



March 24, 2021

The Honorable Carolyn B. Maloney
Chairwoman
Committee on Oversight and Reform
United States House of Representatives

The Honorable James Comer
Ranking Member
Committee on Oversight and Reform
United States House of Representatives

Dear Chairwoman Maloney and Ranking Member Comer,

The National Partnership for Women & Families is a non-profit, non-partisan advocacy organization committed to improving the lives of women and families by achieving equity for all women. Since our creation as the Women's Legal Defense Fund in 1971, we have fought for every significant federal advance for equal opportunity in the workplace, including the Pregnancy Discrimination Act of 1978 and the Family and Medical Leave Act of 1993 (FMLA). And yet today, on Equal Pay Day 2021, women are still not equal in the workplace or in society.

Equal Pay Day marks how many more months women must work to be paid what men were paid in the previous year. Families depend on the incomes of women of color and all women: mothers are breadwinners in nearly half of families with children under 18, including 48 percent of Latina mothers, 79 percent of Black mothers, 64 percent of Native American mothers and 43 percent of Asian American and Pacific Islander mothers as well as 48 percent of white mothers.¹

And yet women and workers from communities of color continue to face significant pay disparities in the United States. On average, women working full time and year-round are paid only 82 cents for every dollar paid to men, and the wage gap is widest for women of color. Among women who hold full-time, year-round jobs in the United States, Black women are typically paid 63 cents, Native American women 60 cents and Latinas just 55 cents for every dollar paid to white, non-Hispanic men. White, non-Hispanic women are paid 79 cents.² Asian American and Pacific Islander (AAPI) women who work full time, year-round are paid as little as 52 cents for every dollar paid to white, non-Hispanic men, as Burmese women are. AAPI women overall are paid just 85 cents for every dollar paid to white, non-Hispanic men.³ The wage gap persists across different industries, occupations and education levels and exists in [nearly every congressional district](#).

Looking past the numbers, the wage gap is just one of many examples of the burden women of color bear by living in a white supremacist and patriarchal society. Our country and economy were founded on enslaving Africans and their descendants and colonial efforts to destroy Native communities. Centuries later, employed women operating within our "[low road](#)" capitalistic system based on that horrific past still feel the impacts.⁴ Systemic discrimination in pay and exploitation of workers based on race, class, gender and

immigration status can be traced to our founding, as well as racist immigration policies: The Page Act of 1875, which prohibited Chinese women from entering the country and preceded the Chinese Exclusion Act of 1882; the Immigration Act of 1924, which created a quota system based on national origin; the Bracero program of the 1940s-1960s, which allowed for the exploitation of migrant farm workers from Mexico.

Of course, over the last four centuries working people have seen gains. But even in some of our biggest progressive policy wins women of color have been shortchanged. For example, when the [Fair Labor Standards Act](#) was enacted in 1938, it purposefully excluded large categories of workers in jobs that tended to be performed by women and people of color.⁵ Decades later, Title VII of the Civil Rights Act of 1964, which allows most employees to seek redress from workplace harassment and discrimination, excludes many domestic workers due to its 15-employee threshold.

Examples of the devaluation of women, their labor and their caregiving work are not relegated to the past. Women still face workplace harassment, including sexual harassment and pregnancy discrimination. One in three women say they have been the victim of sexual harassment at work. While pregnancy discrimination has been illegal for more than 40 years, [pregnant workers in the U.S. still face workplace discrimination](#), and women of color and immigrants are at particular risk.⁶

The United States is one of the only countries in the world that does not provide any type of paid leave. This means the gender wage gap is even larger when measured over the long term because women are often pushed to spend time out of the workforce, in part due to caregiving: Over a 15-year period, women are paid just [49 cents](#) for each dollar paid to a man.

Centuries of racist and sexist history, policy, and culture are the drivers of the wage gap, not women's choices. The coronavirus pandemic and ensuing economic crisis [has laid bare the ways our society has failed women of color and all women](#). Women of color are especially likely to be essential workers, working in grocery stores, restaurants, and child care centers. Still, they are also bearing the brunt of job losses while shouldering increased caregiving responsibilities that have pushed millions of women out of the workforce entirely.

