

## REBUILDING STRONGER: STATE PLAYBOOK FOR GENDER JUSTICE

Women – especially Black, Native American, Latina, Asian American and Pacific Islander (AAPI) women – are on the front lines of the COVID-19 pandemic as essential workers while also shouldering the brunt of our nation's inadequate response. Women are taking on the lion's share of unpaid caregiving, losing jobs at the highest rates, and getting pushed out of the labor force altogether. None of this is an accident: the COVID-19 crisis has exposed the deep gaps in our economic and social infrastructure from decades of underinvestment and policy choices that failed to center the needs of cis and transgender women, especially Black and brown women.

In order to recover and rebuild from the COVID-19 pandemic and economic crisis, we must center the needs of women, especially women of color—at work, at school, at home, and in their communities. State legislators can and must urgently take action to advance broad-based agendas that would remedy discrimination, ensure accountability, and provide key supports for women and girls. This could include:

- **A COVID-19 Recovery Agenda** with measures to increase families' access to affordable, high-quality child care and early education, expand access to comprehensive health coverage, expand and strengthen state unemployment insurance programs, guarantee paid family and medical leave and paid sick days, raise the minimum wage, protect workers' safety and health, enact eviction moratoriums and provide rental and mortgage assistance, protect and expand access to reproductive health care, invest in school counselors, and make the tax code help working families.
- **A Young Women and Girls Opportunity Agenda** with measures to end discriminatory school discipline policies, invest in counselors not criminalization, stop sexual harassment and assault in schools, 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 Workplace Gender Justice Agenda** with measures to end discriminatory pay practices, ensure pregnant workers are treated fairly, stop and prevent sexual harassment, raise the minimum wage, promote fair work schedules, and stop employers from firing workers because of reproductive health decisions like using birth control or having an abortion.
- **A Health Care Access and Equity Agenda** with measures to ensure access to health care, protect the right to and meaningful access to abortion, and remove barriers and expand access to birth control.
- **A Stop 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.

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LEGISLATION, TALKING  
POINTS, FACT SHEETS, AND  
FOR STATE-SPECIFIC POLICY  
RESEARCH AND DATA,  
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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:
  - o Social media support;
  - o Talking points; and
  - o 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, Director of State Policy, Cross-Cutting Initiatives 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 JUSTICE



## STATE POLICY AGENDA

# A COVID-19 RECOVERY THAT WORKS FOR ALL OF US

The COVID-19 pandemic has laid bare the deep gaps in our economic and social infrastructure that have resulted from decades of underinvestment and policy choices that failed to center the needs of cis and transgender women, especially Black, Latina, Native American, Asian American and Pacific Islander, and other women of color. [These communities are bearing the brunt of the COVID-19 pandemic and recession](#): As essential workers risking their lives for minimum wage. As caregivers forced to navigate how to bring home a paycheck and care for their families. As breadwinners losing their jobs. As patients blocked from accessing comprehensive health care. And yet, they have been left behind and left out in COVID-19 recovery efforts.

The world we rebuild in the wake of the coronavirus must grapple not only with the effects of COVID-19 broadly, but also how the ongoing pandemics of white supremacy and misogyny have exacerbated inequities and placed undue burdens on Black and brown women. The only way forward to prosperity for our country is to center the needs of women, especially women of color.

## WOMEN ARE ON THE FRONT LINES OF THE COVID-19 CRISIS

Women—and especially women of color—[predominate in essential jobs](#) that are powering the country during this crisis. For example, women are 88% of home health aides, 75% of hospital workers, 93% of child care workers, and 66% of grocery store cashiers and salespeople. While these jobs are being recognized as essential, those working in them—disproportionately women of color—are being treated as expendable. Many of these front-line jobs are low paid and don't offer basic protections like paid sick days, employer-sponsored health care, or adequate health and safety safeguards. And now, women are bearing the brunt of the recession with

women-dominated sectors like [restaurants, hospitality, child care](#), and [state and local governments](#) facing heavy losses, leaving Black women and Latinas with an [unemployment rate nearly 1.5 times higher](#) than white, non-Hispanic men.

