



WORKPLACE JUSTICE

COLLATERAL DAMAGE: SCHEDULING CHALLENGES FOR WORKERS IN LOW-PAID JOBS AND THEIR CONSEQUENCES

More than 22.2 million people work in low-paid jobs

and nearly two-thirds of these workers are women, disproportionately women of color.¹ Low wages can make it difficult for women holding these jobs to support themselves and their families, but wages are not the only problem. Many low-paid jobs that are primarily held by women—such as cashiers, maids and housekeepers, and restaurant servers—are marked by work scheduling policies and practices that pose particular challenges for workers with significant responsibilities outside of their job, including caregiving, pursuing education and workforce training, or holding down a second job.² The work schedules in these jobs are often unpredictable, unstable, and inflexible. Some require working nights, weekends or even overnight, and many offer only part-time work, despite many workers' need for full-time hours.

Unstable schedules and inadequate work hours are problems that pre-date the pandemic and economic recession caused by COVID-19. But the harm of these workplace practices is exacerbated as millions of workers risk their own health and safety at jobs with few protections, volatile schedules, and inadequate hours in an effort to support themselves and their families. And with unemployment remaining high, particularly in the service sector, many workers feel unable to leave any jobs they have.

Women are disproportionately affected by the problems caused by unstable schedules because women not only hold the majority of low paid jobs but also still shoulder the majority of caregiving responsibilities.³ Black women and Latinas especially bear the brunt of unfair scheduling practices, as they are particularly likely to hold low-paid jobs⁴ and to be both the primary breadwinner and caregiver for their families.⁵ For mothers, scheduling challenges can pose acute problems that are often compounded by inadequate pay: in 2019, mothers earned a median annual income of \$42,000, while fathers had a median annual income of \$60,000⁶—and more than three in ten mothers supporting children on their own had incomes below the poverty line.⁷

This analysis outlines four of the most common scheduling challenges faced by workers in low-paid jobs and explains their prevalence and detrimental impact on working people and their families. Understanding these challenges is essential to develop solutions that work for workers, their families, and their employers.

Common Scheduling Challenges

Lack of Control Over Work Schedules

Many people working in low-paid jobs have few opportunities for meaningful input into the timing of the hours that they work, and are unable to make even minor adjustments to their work schedules without suffering a penalty.⁸ Across industries, more than one-third of wage and salary workers have employers who decide schedules without their input,⁹ and in surveys of hourly workers in retail and food service jobs—two industries where unpredictable scheduling practices are common—more than three-quarters of workers

report having little to no input into their work schedules.¹⁰ Black and Latinx workers report having less control over their work hours than do their white counterparts.¹¹ And more than a third of parents believe they've been "passed over" for a promotion, raise, or a new job due to a need for a flexible work schedule.¹²

Unpredictable Work Schedules

Recent years have seen a rise in the use of "just-in-time" scheduling practices, enabled by modern workforce management systems that use algorithms to base workers' schedules on perceived consumer demand and maximize flexibility for the employer at the expense of the employee. These practices rarely take employee needs or preferences into account and typically produce very little advance notice of work schedules, with frequent last-minute changes.¹³

- Across industries, more than two in five wage and salary workers know their schedules less than one month in advance, and more than one-third know their schedules two weeks or less in advance; nearly one in five has no more than one week's notice.¹⁴
- Unpredictable schedules are particularly acute in the service sector. In a recent national survey, close to two-thirds of service sector workers report receiving their work schedules with less than two weeks' notice, and about one-third receive their schedule with less than one week's notice.¹⁵ Additional studies have found that workers in retail, restaurant, and hospitality jobs commonly receive just a few days' notice of a scheduled shift.¹⁶
- Sometimes notice is even shorter: an employee scheduled for a "call-in" or "on-call" shift must be available to work, but will find out just hours before the shift whether they must actually report to work.¹⁷ In national survey data of service sector workers, around 25% report experiencing on-call shifts.¹⁸ Workers generally are not paid for being on call, but if they are unavailable when directed to report for work, they may be penalized.¹⁹
- Last-minute changes to scheduled shifts are also particularly common in service sector jobs,²⁰ and shift length can be highly unpredictable as well; on a busy day, an employee may be told to extend her shift²¹—and if business is slow, she might be sent home soon after she arrives, with transportation and child care costs amounting to more than that day's pay.²²
- Black and Latinx workers are more likely than white workers to have less than two weeks' notice of their work schedules.²³ People of color—especially women of color—working in retail and food service jobs are more likely to experience cancelled shifts and on-call shifts than their white counterparts, even within the same company.²⁴

Unstable Work Schedules

Many workers in low-paid jobs experience unstable schedules with hours that vary from week to week or month to month, or periodic reductions in work hours when work is slow.