We know there are policies that can help: the Paycheck Fairness Act and Raise the Wage Act, both of which passed the House of Representatives last Congress with bipartisan support; national paid leave and paid sick days standards; protections against workplace harassment, including pregnancy discrimination; stronger protections for workers' right to organize and bargain collectively; and access to comprehensive health care, including reproductive health care. Enacting these policies will help ensure women are not waiting until [2059](#) for fair pay.⁷

But to achieve equal pay — and equality for all women — we must rip out the roots of white supremacy and patriarchy that allow the wage gap to flourish year after year.

Paycheck Fairness Act

The troubling wage gap statistics underscore the need to update our nation's equal pay laws. [The Paycheck Fairness Act](#) (H.R. 7) would make it safe for workers to discuss their wages with each other. Employers can currently mask compensation discrimination with pay secrecy policies that forbid employees from discussing pay and benefits. Secrecy and the threat of retaliation leave workers unable to learn about and challenge pay disparities. In a survey of private-sector workers, 52 percent of women and 47 percent of men reported that their employers discourage or prohibit discussing wage and salary information.⁸ The Paycheck Fairness Act would make pay secrecy policies illegal.

The Paycheck Fairness Act would also prohibit employers from screening job applicants based on their salary history or requiring salary history during the interview process. Salary history bans have been shown to narrow the gender wage gap.⁹ Women are typically paid lower wages than men even in their first jobs. Salary disparities that begin early in a woman's career can follow her from job to job when employers are permitted to base a new hire's salary on her prior earnings. People should be paid fairly for the job they are being hired to do.

The bill would also make it more difficult for employers to justify pay discrimination. Workers in the same company who do the same job and have the same amount of experience, education and training should be paid the same. Currently, however, employers are able to explain away differences in pay too easily by relying on a catch-all defense in the Equal Pay Act. The Paycheck Fairness Act would close that loophole and require employers to prove that any differences in pay are not sex-based, are job-related concerning the position in question, and are consistent with business necessity and account for the entire difference in compensation. Employees claiming pay discrimination would also have new opportunities to prove that the employer's defense is the pretext.

In addition to these critical provisions, the Paycheck Fairness Act would also allow workers alleging pay discrimination within the same company to file class-action suits; would change the remedies of the Equal Pay Act to treat gender-based pay discrimination claims the same as other civil rights violations that result in unfair pay; would recognize companies that want to do better; and would improve fair pay enforcement, data collection and disclosure. The Paycheck Fairness Act would ensure that workers are given the support needed to ensure pay equity during this time of crisis.

Raise the Wage Act

The Raise the Wage Act of 2021 (H.R. 603) will support working people, improving women's and families' economic security, and promote racial and gender equity. The federal minimum wage has not risen from \$7.25 in over a decade, marking the longest period without an increase since its creation in 1938. Meanwhile, the value of the minimum wage has eroded, and lower-income workers and families have struggled to keep up with the increasing cost of living. The Raise the Wage Act would incrementally raise the federal minimum wage to \$15 by 2025. This policy change will benefit working families across the country, especially women and people of color, and would help close the gender wage gap; in states with minimum wages above \$10, women experience a 34% smaller wage gap.¹⁰

Women of color are disproportionately represented in minimum and low-wage – but essential – jobs in occupations such as retail, health care, education, and food service,¹¹ and women overall make up two-thirds of workers paid the minimum wage or less.¹² This is due to occupational segregation as well as the part-time penalty: because women are still more likely to bear the bulk of family care responsibilities, women are more likely to take part-time jobs in order to have flexible hours.¹³

If the minimum wage were increased, 26.7 percent of women workers (19.5 million women) would receive a pay increase. Women of color make up nearly three in ten of the workers who would be helped (29.8 percent),¹⁴ including 35 percent of Black women workers and 32 percent of Latina women workers overall.¹⁵

The Raise the Wage Act would not only raise the minimum wage, but it would also end inequitable subminimum wages: the tipped wage, the youth wage, and the disability wage under Section 14(c) of the Fair Labor Standards Act (FLSA). Each of these wage categories is significantly lower than the minimum wage and disproportionately impacts workers of color, thus contributing to structural inequality. While the current minimum wage is an unlivable amount, the subminimum wages ensure that workers are trapped in poverty in which they receive impossibly low compensation for their labor. Ending these subminimum wages would have significant benefits for racial, gender and disability equity.