Women are also paying a high economic price as they take on the lion's share of unpaid caregiving in the face of the collapse of our caregiving infrastructure. Many schools continue to operate remotely, and many [child care](#) and after-school programs are still closed, operating at lower capacity, or on the brink of shuttering permanently. COVID-19 has also reduced access to [in-home caregivers](#) for seniors, forcing many women to take on new responsibility for elderly relatives. As a result, women are the ones sacrificing jobs. As of [December 2020](#), nearly 2.1 million women had left the labor force since the pandemic started, including more than 1.1 million Black women and Latinas, leaving women's labor force participation at the lowest level since the 1980s. ***We have lost more than a generation of gains.***

The already high rates of economic insecurity women were experiencing before this crisis began, deepened by race and gender wage gaps, means that many women have no financial cushion to weather the current crisis and still feed their families, pay the rent or mortgage, and keep up with their bills. Further exacerbating this crisis and impeding recovery are the barriers to accessing health care, including reproductive health care, that women, especially Black women and other women of color, have long experienced. Students, especially students of color, are also struggling through this crisis, more disconnected than ever from a school community and counselors to help them with their emotional and mental health during this traumatic pandemic.

In the face of state revenue shortfalls from the economic fallout of the COVID-19 crisis, state policymakers' top priority must be helping

families and communities by raising revenue to protect health care, public education, and economic supports for residents. The world we rebuild in the wake of COVID-19 must work for all of us, and that means centering gender and racial justice by:

### **Increasing Families' Access to Affordable, High-Quality Child Care and Early Education.**

Child care has always been essential to our economy, and the COVID-19 pandemic is bringing its centrality into even greater focus. Despite its importance, decades of underinvestment have created a precarious system that is now on the verge of collapse because of the COVID-19 pandemic. Many child care programs were forced to close during the pandemic, and those that remained open to serve essential personnel or reopened had to take safety measures—such as limiting enrollment, purchasing personal protective equipment (PPE), and finding and paying substitute teachers—all of which have lowered revenues and raised operational costs. Families cannot afford to pay more for child care, and child care workers—who are disproportionately women of color and immigrant women—should not have their already poverty-level wages reduced further. To save the child care system from collapse—and avoid the harm that would come to children, families, child care workers, and our economy—a federal investment of at least \$50 billion is crucial. [States](#) should also invest additional available federal and state funds in child care, to the extent possible. In addition, states can respond to families' and child care providers' needs during the pandemic by: providing grants to help keep providers afloat while closed for health reasons and to help them reopen when safe to do so; helping providers obtain and purchase safety supplies and materials; increasing provider payment rates; offering bonus pay to child care workers; making targeted investments in home-based child care options (such as family child care and family, friend, and neighbor care); paying providers based on enrollment instead of attendance; and providing clear health and safety guidance to providers.

**Expanding Access to Comprehensive Health Coverage.** Access to comprehensive health coverage is more vital now than ever. Health coverage can make people healthier by addressing underlying conditions that make COVID-19 more deadly. Health coverage can also protect people from going into debt to get the health care they may need; the cost of hospitalized care for COVID-19 ranges between \$34,000 and \$45,000, on average. Comprehensive health coverage must be available to all those who need it, and it must include the full scope of care people need, including reproductive health care. States can ensure access to affordable, seamless, and comprehensive health care coverage by 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 coverage of abortion, regardless of their income or how they are insured.

### **Expanding and Strengthening State Unemployment Insurance**

**Programs.** Unemployment insurance (UI) is vital for keeping women and families out of poverty and helps ensure our economy can recover from times of economic turbulence. Unfortunately, many state UI systems were not ready for another recession, much less an economic crisis of this magnitude. States can help make UI as accessible and helpful to workers as possible during this crisis and gird the system for the challenges of a recession and future economic crises. Such reforms should include (but not be limited to) adopting work-sharing programs to support workers whose hours are cut and help avert layoffs; adopting the "alternative base period" that allows unemployed workers to better account for their work history when qualifying for UI; improving benefit adequacy and duration; and expanding the "good cause" reasons for quitting and obtaining UI, including needing to care for quarantined or sick family members and escaping domestic violence, sexual violence and/or stalking. States should also ease or remove administrative barriers to help streamline the process for receiving UI and reduce the burden on already overloaded state systems.