- Among early-career adults, nearly three-quarters of those in hourly jobs report at least some fluctuations in the number of hours they worked in the previous month, with hours fluctuating, on average, by 50 percent.²⁵
- For people working in the service sector, stable schedules are a rarity; only one in five report having a regular work schedule, and the vast majority—75 percent—would prefer more stable and predictable hours.²⁶
- The practice of "clopensing"—requiring an employee to work the closing shift one night and the opening shift the next morning—is also common in many service sector jobs.²⁷ Clopensing shifts may leave workers without enough time to travel home and get sufficient rest before returning to work.

Involuntary Part-Time Work

Workers who want full-time work but are only offered part-time hours—often described as the "underemployed"—struggle to support their families with fewer hours and less pay.

- Part-time workers are more than three times as likely as full-time workers to hold low-paid jobs and about one in seven part-time workers (15 percent) lives in poverty, which is more than four times the rate of poverty among full-time workers.²⁸ Almost 70 percent of workers in these low-paid, part-time jobs are women.²⁹
- Nearly twenty percent of people working part-time do so involuntarily (as defined by the Bureau of Labor Statistics) and would prefer to find full-time work, up from 12 percent in February, 2020.³⁰ And BLS estimates are conservative. Even prior to the pandemic, surveys of hourly retail and food service employees showed widespread underemployment.³¹ New research indicates that up to 40 percent of all people working part time would prefer more hours.³²
- For some, working part-time may not truly be voluntary at all, but is instead a direct result of the need to care for children or attend to other caregiving responsibilities.³³ Women are especially likely to report needing to work part time due to child care problems or because of other personal or family obligations.³⁴ While some of these workers may prefer to work part time, for others the "choice" of part-time work is forced by high child care costs, low wages, or inflexible and unpredictable work schedules.³⁵

- Part-time workers also are typically paid less than their full-time counterparts,³⁶ are less likely to be promoted,³⁷ and frequently lack access to employer-sponsored benefits such as health insurance, retirement benefits, and paid—or even unpaid—time off.³⁸ New research finds that part-time workers are paid almost 30 percent less per hour than comparable full-time workers, and the pay penalty is worse for part-time workers who want full-time work.³⁹
- Part-time workers may need to hold more than one job to make ends meet—but unpredictable schedules can make it difficult to do so, and employers are more likely to give part-time employees short notice of their work schedules.⁴⁰

The Fallout from Challenging Work Schedules

Impact on caregivers. People working in low-paid jobs—especially women—often face extreme demands at home and work. These workers are more likely to be single parents,⁴¹ more likely to have children with special needs,⁴² and more likely to care for elderly or sick relatives.⁴³ They also have higher rates of illness themselves.⁴⁴ At the same time, they have fewer resources to pay for child and elder care than other workers, and are far less likely to have paid sick and vacation days or job-protected leave under the Family and Medical Leave Act.⁴⁵ But with little to no control over their work schedules, being able to plan for or respond to the exigencies of daily life—for example, ending a shift on time to pick up a child from school or scheduling time to take an elderly parent to a doctor’s appointment—is simply not an option.⁴⁶

Impact on ability to access child care. Low-paid workers’ ability to access quality, affordable, and stable child care is often compromised by challenging work schedules.⁴⁷ When parents are unable to find child care or child care falls through, sometimes they must miss work and lose pay⁴⁸—but with work schedules and incomes that fluctuate from week to week, many have no choice but to cobble together child care at the last minute.⁴⁹ Because many centers require caregivers to pay a weekly or monthly fee, regardless of how often the child attends, holding a spot in a child care center is often infeasible for workers who do not know when, or even if, they will work that week. Further, workers with unstable schedules may not qualify for child care subsidies due to fluctuations in income and work hours.⁵⁰ As a result, parents in low-paid jobs frequently must rely on family, friends, and neighbors or seek out lower-cost—and often lower-quality—care for their young children.⁵¹ While some families may have a reliable relative, neighbor, or friend available who can provide nurturing care for their children, other families may be forced to settle for

options that do not offer the early learning experiences they want for their children because they have no other choice. Volatile work schedules take a toll, too, on child care providers—who are also mostly women, disproportionately women of color and immigrant women, and who often must scramble to be available for families with little notice.⁵²

Impact on children. Jobs with unstable and unpredictable work hours—especially when accompanied by low wages—can undermine children’s well-being and development.⁵³ Adverse behavioral outcomes for children have been linked to the increased stress that challenging work schedules impose on parents, which can strain family relationships.⁵⁴ In addition, parents with volatile work schedules may not be available for their children when they would like to be—such as for family meals, homework help, and other routines, as well as engagement in their children’s schooling. For example, in one survey, few professional workers but many low-wage workers reported not participating in children’s school activities due to a lack of flexibility, advance notice, and paid time off.⁵⁵ Research suggests that the extent to which workers can choose their schedules may influence outcomes for their children, with more positive outcomes linked to parents with more control over their work hours and the degree to which they vary.⁵⁶

Impact on education and workforce training. Challenging work schedules can make it nearly impossible to pursue further education or training while holding down a job. Overall, one of the most commonly cited challenges to completing a college degree is the inability to balance work and school.⁵⁷ In a set of focus groups of students enrolled in community colleges, students identified employers’ lack of flexibility with work schedules as a major barrier to pursuing their education.⁵⁸