In particular, the practice of the tipped wage has inherently racist origins and currently has inequitable racial and gendered impacts. The tipped wage has remained stagnant for the past 30 years at \$2.13 per hour. In 2019, 69.7 percent of tipped wage workers were women and 25.9 percent were women of color.¹⁶ The poverty rate for women overall in tipped wage positions is 17 percent and for women of color, this rate is even higher at 19.3 percent.¹⁷ Because most tipped workers are in industries that have been significantly impacted by the COVID-19 pandemic such as the restaurant, hospitality, and service industry, they have not only experienced some of the most significant economic impacts of the pandemic, but these harms have been racialized. In a recent survey done by One Fair Wage, 96 percent of tipped workers – and 98 percent of Black tipped workers – reported a decrease in tips.¹⁸ Moreover, 78 percent of tipped workers overall, and 88 percent of Black tipped workers, report their tips have declined by 50 percent or more.¹⁹

Harassment has always been an issue in the tipped wage working community because tipped workers have to rely on customers for their income. However, unsurprisingly the pandemic has exacerbated this experience. Forty-one percent of tipped workers report an increase in sexual harassment at work since the pandemic began, and nearly two-thirds report receiving a lower tip in response to enforcing COVID-19 safety guidelines.²⁰ These dynamics underscore how the tipped wage puts women, and especially women of color, at higher risk of economic insecurity and subjects them to greater harms from racism and sexism in their workplaces.

We know that when workers are compensated justly that there are numerous health and economic benefits as well as substantial workplace benefits. Raising the minimum wage is associated with improvements to workers' dietary quality and their access to care.²¹ Higher wages for staff in long-term care facilities have been linked to improved outcomes, including fewer health violations and fewer pressure sores, infections and deaths among residents;

during the first month of the coronavirus pandemic, an increase of just 10 percent in the minimum wage would have prevented an estimated 5,300 deaths in long-term care facilities.²² An increase in wages is associated with economic stimulus due to workers' increased ability to purchase goods and services.²³

To date, thirty states, including the District of Columbia, and 45 localities have adopted minimum wages above their state minimum wage.²⁴ The Raise the Wage Act would ensure more people are paid a living wage and make our workplaces and economy more equitable.

Family and Medical Insurance Leave (FAMILY) Act

The United States' lack of support for working parents and family caregivers – particularly paid family and medical leave, paid sick days, and affordable child care – is another major cause of the wage gap and is a primary driver of U.S. women's relatively low labor force participation rate, which has actually declined since the 1990s, and which costs the U.S. economy an estimated \$500 billion per year in reduced GDP.²⁵

Paid family and medical leave helps women remain in the workforce throughout their careers. In the year following a birth, new mothers who take paid leave are more likely than those who take no paid leave to stay in the workforce and are 54 percent more likely to report wage increases.²⁶ By enacting a national paid leave program along with affordable child care, the United States could add an estimated 5 million working people to its labor force.²⁷ Paid family and medical leave helps equalize caregiving in two-parent, heterosexual households. When fathers take paid leave, their involvement at home increases and is more equitable, making it easier for women to return to the workforce.²⁸ Paid family and medical leave will help women provide for their families and save for retirement. Families lose an estimated \$22.5 billion in wages each year due to inadequate or no paid leave.²⁹ A woman who is 50 years or older who leaves the workforce early to care for an aging parent will lose more than \$324,000 in wages and retirement.³⁰

The coronavirus pandemic has highlighted the consequences faced by working people when they lack access to paid leave. As of November 2020, 4.1 million adults in the United States were not working because they were sick with coronavirus symptoms and 2.6 million because they were caring for an ill or older loved one.³¹ And even as the promise of vaccination offers hope that the pandemic will end sometime in 2021, the long-term health, caregiving and economic consequences of COVID-19 are just beginning to surface. As child care centers closed and schools were forced into remote learning, hundreds of thousands of parents, especially women, have been forced to choose between caring for their children and staying in the workforce. As of July 2020, nearly one in three mothers age 25-44, and one in eight fathers of the same age, were not working due to child care issues.³² Workers in low-paid "frontline" and essential jobs, disproportionately women of color,³³ are doubly impacted, facing higher rates of infection and death in part due to workplace exposure,³⁴ and typically less likely to have paid leave or the ability to work remotely.³⁵ Paid leave would provide for working parents and other caregivers, support public health, and bolster American families' economic security as the pandemic rages on.