### **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-paid 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. This reality leaves many women of color—who are disproportionately likely to hold low-paid jobs, and to be both breadwinners and caregivers for their families—and other working people with the impossible choice between caring for themselves or their families and maintaining their financial security. And the COVID-19 crisis has made clear that these tradeoffs can put entire communities at risk. To ensure that working people are not forced to choose between their paychecks and health during the pandemic, states should go beyond the [temporary emergency provisions enacted in federal coronavirus relief legislation](#) and ensure that all working people have access to at least two weeks of paid sick days, as well as at least 12 weeks of paid family and medical leave, for the duration of the current public health emergency. But the need for these protections will not end with the current health crisis. States can establish a permanent program to guarantee at least 12 weeks of paid, job-protected family and medical leave for all, ensuring that working people are able to take the time they need to bond with a new addition to the family, or to care for themselves or their loved ones when a serious illness strikes. And they can enable everyone to protect their health, attend doctor's appointments, and deal with unanticipated illnesses, without threatening their economic security, by ensuring that all employees can earn at least seven paid sick days each year.



**Raising the Minimum Wage.** Raising the minimum wage is one important way that states can shift power to working people and value the people who are caring for our children, protecting the public health, and keeping our economy afloat during the COVID-19 pandemic. Higher wages, particularly for the lowest-paid workers, can also help boost the consumer demand that is necessary for a strong, shared recovery from the pandemic-induced recession and help working people support themselves and their families. [States should gradually raise the minimum wage](#) to at least \$15 per hour, then index it to keep pace with rising wages overall, and phase out any lower minimum wages applicable to tipped workers, youth, workers with disabilities, and others to arrive at one fair minimum wage for all working people.

**Protecting Workers' Safety and Health.** All workers deserve to work with safety and dignity, and prioritizing worker health is essential to controlling, preventing, and mitigating the spread of COVID-19 in communities at large. Unfortunately, despite receiving more than 6,000 complaints about unsafe work conditions, the federal Occupational Safety and Health Agency (OSHA) under the Trump administration did not enact an "Emergency Temporary Standard" (ETS) requiring all employers to provide COVID-19 specific safety protections for workers, such as social distancing requirements or PPE. The agency's failure to act has endangered millions of front-line workers, many of whom are women of color. On January 21, 2020, President Biden signed an [Executive Order](#) directing the Secretary of Labor to take a number of steps to put new COVID-19 workplace safeguards into practice, including, potentially issuing an OSHA ETS. While federal action is paramount, states can and should also act to ensure that workers and the general public are safe in this pandemic. To help [employers achieve the safest possible conditions for workers](#), states can enact their own enforceable Emergency Temporary Standards, requiring all employers to provide COVID-19 specific safety protections for workers, as California, Virginia, New Jersey, and Michigan have done. In addition to clear and enforceable requirements for physical work locations, state standards should apply broadly to all workers, regardless of whether they are classified as employees or independent contractors. State standards should also take into account the importance of worker voice in enforcement and enact strong whistleblower protections to ensure workers can speak up about their health and safety without fear of retaliation.

**Enacting Eviction Moratoriums and Providing Rental and Mortgage Assistance.** Fair access to safe, accessible, and affordable housing is vital to the well-being of women and girls, impacting health, education, and employment outcomes, particularly for Black, Latina, and Asian women. The devastating impact of COVID-19 and the recession has [exacerbated housing instability for women and](#)

[families](#). While there are some eviction moratoriums and mortgage forbearance in place, the relief does not meet current needs. For example, the [Centers for Disease Control and Prevention \(CDC\) order](#) only provides some housing insecure renters protections from eviction [through March 31, 2021](#). Congress passed a COVID-19 relief package in December 2020 that included \$25 billion in emergency rental assistance, but [researchers estimate](#) families may owe as much as \$70 billion in back rent. Tens of thousands of people have already been evicted because of the loopholes in the current CDC order, and potentially millions of families could face eviction in April without additional action - representing not only increased economic hardship for these families, but creating a ripple effect in terms of exposure to the pandemic. States should enact or improve their own [eviction moratoriums](#) that include requirements for landlords to inform tenants of their rights and prohibit landlords from filing for eviction for nonpayment of rent. States and localities should also take lessons learned from CARES Act rental assistance programs as they administer their portion of the new \$25 billion emergency rental assistance program to help families with back rent and utilities.