Impact on transportation. Just-in-time scheduling often complicates transportation for people in low-paid jobs, who may be relying on friends or family to provide a ride to and from work, or public transportation that may run infrequently or erratically.⁵⁹ Workers may spend hours and precious resources commuting to and from work, to work a shift lasting only a few hours, or to be sent home unexpectedly when work is slow.⁶⁰

Impact on health and access to health care. Unstable and unpredictable work schedules have significant detrimental impacts on sleep quality, mental health, and happiness.⁶¹ At the same time, challenging work schedules make it more difficult for women to get the health care they need for themselves and their families.⁶² Doctor’s visits—particularly visits for routine, preventive care, such as well-woman visits or pediatric appointments—often need to be scheduled

long before low-paid workers receive their work schedules.⁶³ Just-in time scheduling can prevent women from being able to make appointments or force them to cancel, keeping them from getting the health care they need. And when women are forced to delay follow-up treatments, such as a biopsy following an abnormal pap smear, it could delay diagnosis and the beginning of needed treatment for a significant illness such as cervical cancer. When it comes to accessing abortion, workers with unpredictable schedules face significant challenges, since restrictive state laws often force women to visit the clinic multiple times, requiring them to arrange time off work, transportation, child care, and lodging.⁶⁴ These barriers can push a low-paid worker seeking an abortion later into pregnancy, increasing risks of complications and threats to her health.⁶⁵

Impact on people with disabilities. People with disabilities face complex and overlapping barriers to equitable employment, including stigma and discrimination.⁶⁶ While the Americans with Disabilities Act remains a vital source of protection, there are still major gaps in state and federal law⁶⁷ that leave disabled workers—particularly women and people of color—with lower incomes and at higher risk of poverty and economic hardship. For example, people with disabilities are more likely to work part-time jobs,⁶⁸ meaning they are disproportionately impacted by the lack of on-the-job benefits and higher rates of scheduling instability associated with part-time work. Unstable work schedules may also exacerbate underlying medical conditions or make treating or managing a disability or related medical condition more difficult.⁶⁹

Impact on family economic security. Unpredictable and unstable work schedules yield unpredictable and unstable income, making it difficult for families to budget and to pay the bills. Research increasingly shows that income volatility is as significant a source of poverty and economic instability as low wages.⁷⁰ In a recent survey, six in ten hourly retail and food service workers reported experiencing at least one material hardship—such as hunger, trouble paying bills or securing housing, or foregoing needed medical treatment—over the prior year, and workers with more variable and unpredictable hours faced an elevated risk of hardship.⁷¹

An unexpected reduction in hours can mean not only a loss of pay, but also the loss of employer benefits that are tied to work hours, including health insurance and paid and unpaid time off.⁷² And while public programs like child care subsidies, TANF, SNAP, and unemployment insurance are especially important to enable working people who are paid low wages and offered too few hours to make ends meet, erratic schedules and incomes can also make it difficult to maintain eligibility for these critical supports.⁷³ Workers' inability

to pursue or complete education and workforce training programs as a result of work schedule conflict also makes it much more difficult for them to move up into higher-paying jobs.⁷⁴

Conclusion

The fallout from low-paid jobs characterized by unpredictability, instability, little worker-driven flexibility, and involuntary part-time work is considerable. These challenging work schedules have a cascade of negative consequences for both working people and their families.

In contrast, fairer work schedules benefit employees and employers alike. Consistent hours and advance notice of schedules makes it easier for employees to plan transportation, child care, doctor's appointments, and other obligations so that they can consistently be and stay at work—in turn creating a more stable, reliable workforce for businesses, and generating cost savings from reduced turnover. For example, while both unpredictability in weekly work hours and last minute schedule changes have been shown to increase the likelihood that employees will want to leave a job,⁷⁵ accommodating employees' needs in their work schedules can significantly decrease turnover.⁷⁶ A study of one major retailer showed that the more hours employees work, and the more consistent those hours are, the longer employees stay with the company.⁷⁷ When Gap Inc. worked with managers to pilot strategies to improve consistency and worker-driven flexibility in shift scheduling, employees reported enthusiasm for these changes and the stores that implemented them saw higher productivity as well as notable increase in sales.⁷⁸ And low-paid workers report that more job autonomy and involvement in management decision-making leads to less negative spillover from work to their non-work lives,⁷⁹ which can also improve productivity and job retention.⁸⁰

For all of these reasons, protections to curb difficult scheduling practices are needed to give working families a fair shot at achieving economic security. To learn more about solutions that can help both workers and their families benefit from stable, predictable work schedules, see the following resources from the National Women's Law Center:

- [The Schedules That Work Act: Giving Workers the Tools They Need to Succeed](#)
- [The Part-Time Worker Bill of Rights Act: Promoting Fair Treatment for Part-Time Work](#)
- [State and Local Laws Advancing Fair Work Schedules](#)
- [Stepping Up: New Policies and Strategies Supporting Parents in Low-Wage Jobs and Their Children](#)