Just 21 percent of the civilian workforce has paid family leave through their employers, and just 40 percent has personal medical leave through an employer-provided short-term

disability program.³⁶ The FAMILY Act would address America's paid family and medical leave crisis by creating a comprehensive national program that helps meet the needs of new mothers and fathers and people with serious personal or family health issues through a shared fund that makes paid leave affordable for employers of all sizes and for workers and their families. The FAMILY Act would benefit working people, their families, businesses and our nation's economy, and would help close the gender wage gap.

Healthy Families Act

In addition to paid leave, paid sick days are needed to close the gender wage gap. People should not have to make impossible choices between caring for their health and keeping a paycheck or job. Yet more than 30 million workers – 25 percent of the private sector workforce – are forced to make that decision when illness strikes because they cannot earn paid sick days.³⁷ Millions more workers cannot earn paid sick time they can use to care for a sick child or family member.³⁸

The Healthy Families Act would guarantee working people the ability to earn up to seven paid sick days a year to recover from short-term illnesses, access preventive care, care for a sick family member or seek assistance related to domestic violence, sexual assault or stalking. Workers at places of employment with fewer than 15 employees would earn seven unpaid, job-protected sick days. Paid sick and safe days help keep families financially secure, workplaces and communities healthy and productive, and businesses and the economy strong

Unpaid, unprotected days off have stark consequences for working families. For a family without paid sick days, just 3.3 days of lost pay due to illness are equivalent to an entire month of health care expenses, on average, and 4.5 days are equivalent to an entire month of food.³⁹ Nearly one-quarter of U.S. adults (23 percent) report they have lost a job or have been threatened with job loss for taking time off work due to illness or to care for a sick child or relative.⁴⁰

Women are disproportionately affected by the nation's lack of paid sick days, which jeopardizes the economic stability of families increasingly dependent on women's wages. More than half of U.S. mothers are key breadwinners for their families,⁴¹ and yet, overwhelmingly, mothers still have primary responsibility for selecting their children's doctors, accompanying children to appointments and getting them recommended care.⁴² In 2017, 4 in 10 employed mothers (40 percent) said they alone must miss work when a sick child needs to stay home, compared to 10 percent of working fathers. Among these mothers, 56 percent were not paid when they take that time.⁴³

Like paid sick days, paid "safe" days are critical for workers' productivity, security and well-being. In a 2018 survey of domestic violence survivors, nearly three-fourths (73 percent) reported that financial problems forced them to remain with their abusers longer than they wanted or to return after having left, and more than half (53 percent) said they lost a job because of the abuse.⁴⁴ Because survivors of domestic violence are at increased risk of harm during and shortly after separating from an abusive partner,⁴⁵ it is essential that they be able to find shelter, file restraining orders, attend court dates or receive counseling to prevent further abuse and continue working.

The Healthy Families Act would strengthen workers and families, businesses and the economy. It would guarantee workers across the country the right to earn paid sick and safe days no matter where they live, bringing the rest of the United States in line with the states and cities that have passed these laws and much of the rest of the world.

Pregnant Workers Fairness Act

More than 40 years ago, Congress passed the Pregnancy Discrimination Act of 1978, outlawing discrimination on the basis of pregnancy, childbirth or related medical conditions. Yet, pregnancy discrimination is still widespread and impacts pregnant workers across industry, race, ethnicity and jurisdiction. Nearly 31,000 pregnancy discrimination charges were filed with the U.S. Equal Employment Opportunity Commission (EEOC) and state-level fair employment practice agencies between 2010 and 2015,⁴⁶ and the reality of pregnancy discrimination is likely much worse than illustrated by EEOC charges.⁴⁷ As a result of this discrimination, too many pregnant workers must choose between their paychecks and a healthy pregnancy. That is not a choice anyone should have to make.