**Protecting and Expanding Access to Reproductive Health Care.** Protecting and expanding access to reproductive health care, including [birth control](#) and abortion, is essential for many people's autonomy and well-being, and especially so as the country faces a crisis that threatens the health, livelihoods, and financial security of millions. The COVID-19 pandemic and the recession, however, have [created new barriers to accessing this care and worsened existing ones](#). For many people—especially those who are already more likely to experience barriers to access, including Black women, Native American women, and other women of color—this means they may not be able to access the reproductive health care they need when they need it or at all. Ensuring that reproductive care is accessible and affordable must be a core component of the response to COVID-19 and the economic crisis. States can take several steps to protect and expand access to reproductive health care during, and after, the pandemic: clarify that contraception and abortion care is essential care that can be accessed while social distancing or stay-at-home guidelines are in effect; protect reproductive health care providers and encourage the use of telemedicine when possible; suspend harmful and unnecessary restrictions on birth control and abortion access; adequately fund family planning services; expand Medicaid eligibility and ensure Medicaid covers reproductive health services; and, ensure that a health care provider's personal beliefs do not prevent someone from accessing the care they need.

**Investing in School Counselors, Not Criminalization.** Before a national emergency was declared, too many students attended schools that provided [too little social and emotional support](#)—and many schools misused too many of their limited resources on

criminalizing children instead. In fact, [1.7 million students](#) attended schools with police, but no counselors. COVID-19 has also caused great disruption in children's lives, putting their emotional and mental health at risk and threatening families' ability to meet children's basic needs. Yet, nationally the student-to-counselor ratio is [430-to-1](#)—nearly double the 250-to-1 ratio recommended by the American School Counselor Association. Some students have needs that require greater investments. For example, Latina girls—who report [higher rates of sadness and hopelessness](#) due to a variety of social and cultural experiences—and children who have experienced harassment, assault, or other trauma would benefit from resources that help them balance mental wellness and educational obligations. Students' mental health needs must not be ignored during this pandemic. Indeed, the need for counseling and support during this time of crisis has likely only increased. States should increase funding to provide virtual and in-person mental health supports for students, by diverting funds typically used for police in schools to increase counselors and similar supports. This will help push schools to focus on children's mental health needs once students are physically back in school, not their criminalization.

**Making the Tax Code Help Working Families.** States can improve economic security for families during the recession by establishing and/or strengthening state-level tax [credits](#). Refundable state tax credits that are based on the federal Earned Income Tax Credit, Child Tax Credit, and Child and Dependent Care Tax Credit put money back in families' pockets, which will be quickly pumped back into local economies. While states are experiencing significant revenue shortfalls because fewer sales, income, and business taxes are being collected during the recession, they should consider rolling back tax benefits for the wealthy and large corporations to close the gap. In combination with expanding refundable tax credits, this would also make state tax systems fairer and more equitable: 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.



FOR GENDER JUSTICE



STATE POLICY AGENDA

# ADVANCE WORKPLACE GENDER JUSTICE IN YOUR STATE

COVID-19 has exposed and exacerbated existing inequities and economic insecurities that increase the risk of discrimination and harassment in the workplace. Caregiving and service sector jobs performed largely by women, disproportionately Black women and other women of color, have long left millions living paycheck to paycheck or working multiple jobs to survive—even as corporations raked in record profits. Many employers have also refused to make the changes necessary to ensure people can succeed at work while caring for their families and work safely while pregnant. And discriminatory workplace policies and practices make it difficult for all women, including trans and cisgender women, as well as gender-nonconforming people to keep a job, put food on the table, and make decisions about whether or not to have children.