- 1 Women are 47 percent of the overall workforce in the U.S. and 64 percent of the workforce in the 40 lowest paying jobs. NWLC calculations based on U.S. Census Bureau, 2018 American Community Survey (ACS) using Steven Ruggles, Sarah Flood, Ronald Goeken, Josia Grover, Erin Meyer, Jose Pacas, and Matthew Sobek. IPUMS USA: Version 10.0 [dataset]. Minneapolis, MN: IPUMS, 2020, <https://usa.ipums.org>. Definitions of “low-wage” or “low-paid” jobs vary; for more details, see Jasmine Tucker & Julie Vogtman, *When Hard Work is Not Enough: Women in Low-Paid Jobs*, NAT’L WOMEN’S LAW CTR. (Apr. 2020), <https://nwlc.org/resources/when-hard-work-is-not-enough-women-in-low-paid-jobs/>.
- 2 See generally Julie Vogtman & Karen Schulman, *Set Up to Fail: When Low-Wage Work Jeopardizes Parents’ and Children’s Success*, NAT’L WOMEN’S LAW CTR. (Jan. 2016), <https://nwlc.org/wp-content/uploads/2016/01/FINAL-Set-Up-To-Fail-When-Low-Wage-Work-Jeopardizes-Parents%E2%80%99-and-Children%E2%80%99s-Success.pdf>.
- 3 See Bureau of Labor Statistics, *American Time Use Survey, Table A-1: Time spent in detailed primary activities and percent of the civilian population engaging in each activity, averages per day by sex, 2018 annual averages*, U.S. DEP’T OF LABOR (2019), <https://www.bls.gov/news.release/atus.t01.htm>.
- 4 See Tucker & Vogtman, *supra* note 2, at 4. See also Elyse Shaw et al., *Undervalued and Underpaid in America: Women in Low-Wage, Female Dominated Jobs*, INST. WOMEN’S POL’Y RES. (Nov. 2016), <https://iwpr.org/job-quality-income-security/undervalued-and-underpaid-in-america/>.
- 5 The share of mothers who are breadwinners or co-breadwinners increased from 27.5 percent in 1967 to 64.2 percent in 2017. Sarah Jane Glynn, *Breadwinning Mothers Continue to Be the U.S. Norm*, CTR. FOR AM. PROGRESS 5 (May 2019), <https://www.americanprogress.org/issues/women/reports/2019/05/10/469739/breadwinning-mothers-continue-u-s-norm/>.
- 6 *Motherhood Wage Gap for Black Mothers*, NAT’L WOMEN’S LAW CTR. (May 2020), <https://nwlc.org/wp-content/uploads/2019/05/Black-Motherhood-Wage-Gap-Table-2020.pdf>.
- 7 *NWLC Resources on Poverty, Income, and Health Insurance in 2019*, NAT’L WOMEN’S LAW CTR. (Sept. 15, 2020), <https://nwlc.org/resources/nwlc-resources-on-poverty-income-and-health-insurance-in-2019/>.
- 8 See generally Liz Watson & Jennifer E. Swanberg, *Flexible Workplace Solutions for Low-Wage Hourly Workers: A Framework for a National Conversation*, 3 LAB. & EMP. L. F. 380 (2011), <https://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?article=1066&context=lelb>.
- 9 Bureau of Labor Statistics, *Job Flexibilities and Work Schedules Summary*, U.S. DEP’T OF LABOR (Sept. 2019), <https://www.bls.gov/news.release/pdf/flex2.pdf> (Table 6).
- 10 See Daniel Schneider & Kristen Harknett, *It’s About Time: How Work Schedule Instability Matters for Workers, Families, and Racial Inequality*, SHIFT PROJECT 1 (Oct. 2019), <https://shift.berkeley.edu/files/2019/10/Its-About-Time-How-Work-Schedule-Instability-Matters-for-Workers-Families-and-Racial-Inequality.pdf> [hereinafter *It’s About Time*]. See also Watson & Swanberg, *supra* note 8, at 400-401; Lonnie Golden, *Irregular Work Scheduling and Its Consequences*, ECON. POL’Y INST. (Apr. 9, 2015), <https://www.epi.org/publication/irregular-work-scheduling-and-its-consequences/> (finding that 45 percent of workers surveyed said “their employer decides” their work schedule; only 15 percent reporting they were “free to decide” their schedule, and 40 percent reporting they could “decide within limits”); Susan J. Lambert, Peter J. Fugiel, & Julia R. Henly, *Precarious Work Schedules Among Early-Career Employees in the US: A National Snapshot*, EMP. INSTABILITY, FAM. WELL-BEING, & SOC. POL’Y NETWORK, U. CHICAGO (Aug. 2014), https://ssa.uchicago.edu/sites/default/files/uploads/lambert.fugiel.henly_precarious_work_schedules.august2014_0.pdf (finding that “about 44 percent of workers overall and half of hourly workers say that they do not have any input into when they start and finish work”).