The Pregnant Workers Fairness Act would create a clear policy standard requiring employers to provide reasonable accommodations to pregnant workers. Support for a law like the Pregnant Workers Fairness Act is nearly universal and bipartisan. Eighty-nine percent of voters favor this bill, including 69 percent of voters who strongly favor it.⁴⁸ Thirty-five leading private sector employers and employer associations have also endorsed the Pregnant Workers Fairness Act in [an open letter to Congress](#).

More than 85 percent of women will become mothers at some point in their working lives.⁴⁹ And sometimes, an accommodation is needed in order for a pregnant worker to continue performing their job safely. These accommodations are often small changes to their work environment, such as additional bathroom breaks, a stool to sit on or the ability to have a water bottle at their work station. Although minor, these accommodations allow pregnant workers to stay in the workforce safely and continue to provide for themselves and their families. When pregnant workers are fired, demoted or forced into unpaid leave, they and their families lose critical income. They may struggle to re-enter a job market that is particularly harsh for people who are currently or were recently pregnant.

Pregnancy discrimination affects women across race and ethnicity, but women of color and immigrants are at particular risk. They are disproportionately likely to work in jobs and industries where accommodations during pregnancy are not often provided (such as working as home health aides, food service workers, package handlers and cleaners).⁵⁰ Black women are much more likely than white women to file pregnancy discrimination charges;⁵¹ they are also at a higher risk for pregnancy-related complications like pre-term labor, preeclampsia and hypertensive disorders,⁵² making reasonable accommodations on the job even more important, and loss of wages and health insurance due to pregnancy discrimination especially challenging.

To date, thirty-one states, including the District of Columbia, and four cities, have passed laws requiring employers to provide reasonable accommodations to pregnant workers.⁵³ But the ability to maintain a healthy pregnancy and keep a job should not depend on where a

pregnant person works. Women are a crucial part of the workforce, and their participation matters for the growth of our economy and the stability and wellbeing of families nationwide.

The COVID-19 pandemic has exacerbated the problematic working conditions of pregnant workers. Pregnant people are at a higher risk of falling ill from COVID-19 and experiencing complications, and thus require increased protection against the virus. However, since the beginning of the pandemic, pregnant workers have experienced [increased workplace discrimination](#) by being denied accommodations and leave. The Pregnant Workers Fairness Act would ensure that pregnant workers have access to the accommodations they need in order to have a safe workplace experience.

Sexual Harassment

Despite being prohibited by Title VII of the Civil Rights Act of 1964, workplace sexual harassment remains pervasive and pernicious. Sexual harassment is one of many manifestations of power imbalances in the workplace. It affects women and men across industries and occupations. And, it can have greater consequences for women who face other forms of discrimination and harassment, such as women of color, LGBTQ women and women with disabilities.⁵⁴

Sexual harassment can impede a woman's job performance, workplace advancement and earnings. One in three women say they have been the victim of sexual harassment in the workplace.⁵⁵ Women who experience sexual harassment at work often avoid reporting it for fear of retaliation, termination or inaction.⁵⁶ Among women who do report sexual harassment to their employers, nearly half report being dissatisfied with the response.⁵⁷ Many women who experience sexual harassment at work report increased anxiety and depression, which is associated with lower productivity and poorer performance at work.⁵⁸ Some report experiencing a decline in job involvement and satisfaction, as well as increases in absenteeism, turnover, early retirement and a range of negative health outcomes.⁵⁹ Women in workplaces that do not address sexual harassment may feel less empowered to negotiate salaries and raises, depressing their long-term earnings and advancement.

Sexual harassment can affect women's career choices directly and indirectly, reinforcing occupational segregation and perpetuating the wage gap. Women who say they've experienced sexual harassment at work are 6.5 times as likely to change jobs as women who have not – often to a job of lower quality or with lower pay.⁶⁰ Hostile work environments often discourage women from entering, or push women out of, certain industries, increasing occupational gender segregation.⁶¹ Sexual harassment exists in every industry and occupation, but there are industries where it is especially prevalent.⁶² Women in male-dominated industries that have historically excluded women, like manufacturing and construction, report more incidences of sexual harassment.⁶³ Many women take pay cuts and make sacrifices that harm their careers to escape sexual harassment.⁶⁴ Women who have been sexually harassed at work report significant disruption and financial stress, comparable to the financial stress of individuals who have experienced other major negative events such as serious injury, assault or incarceration.⁶⁵

For women of color, the consequences of workplace sexual harassment can be even more devastating. Women of color often face intersecting forms of discrimination and harassment. Many avoid disclosing workplace sexual harassment because of the heightened risk of retaliation, doubt, victim-blaming and other harmful, prejudiced responses.⁶⁶ This indicates that women of color may be less likely to have their experiences of sexual harassment addressed or their rights enforced. The financial consequences of reporting harassment and facing retaliation, or leaving a job due to harassment, can be even more severe for many women of color because they face the greatest wage gaps.

