July 7, 2021

Re: Support for Paid Family and Medical Leave with Protection Against Job Loss, Retaliation, and Discrimination

Dear Member of Congress:

We, the undersigned, are organizations that advocate for legal recognition of diverse families and inclusive paid leave policies. We are delighted that paid family and medical leave has been proposed in the American Families Plan, and that the proposal will utilize an inclusive family recognition, which would ensure that the law works for all families.[1] At this critical point in history where Americans are overwhelmingly unified in their support and need for a federal paid family and medical leave policy,[2] we urge you to ensure that the paid family and medical leave program includes both an inclusive family definition and protection against job loss, retaliation, and discrimination as Congress considers this important policy. Without inclusive family recognition, many workers would be unable to take paid leave to care for their closest loved ones; and without the aforementioned protections, a worker who takes paid leave under this proposal would do so without a right to return to their job when their leave concludes.

Families throughout our nation take many forms: they are multi-generational, blended, LGBTQ, and increasingly include close loved ones who aren't biologically or legally related.[3] It is critical that any federal paid family and medical leave proposal being considered takes the reality of American families into account by including broad family recognition that covers spouses, domestic partners, children (regardless of age), parents, parents of a spouse or domestic partner, grandchildren, grandparents, siblings, and any other individual related by blood or affinity and whose close association with the employee is the equivalent of a family relationship. We know that inclusive family recognition that covers all loved ones, regardless of biological or legal relationship, will work well for families based on its track record of success—for over 50 years, the federal government has used and expanded upon similar family recognition in paid leave policies for federal workers. And five state paid family and medical leave programs use similar family recognition,[4] which has been proven to provide important protections to workers without leading to a significant increase in program use or costs.[5]

However, we did want to emphasize that in recognizing the diversity of families and the importance of allowing all workers to care for their loved ones, it is crucial that those workers not only be able to access a benefit payment but also that they be protected against discrimination, retaliation or job loss for doing so. The only federal statute that exists at present to protect workers from losing their jobs when they take time off for family care is the Family and Medical Leave Act (FMLA), and that law allows workers to take job-protected leave only to care for their seriously ill spouse, parent, or minor child. As we know, that does not match the

reality of American families. It is therefore critical that any law that is passed providing benefits for care of a variety of loved ones also contain protection for workers who take that benefit to ensure that they are not discriminated against, retaliated against or suffer lob loss for taking that benefit. No worker should have to risk their job in order to access a benefit that enables them to care for their family, regardless of the family member for whom they need to care.

This protection is especially crucial for BIPOC individuals, LGBTQ individuals, and people with disabilities who may be more likely to use paid leave to care for extended family members and other close loved ones. Today, 64 million Americans live in multi-generational family households—more than double the number who lived in such households in 1980—and people of color are disproportionately more likely to live in multi-generational households.[6] And a recent survey showed that a majority of LGBTQ workers report having to take time off work to care for a close friend or loved one with whom they do not have a legal or biological relationship.[7]

The need for ensuring protection against job loss, retaliation and discrimination cannot be overstated. Workers use paid family and medical leave at some of life's most pivotal or stressful points, such as the arrival of a new child or a health crisis in the family. At these critical times in their lives, workers shouldn't have to worry about whether they will have a job to return to after their leave. Without such legal protections, many workers will be unwilling to put their livelihoods in jeopardy by taking the leave they need because the risk to their long-term economic security will be too great. Not only does a lack of such protection cause workers to be afraid to use their leave rights,[8] it may also result in workers unknowingly using paid leave only to return to find that their job is unavailable.

As Congress contemplates a national paid family and medical leave program, we reiterate that both inclusive family recognition and explicit protection against job loss, retaliation, and discrimination are necessary to ensure that working individuals are truly protected and can fully exercise their right to care for their loved ones. We thank you for considering the critical need for a comprehensive paid family and medical leave program, and urge you to honor the breadth of American families by ensuring that any paid family and medical leave legislation uses inclusive family recognition and includes protection for workers caring for the people they love.