- 11 See Lambert, Fugiel, & Henly, *supra* note 10, at 17 (among hourly workers age 26-32, 58 percent of Latinx workers, 55 percent of Black workers, and 47 percent of white workers report that their employer controls their work hours); Bureau of Labor Statistics, *supra* note 9 (42.1 percent of Latinx workers, 36.1 percent of Black workers, and 35.6 percent of white workers report that their employer controls their work hours).
- 12 *Nine Facts About American Families and Work*, WHITE HOUSE COUNCIL OF ECON. ADVISERS 4 (June 2014), https://obamawhitehouse.archives.gov/sites/default/files/docs/nine_facts_about_family_and_work_real_final.pdf.
- 13 See generally Daniel Schneider & Kristen Harknett, *Consequences of Routine Work-Schedule Instability for Worker Health and Well-Being*, 84 AM. SOC. REV. 82 (2019), <https://journals.sagepub.com/doi/full/10.1177/0003122418823184>; Nancy C. Cauthen, *Scheduling Hourly Workers: How Last Minute, Just-in-Time Scheduling Practices Are Bad for Workers*, DEMOS, (Mar. 2011), http://www.demos.org/sites/default/files/publications/Scheduling_Hourly_Workers_Demos.pdf; Golden, *supra* note 10, at 4.
- 14 See Katherine Guyot & Richard V. Reeves, *Unpredictable Work Hours and Volatile Incomes Are Long-Term Risks for American Workers*, BROOKINGS INST. (Aug. 2020), <https://www.brookings.edu/blog/up-front/2020/08/18/unpredictable-work-hours-and-volatile-incomes-are-long-term-risks-for-american-workers/>; Bureau of Labor Statistics, *supra* note 9.
- 15 See Schneider & Harknett, *It’s About Time*, *supra* note 10.
- 16 For example, in a study of low-skilled, non-production jobs at 22 sites in the hospitality, retail, transportation, and financial services industries, all but one hotel studied posted schedules the Thursday or Friday before the workweek that began on Sunday, and all but one retail firm posted schedules the Wednesday or Thursday before. Susan J. Lambert, *Passing the Buck: Labor Flexibility Practices that Transfer Risk onto Hourly Workers*, 61 J. HUMAN RELATIONS 1203, 1217 (2008). See also, e.g., Stephanie Luce & Naoki Fujita, *Discounted Jobs: How Retailers Sell Workers Short*, RETAIL ACTION PROJECT 8 (2012), http://retailactionproject.org/wp-content/uploads/2012/03/7-75_RAP+cover_lowres.pdf (observing that in a survey of retail industry workers in New York, about a fifth of respondents reported receiving their work schedules only three days in advance).
- 17 See, e.g., *Tackling Unstable and Unpredictable Work Schedules: A Policy Brief on Guaranteed Minimum Hours and Reporting Pay Policies*, CTR. FOR LAW & SOCIAL POL’Y, RETAIL ACTION PROJECT, & WOMEN EMPLOYED 11 (2014), https://womenemployed.org/wp-content/uploads/2019/05/TacklingUnstableAndUnpredictableWorkSchedules_March2014.pdf; Aditi Sen & Connie Razza, *Hour by Hour: Women in Today’s Workweek*, CTR. FOR POPULAR DEMOCRACY 5 (May 2015), http://populardemocracy.org/sites/default/files/HourbyHour_final.pdf. See also, e.g., Luce & Fujita, *supra* note 16, at 8 (finding that 44 percent of retail employees working at large New York City retailers surveyed reported that they must be available for call-in shifts at least some of the time, including one-fifth who reported that they “always or often” must be available for such shifts).