While sexual harassment is increasingly being recognized in the national dialogue, it is nothing new – and over time it has negatively impacted women’s workplace opportunities and career decisions, resulting in significant and often overlooked financial consequences. Congress should consider legislation like the [EMPOWER Act](#) and the [BE HEARD in the Workplace Act](#) to address workplace sexual harassment. Preventing and effectively addressing workplace sexual harassment is one way to help close the gender wage gap and promote women’s financial security.

Access to Comprehensive, Quality Health Care

Access to comprehensive, quality health care is essential not only to women’s physical and mental well-being, but also their economic security and ability to participate fully in society. Women play an outsized role as health care decision-makers, paid and unpaid caregivers, a vital majority of the health workforce, and advocates for themselves and their loved ones. Women spend a disproportionate amount of their economic resources on health care, and women are central to the health care workforce.

Ensuring that every person living in the United States has access to coverage would have a significant impact on eliminating disparities in health care access and outcomes, and increase economic stability. For the first time in a decade, the number of people without health insurance increased in 2018, to a total of 28.6 million people – 10.8 million of whom are women.⁶⁷ Affordability is the leading reason why more than a third of the remaining 10.8 million uninsured women still lack coverage.⁶⁸ In 2016 more than half (59 percent) of uninsured women delayed or skipped specialist care, a test, a prescription or a visit to the doctor due to costs.⁶⁹ At the same time, many women with coverage also face financial hardship that limits their access to care. This includes women with employer coverage and women in the Marketplace with or without subsidies.⁷⁰

Lack of affordable coverage exacerbates racial wealth and income inequalities, a result of both historical and ongoing systemic racism. High insurance premiums, co-payments and deductibles can be particularly burdensome for women of color who on average earn lower wages, have fewer financial assets, accumulate less wealth and have higher rates of poverty than white women.⁷¹ Accordingly, four in ten Black women had outstanding medical bills in 2017, compared to one in three white women.⁷² Women with lower incomes also experience cost-related barriers at twice the rate of their counterparts with higher incomes.⁷³ Even more concerning, people with lower incomes spend a greater percentage of their income on health care and often have to forgo health care in order to pay for other necessities, like rent or food.⁷⁴

Women need coverage that meets their [specific health care needs across their lifespan](#). This includes quality, affordable, and accessible maternity care; comprehensive reproductive health care, including abortion care and contraception; preventive care; behavioral health care; long-term services and supports; and hearing, vision and dental care.

Other Needed Policy Solutions

The policy solutions discussed above are much needed ways to close the gender wage gap, but there are so many more. Congress should also pass the Child Care for Working Families Act, the Violence Against Women Act, the Schedules that Work Act, the PUMP for Nursing Mothers Act, the Domestic Workers Fairness Act and the PRO Act.

Conclusion

The wage gap is a burden that women of color and all women bear by living in a white supremacist and patriarchal society. Particularly during this time of economic crisis, closing the gender and racial wage gap is a crucial measure to take in response to COVID-19. Throughout the pandemic, women and people of color have disproportionately experienced the adverse effects of the public health and economic crisis. Women and people of color have been on the front lines working in our most essential occupations, but forces like wage inequality have kept them underpaid and undervalued. The legislation described above would protect women in the workplace, level the playing field, and fight to undo decades and centuries of white supremacist and patriarchal policies designed to keep women of color and all women out of power.

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The National Partnership for Women & Families is a nonprofit, nonpartisan advocacy group dedicated to promoting fairness in the workplace, reproductive health and rights, access to quality, affordable health care and policies that help all people meet the dual demands of work and family. More information is available at NationalPartnership.org.

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