Sincerely,

A Better Balance
Family Values @ Work
9to5
The Arc of the United States
Autistic Self Advocacy Network

California Work & Family Coalition
Center for Law and Social Policy (CLASP)
CenterLink: The Community of LGBT Centers
Citizen Action of New York
Coalition for Social Justice
Connecticut Women's Education and Legal Fund (CWEALF)
DC Jobs with Justice
Economic Opportunity Institute
Economic Progress Institute
Family Equality
Family Story
Forward Together Action
Institute for Educational Leadership
ISAIAH (MN)
Legal Aid at Work
Main Street Alliance
Main Street Alliance of Vermont
March of Dimes
MomsRising
Movement Advancement Project
National Alliance for Caregiving
National Asian Pacific American Women's Forum
National Association of Councils on Developmental Disabilities
National Employment Law Project
National Hispanic Council on Aging
National LGBTQ Task Force Action Fund
National Resource Center on Domestic Violence
PPNNE
Pride at Work
The Restaurant Opportunity Center of Pennsylvania (ROC PA)
SAGE
Service Employees International Union
TakeAction Minnesota
Vermont Early Childhood Advocacy Alliance
Vermont Works for Women
Voices for Vermont's Children
Women and Girls Foundation of Southwest PA

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[1] *See Fact Sheet: The American Families Plan Advances Equity and Racial Justice*, White House (Apr. 29, 2021),
https://www.whitehouse.gov/briefing-room/statements-releases/2021/04/29/fact-sheet-the-american-families-plan-advances-equity-and-racial-justice/. While there is no official text for the American Families Plan, the White House has indicated its support for using inclusive family recognition that would allow workers to take leave to care for all of their closest loved ones, regardless of biological or legal relationship.

[2] *See New Polling Confirms Strong, Broad Support for Paid Family and Medical Leave*, Nat'l P'ship for Women & Families (Apr. 2020), https://www.nationalpartnership.org/our-work/resources/economic-justice/paid-leave/new-polling-paid-family-and-medical-leave.pdf. In November 2020, Colorado became the first state to enact a paid family and medical leave law via ballot initiative; the initiative, Proposition 118, passed by a decisive 15 points and demonstrated strong bipartisan and geographic support, winning urban, suburban, and rural counties across the state. Colorado's support for paid family and medical leave underscored what polling on the issue has shown for years—this is an overwhelmingly popular issue among Americans and has bipartisan support. For more information, *see Colorado Voters Overwhelmingly Approve Paid Family & Medical Leave*, A Better Balance (Nov. 4, 2020), https://www.abetterbalance.org/colorado-voters-overwhelmingly-approve-paid-family-medical-leave/.

[3] *See Fact Sheet: The Importance of Broad Family Definitions for Paid Leave*, A Better Balance (May 13, 2021), https://www.abetterbalance.org/resources/fact-sheet-importance-of-broad-family-definitions-for-paid-leave/.

[4] *See Comparative Chart of Paid Family and Medical Leave Laws in the United States*, A Better Balance (May 17, 2021), https://www.abetterbalance.org/resources/paid-family-leave-laws-chart/.

[5] A Better Balance, *supra* note 3.

[6] *Id.*

[7] *See* Lindsay Mahowald & Diana Boesch, *Making the Case for Chosen Family in Paid Family and Medical Leave Policies*, Ctr. for Am. Progress (Feb. 16, 2021), https://www.americanprogress.org/issues/lgbtq-rights/news/2021/02/16/495680/making-case-chosen-family-paid-family-medical-leave-policies/.

[8] Fear of losing their job is one of the most common reasons that employees report for not taking needed leave. Scott Brown, Jane Herr, Radha Roy, & Jacob Klerman, "Employee and Worksite Perspectives of the Family and Medical Leave Act: Results from the 2018 Surveys," at Exh. 6-3 (Rockville, MD: Abt. Associates, 2020), https://www.dol.gov/sites/dolgov/files/OASP/evaluation/pdf/WHD_FMLA2018SurveyResults_FinalReport_Aug2020.pdf.