- 18 Schneider & Harknett, *It's About Time*, *supra* note 10.
- 19 See, e.g., CTR. FOR LAW & SOCIAL POLICY, RETAIL ACTION PROJECT, & WOMEN EMPLOYED, *supra* note 17, at 11; Sen & Razza, *supra* note 17, at 5; Dante Ramos, *On-Call Shifts String Retail Workers Along*, BOSTON GLOBE (Apr. 19, 2015), <https://www.bostonglobe.com/opinion/editorials/2015/04/18/dante-ramos-call-shifts-string-workers-along/admOznKJNCM4YFuUced1QI/story.html>.
- 20 In a recent survey of retail and food service workers, 14% of respondents reported having at least one cancelled shift in the last month and 70% reported at least one change to the timing of one of their shifts in the past month. Schneider & Harknett, *It's About Time*, *supra* note 10, at 1. See also, e.g., Julia R. Henly & Susan J. Lambert, *Unpredictable Work Timing in Retail Jobs*, 67 INDUS. & LAB. REL. REV. 986-1016, 1001 (2014) (finding in a study of retail employees that “the average employee experienced mismatch between scheduled and worked days equivalent to almost one-half day”); Lambert, *supra* note 16, at 1218 (finding in a study of low-skilled, non-production jobs in the hospitality, retail, transportation, and financial services industries that “[l]ast-minute adjustments to work schedules—adding or subtracting hours to the posted schedule a day or two in advance—were rampant in the jobs studied”).
- 21 See, e.g., Watson & Swanberg, *supra* note 8, at 21 (stating that among low-wage workers overall, between 19 and 31 percent report that they are often asked to work extra hours with little or no notice; roughly 40 to 60 percent of full-time, low-wage workers who are asked to work extra hours with little or no notice report that they must comply with the request to avoid negative consequences).
- 22 See, e.g., Sen & Razza, *supra* note 17, at 5; Luce & Fujita, *supra* note 16, at 13.
- 23 See Guyot & Reeves, *supra* note 14; Bureau of Labor Statistics, *supra* note 9 (Table 5).
- 24 See Schneider & Harknett, *It's About Time*, *supra* note 10, and Adam Storer, Daniel Schneider & Kristen Harknett, *What Explains Race/Ethnic Inequality in Job Quality in the Service Sector?*, 85 AM. SOC. REV. 537 (2020), <https://journals.sagepub.com/doi/pdf/10.1177/0003122420930018>.
- 25 See Lambert, Fugiel, & Henly, *supra* note 10, at 11.
- 26 See Schneider & Harknett, *It's About Time*, *supra* note 10, at 1.
- 27 See *id.* (half of hourly service sector workers surveyed reported having been required to work a clopening shift).
- 28 Claire Ewing-Nelson, *Part-Time Workers Are Paid Less, Have Less Access To Benefits—And Most Are Women*, NAT'L WOMEN'S LAW CTR. (Feb. 2020), <https://nwlc.org/wp-content/uploads/2020/02/Part-Time-Workers-Factsheet-2.26.20.pdf>.
- 29 *Id.*
- 30 NWLC calculations based on Bureau of Labor Statistics, *Labor Force Statistics from the Current Population Survey, Household Data Table A-27: Persons at work in nonagricultural industries by age, sex, race, Hispanic or Latino ethnicity, marital status, and usual full- or part-time status*, U.S. DEP'T OF LABOR (Nov. 6, 2020), <https://www.bls.gov/web/empsit/cpseaa27.htm> and *Historical Data for Household Data Table A-27. Total at work part-time for economic reasons*, U.S. BUREAU OF LABOR STATISTICS (accessed on Nov. 16, 2020), <https://beta.bls.gov/dataViewer/view/timeseries/LNU02032197>.
- 31 See, e.g., *Working in the Service Sector in Washington State*, SHIFT PROJECT (Dec. 2018), <https://shift.berkeley.edu/files/2018/12/Working-in-the-Service-Sector-in-WashingtonState.pdf> (69 percent of those working fewer than 30 hours per week report a desire for more hours); *Working in the Service Sector in Connecticut*, SHIFT PROJECT (March 2018), <https://shift.berkeley.edu/files/2018/03/Working-in-the-service-sector-in-Connecticut.pdf> (64 percent of those working fewer than 30 hours per week report a desire for more hours); *Working in the Service Sector in New Jersey*, SHIFT PROJECT (Jan. 2020), <https://shift.berkeley.edu/files/2020/01/Working-in-the-Service-Sector-in-New-Jersey.pdf> (63 percent of those working fewer than 35 hours per week report a desire for more hours).
- 32 Lonnie Golden & Jaeseung Kim, *The Involuntary Part-Time Work and Underemployment Problem in the U.S.*, CTR. FOR LAW & SOCIAL POL'Y 18 (Aug. 2020), https://www.clasp.org/sites/default/files/publications/2020/08/GWC2029_Center%20For%20Law.pdf.
- 33 See Ewing-Nelson, *supra* note 28; Ariane Hegewisch & Valerie Lacarte, *Gender Inequality, Work Hours, and the Future Of Work*, INST. FOR WOMEN'S POL'Y RESEARCH 27-28 (Nov. 2019), https://iwpr.org/wp-content/uploads/2020/07/C486_FOW-Work-Hours-Report.pdf
- 34 See Hegewisch & Lacarte, *supra* note 33, at 28.
- 35 See Ewing-Nelson, *supra* note 28, at 3-4.
- 36 See, e.g. Lonnie Golden, *Part-Time Workers Pay a Big-Time Penalty: Hourly Pay-and-Benefits Penalties for Part-Time Work Are Largest for Those Seeking Full-Time Jobs and for Men, but Affect More Women*, ECON. POL'Y INST. (Feb. 2020), <https://www.epi.org/publication/part-time-pay-penalty/>.
- 37 See, e.g., John T. Addison, Orgul Demet Ozturk, & Si Wang, *Job Promotion in Midcareer: Gender, Recession, and “Crowding”*, BLS MONTHLY LABOR REV. (Jan. 2014), <https://www.bls.gov/opub/mlr/2014/article/job-promotion-in-midcareer.htm> (Table 3).
- 38 See Ewing-Nelson, *supra* note 28, at 5.
- 39 See Golden, *supra* note 36.
- 40 See Golden, *supra* note 10, at 22. See also, e.g., Lambert, *supra* note 16, at 1207; Board of Governors of the Federal Reserve, *Report on the Economic Well-Being of U.S. Households in 2017* (May 2018), <https://www.federalreserve.gov/publications/2018-economic-well-being-of-ushouseholds-in-2017-employment.htm>.
- 41 Joan C. Williams & Heather Boushey, *The Three Faces of Work-Family Conflict: The Poor, The Professionals, and the Missing Middle*, CTR. FOR AM. PROGRESS 12 (2010), <https://www.americanprogress.org/issues/labor/report/2010/01/25/7194/the-three-faces-of-work-family-conflict/>.
- 42 Lisa Dodson, *Stereotyping Low-Wage Mothers Who Have Work and Family Conflicts*, 69 J. OF SOC. ISSUES 257, 259 (2013).
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- 44 Ellen Galinsky, James T. Bond, & Eve Tahmincioglu, *What if Employers Put Women at the Center of Their Workplace Policies? When Businesses Design Workplaces that Support their Employees, Both the Businesses and the Employees Benefit*, in THE SHRIVER REPORT: A WOMAN'S NATION PUSHES BACK FROM THE BRINK (2014).
- 45 See Vogtman & Schulman, *supra* note 2, at 18.
- 46 *Id.* See also Dani Carillo et al., *On-call Job, On-Call Family: The Necessity of Family Support Among Retail Workers with Unstable Work Schedules* (Wash. Ctr. for Equitable Growth Working Paper 110116, Nov. 2016), <http://equitablegrowth.org/wp-content/uploads/2016/10/110116-WP-retail-workers-with-unstable-schedules.pdf>.

