supports to encourage providers to improve their quality.
- Fully implement the requirements and provisions of the CCDBG reauthorization law designed to ensure the health and safety of child care, improve the quality of care, and make it easier for families to access child care assistance.
- Invest in increasing the supply of affordable, high-quality child care for infants and toddlers, children with special needs, and for children in underserved areas, including low-income communities and rural areas.
- Support initiatives to expand child care providers' professional development opportunities and increase their compensation.
- Ensure your state (if it has a personal income tax) has a fully refundable child and dependent care tax credit (CDCTC) so that families with little or no tax liability can take advantage of the credit.
- Make high-quality, full-school-day prekindergarten programs available to all four-year-olds whose families want them to participate.

- Once prekindergarten is universally available to four-year-olds, expand prekindergarten opportunities for three-year-olds, beginning with low-income children.
- Allow state funding for prekindergarten programs to be available to schools, child care providers, Head Start programs, and other community-based providers that meet high-quality standards.

## Talking Points on the Solution

- High quality child care is essential to enable parents to get and keep a job and to give children a strong start toward success in school and life.
- But right now, the average cost of full-time center care for an infant ranges from over \$5,000 to over \$20,000 a year, putting it out of reach for many families.
- Families on waiting lists for child care assistance are often forced to use a patchwork of unstable arrangements, causing disruption for children, more stress for parents, and a risk of job loss. Families that stretch to pay for reliable child care often struggle to pay for other necessities.
- Child care assistance helps everyone—more parents are able to work, children can learn and thrive, and employers can keep skilled, productive workers.

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- 3 W. Steven Barnett, Allison H. Friedman-Krauss, G.G. Weisenfeld, Michelle Horowitz, Richard Kasmin, James H. Squires, The State of Preschool 2016: State Preschool Yearbook, National Institute for Early Education Research (2017), [http://nieer.org/wp-content/uploads/2017/09/Full\\_State\\_of\\_Preschool\\_2016\\_9.15.17\\_compressed.pdf](http://nieer.org/wp-content/uploads/2017/09/Full_State_of_Preschool_2016_9.15.17_compressed.pdf).



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# HELP WORKING FAMILIES MAKE ENDS MEET: ESTABLISH OR IMPROVE STATE TAX CREDITS FOR LOW-INCOME FAMILIES

## The Problem

It's tough to support a family in today's economy. While families across the country face rising costs for child and dependent care, wages have stagnated for most working people. It's especially tough for women, who face a wage gap that has not budged in nearly a decade and make up the vast majority of single parents. Nearly one-third of the women who work in low-wage jobs are mothers of children under 18, and 10 percent are mothers of children under four.<sup>1</sup> More than one in three single-mother families live in poverty.<sup>2</sup> Yet, in far too many states, low- and middle-income families pay a greater share of their income in taxes than wealthy families.<sup>3</sup> This is only worsened by the Tax Cuts and Jobs Act (TCJA), which prioritized tax cuts for big corporations and the wealthy instead of improving federal tax credits helping lower-income families.

## The Solution

Tax credits can help keep millions of families out of poverty and alleviate regressive state tax codes. While increasing the minimum wage and direct investments in child care, health care, education, food assistance, housing assistance, and other vital programs provide the most support for families, state tax credits can reduce the tax burden some families face and, in some instances, provide a refund.

## Basic Elements of the Solution

- Build upon the success of federal family tax credits by offering a state Earned Income Tax Credit (EITC), Child and Dependent Care Tax Credit (CDCTC), and Child Tax Credit (CTC). Ensure these credits are fully refundable so that low-income families with little or no state income tax liability can take full advantage of the credit.
- Base a state EITC on a percentage of the federal EITC and provide additional help for low-income, childless workers who receive a much smaller federal EITC than workers with children.
- When designing or improving a state CDCTC, offer a generous percentage of the federal CDCTC or set a higher, more realistic expense limit for the state credit.

For help crafting legislation, talking points, fact sheets, and for state-specific policy research and data, please contact us at [playbook@nwlc.org](mailto:playbook@nwlc.org).



- Ensure a state CTC is refundable from the first dollar of earnings and allow workers to claim the CTC on behalf of children with Individual Tax Identification Numbers (ITINs). This will help more families who cannot access the federal CTC benefit from a state CTC.
- Offer an additional Young Child Tax Credit to provide more assistance to families with young children who often receive smaller child tax credit amounts.
- Offer advanced payments to help parents pay for expenses in real time throughout the year, rather than having to wait for an annual tax refund.
- Support work. Research shows that the EITC does more to support work than work requirement penalties in anti-poverty programs or a strong economy.<sup>6</sup> More than half of states have an EITC, and 23 states and the District of Columbia offer a refundable credit.<sup>7</sup>
- State CDCTCs can provide some help to families struggling to pay for the child care they need to be able to work. More than half of states offer some type of child and dependent care tax provision (a credit or a deduction), and 12 states, from Nebraska to New York, offer refundable credits.<sup>8</sup>

## Talking Points on the Solution

- State tax credits, especially those that provide a refund, can keep more families out of poverty and improve children’s health and education outcomes.<sup>4</sup> Tax credits also boost the economy by putting money in the pockets of working families, who are more likely to spend their money back in the local economy.<sup>5</sup>
- The EITC not only keeps millions of families out of poverty, but has been shown to incentivize and
- CTCs can help reduce child poverty rates. In 2016, the national child poverty rate was 18 percent, and some states have much higher rates. Refundable state CTCs target benefits to low-income families with children and can also alleviate poverty.
- Families with infants and toddlers face high costs associated with their care. An additional Young Child Tax Credit would help these families meet the higher costs of raising very young children.

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- 2 Kayla Patrick, Nat’l Women’s Law Ctr., National Snapshot: Poverty Among Women & Families, 2016 (Sept. 2017), <https://nwlc-ciw49tixgw5lbab.stackpathdns.com/wp-content/uploads/2017/09/Poverty-Snapshot-Factsheet-2017.pdf>.
- 3 Inst. on Tax’n and Econ. Pol’y, Who Pays? (Jan. 2015), <https://itep.org/whopays/>.
- 4 Douglas J. Ganon et al., U. N.H. Carsey School of Public Pol’y, State EITC Programs Provide Important Relief to Families in Need (Feb. 2017), <https://carsey.unh.edu/publication/eitc-relief>; Tazra Mitchell, Economic Security Programs Help Low-Income Children Succeed Over Long Term (July 2017), <https://www.cbpp.org/blog/economic-security-programs-help-low-income-children-succeed-over-long-term>.
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- 7 Inst. on Tax’n and Econ. Pol’y, Rewarding Work Through State Earned Income Tax Credits 4 (July 2017), available at [https://itep.org/wp-content/uploads/ITEP-EITC-Brief-2017\\_FINAL.pdf](https://itep.org/wp-content/uploads/ITEP-EITC-Brief-2017_FINAL.pdf).
- 8 Nat’l Women’s Law Ctr., State Child and Dependent Care Tax Provisions, Tax Year 2017 (Feb. 2018) (Arkansas, Colorado, Hawaii, Iowa, Louisiana, Maine, Minnesota, Nebraska, New Mexico, New York, Oregon, Vermont), [https://nwlc-ciw49tixgw5lbab.stackpathdns.com/wp-content/uploads/2018/02/State-Child-Care-and-Dependent-Care-TY-2017\\_FINAL.pdf](https://nwlc-ciw49tixgw5lbab.stackpathdns.com/wp-content/uploads/2018/02/State-Child-Care-and-Dependent-Care-TY-2017_FINAL.pdf).