- 47 See Vogtman & Schulman, *supra* note 2, at 17-21; *Listening to Workers: Child Care Challenges in Low-Wage Jobs*, NAT'L WOMEN'S LAW CTR. (2014), http://www.nwlc.org/sites/default/files/pdfs/listening_to_workers_child_care_challenges_in_low-wage_jobs_6.24.14.pdf; Carrillo et al., *supra* note 46.
- 48 Watson & Swanberg, *supra* note 8, at 8 (in one study, 40 to 60 percent of workers who reported missing work due to child care problems also reported losing pay or benefits, or being penalized in some way).
- 49 See Vogtman & Schulman, *supra* note 2, at 17-18.
- 50 *Id.* at 20.
- 51 See, e.g., VOGTMAN & SCHULMAN, *supra* note 2, at 18; Carrillo et al., *supra* note 46; Schneider & Harknett, *It's About Time*, *supra* note 10, at 6-7; Kristen Harknett, Daniel Schneider & Kristen Luhr, *Who Cares If Parents Have Unpredictable Work Schedules?: Just-in-Time Work Schedules and Child Care Arrangements*, SOC. PROBLEMS (Sept. 2020), <https://doi.org/10.1093/socpro/spaa020>.
- 52 Vogtman & Schulman, *supra* note 2, at 18.
- 53 See Daniel Schneider & Kristen Harknett, *Parental Exposure to Routine Work Schedule Uncertainty and Child Behavior*, WASH. CTR. FOR EQUITABLE GROWTH (Oct. 2019), <https://equitablegrowth.org/working-papers/parental-exposure-to-routine-work-schedule-uncertainty-and-child-behavior/>; Vogtman & Schulman, *supra* note 2, at 14-15 & 33 nn. 116-19.
- 54 See, e.g., Schneider & Harknett, *supra* note 53; Erika C. Odom, Lynne Vernon-Feagans, & Ann C. Crouter, *Nonstandard Maternal Work Schedules: Implications for African American Children's Early Language Outcomes*, 28 EARLY CHILD. RES. Q. 379 (2013); Anna Gassman-Pines, *Low-Income Mothers' Nighttime and Weekend Work: Daily Associations with Child Behavior, Mother-Child Interactions, and Mood*, 60 FAM. REL. 15, 26 (2011); Pamela Joshi & Karen Bogen, *Nonstandard Schedules and Young Children's Behavioral Outcomes Among Working Low-Income Families*, 69 J. OF MARRIAGE & FAM. 139, 139 (2007). Research has also linked nonstandard hours to higher levels of divorce, less time together as a couple, and lower relationship satisfaction. Maureen Perry-Jenkins et al., *Shift Work, Role Overload, and the Transition to Parenthood*, 69 J. OF MARRIAGE & FAM. 123-38 (2007). See also Kelly D. Davis et al., *Nonstandard Work Schedules, Perceived Family Well-Being, and Daily Stressors*, 70 J. OF MARRIAGE & FAM. 991 (2008). Although some two-parent families in low-wage jobs cope with the child care problems outlined above by "tag teaming,"—working on opposite schedules so that one parent is available to provide child care—this results in even less time together as a couple. Heather Boushey, *Tag-Team Parenting*, CTR. FOR ECON. & POL'Y RESEARCH 3 (2005), http://www.cepr.net/documents/work_schedules_2006_08.pdf.
- 55 Anna Haley-Lock & Linn Posey-Maddox, *Fitting It All In: How Mothers' Employment Shapes Their School Engagement* 14-22, J. COMMUNITY, WORK & FAMILY (Dec. 2014). A number of the low-paid workers surveyed reported being required to give one to two weeks' advance notice to their employers to take any time off—far more notice than their children's schools provided in advance of events. *Id.* at 20-21.
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- 60 Cauthen, *supra* note 13, at 1, 7.
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- 62 See Harknett & Schneider, *supra* note 61.
- 63 See, e.g., *2017 Survey of Physician Appointment Wait Times and Medicare and Medicaid Acceptance Rates*, MERRIT HAWKINS (2017), <https://www.merrithawkins.com/uploadedFiles/MerrittHawkins/Content/Pdf/mha2017waittimesurveyPDF.pdf> (in the 15 largest metropolitan areas in the country, patients waited more than 26 days to see an obstetrician-gynecologist for a well-woman visit and more than 29 days to see a family physician for a routine physical).
- 64 *Reproductive Health Is Part of the Economic Health of Women and Their Families*, NAT'L WOMEN'S LAW CTR. (Feb. 2016), <https://nwlc.org/wp-content/uploads/2017/02/Reproductive-Health-is-Part-of-the-Economic-Health-of-Women-2.19.166.pdf>.
- 65 While abortion is a safe procedure throughout pregnancy, the risks increase with each week of pregnancy. Bonnie Scott Jones & Tracy A. Weitz, *Legal Barriers to Second-Trimester Abortion Provision and Public Health Consequences*, 99 AM. J. PUB. HEALTH 623 (2009).
- 66 See e.g., Mason Ameri et al., *The Disability Employment Puzzle: A Field Study on Employer Hiring Behavior* (NBER Working Paper no. 21560, Sept. 2015), <https://www.nber.org/papers/w21560>.
- 67 For example, the federal Fair Labor Standards Act allows employers to pay less than the minimum wage to people with disabilities who work in "sheltered workshops." See Nat'l Disability Rights Network, *Segregated and Exploited: The Failure of the Disability Service System to Provide Quality Work* (Jan. 2011), <https://www.ndrn.org/wp-content/uploads/2019/03/Segregated-and-Exploited.pdf>.
- 68 See Ewing-Nelson, *supra* note 28. 32 percent of workers with a disability work part-time jobs compared with only 20 percent of workers without a disability. *Id.* at 3.
- 69 See e.g., *EEOC v. Kohl's Department Stores*, 2014 WL 11820252 (D. Maine, 2014) (A retail employee with diabetes sought a more stable schedule to allow for regularly timed insulin injections, based in part on recommendations from her doctor that a predictable schedule would allow her to "better manage her stress, glucose level, and insulin therapy.")
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- Income Volatility in Low- and Moderate-Income Households: Results from a National Survey*, ASPEN INST. (Dec. 2017), <http://www.aspenepic.org/responses-repercussions-income-volatility-low-moderate-income-households-results-national-survey/> (families with volatile incomes are far more likely to rely on payday loans, defer medical care, miss a housing payment, and experience food insecurity than families with equal but more stable income).
- 71 Daniel Schneider & Kristen Harknett, *Hard Times: Routine Schedule Unpredictability and Material Hardship among Service Sector Workers* (Oct. 2019), <https://equitablegrowth.org/working-papers/hard-times-routine-schedule-unpredictability-and-material-hardship-among-service-sector-workers/>.
- 72 See Ewing-Nelson, *supra* note 28.
- 73 See generally Liz Ben-Ishai, *Volatile Work Schedules and Access to Public Benefits*, CTR. FOR LAW & SOCIAL POL'Y (Sept. 2015), <https://www.clasp.org/sites/default/files/public/resources-and-publications/publication-1/2015.09.16-Scheduling-Volatility-and-Benefits-FINAL.pdf>.
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- 77 Susan J. Lambert & Julia R. Henly, *Work Scheduling Study: Key Findings*, UNIV. OF CHI. SCH. OF SOC. SERV. ADMIN (last visited Jun. 24, 2016), <https://ssascholars.uchicago.edu/work-scheduling-study/content/key-findings>.
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- 79 James T. Bond and Ellen Galinsky, *How Can Employers Increase the Productivity and Retention of Entry-Level, Hourly Employees?*, FAMILIES AND WORK INST. 12 (Nov. 2006), <http://www.familiesandwork.org/how-can-employers-increase-the-productivity-and-retention-of-entry-level-hourly-employees-brief-2/>; see also Galinsky, Bond & Tahmincioglu, *supra* note 44 (“Overall, 55 percent of low-income mothers surveyed said it would be “extremely important” to “have the flexibility I need to manage my work and personal or family life. . . . No one surveyed said it was ‘not important.’”).
- 80 *The Business Case for Workplace Flexibility*, A BETTER BALANCE 3 (Dec. 2016), <https://www.abetterbalance.org/resources/business-case-workplace-flexibility-factsheet/> (citing research showing low-paid workers with flexibility at work are 30 percent less likely than those without it to leave their positions within two years).