Now, as the COVID-19 pandemic sends us into a deep recession, women are on the front lines of the crisis, in jobs that leave them unprotected and underpaid. Women facing heightened risk of unemployment—disproportionately Black women and Latinas—are more desperate to keep a paycheck at any cost in the midst of record-setting job losses and less willing to report discrimination, harassment, or assault. As a result, they are at greater risk of coercion and abuse from employers. Many gig workers are also on the front lines and without legal protections against discrimination because they are often classified as independent contractors.

We must rebuild an economy that values women's work, shifts power to working people, and ensures everyone can work with safety, equality, and dignity. [Voters are united in their strong support](#) for policymakers to focus on the gender pay gap and equal pay, sexual harassment, access to low-cost comprehensive, accessible health care, and access to reproductive health care. Voters also [overwhelmingly support](#) lawmakers working to ensure women can't be fired or discriminated against because of their reproductive health decisions.

## WORKING WOMEN AND FAMILIES NEED POLICIES THAT WILL WORK FOR THEM

Workplace policies and practices that limit opportunity based on 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 for many women. The COVID-19 crisis has exacerbated these harms and is turning back the clock for women. Between [February and December 2020](#), an unprecedented 2.1 million women left the labor force, including more than 1.1 million Black women and Latinas.

Unaddressed gender and racial wage gaps have left women, especially women of color, with little to no financial cushion to weather this crisis. Unless we take action to ensure our hiring and pay setting practices are equitable, these wage gaps will likely only widen as women seek to re-enter the workforce and are forced to accept a lower paying job because they don't have the savings to hold out for a higher pay one.

A legislative agenda to advance workplace equality will significantly improve the lives of women and their families and help families, businesses, and the country recover from a punishing recession wrought by COVID-19.

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

**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. [Lesbian women and transgender women](#) also experience significant wage gaps and the gaps for women of color and mothers is particularly staggering, and sets these 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 Sexual Harassment:** Everyone deserves dignity, respect, and safety at work. But as the MeToo 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 have stymied efforts to address and prevent persistent workplace sexual harassment. These gaps put certain workers—particularly those in low-wage jobs; Black women and other women of color; LGBTQ people; immigrants; and people with disabilities—at increased risk of harassment and retaliation. [States](#) can take the lead in ending workplace harassment by expanding anti-harassment protections to independent contractors and to employees of small employers; improving victims' access to justice and ability to hold employers and individual harassers accountable; redressing the harm caused by harassment by improving recovery of monetary damages; restricting employers' efforts to impose secrecy regarding harassment, such as through nondisclosure agreements; emphasizing prevention strategies; 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.

**Raising the Minimum Wage:** People working to support their families should be able to make ends meet. But even before the COVID-19

pandemic, millions of workers—[mostly women, and disproportionately women of color](#)—were struggling to support themselves and their families on poverty-level wages. And today, home care workers, child care workers, grocery store cashiers, food service workers, and many more find that their work is newly deemed essential but is no less undervalued, with decent pay still out of reach. Raising the minimum wage is one important way that policymakers can shift power to working people and value the people who are caring for our children, protecting the public health, and keeping our economy afloat. Higher wages, particularly for the lowest-paid workers, can help boost the consumer demand that is necessary for a strong, shared recovery from the pandemic-induced recession and help working people support themselves and their families. [States should gradually raise the minimum wage](#) to at least \$15 per hour, then index it to keep pace with rising wages overall, and phase out any lower minimum wages applicable to tipped workers, youth, workers with disabilities, and others to arrive at one fair minimum wage for all working people.

**Promoting Fair Work Schedules:** Working 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. Part-time workers, [who are mostly women](#), are particularly likely to face unpredictable work schedules—and often are denied the additional hours they want and need to support their families. Black women and Latinas especially bear the brunt of these scheduling practices, as they are [more likely to experience them than their white counterparts](#) and more likely to be both the primary [breadwinner and caregiver](#) for their families. With COVID-19, many of these workers are facing volatile and inadequate hours with the additional caregiving challenges posed by school and child care closures. 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, stable, and adequate work hours.

**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 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 person's ability to make decisions about starting or growing a family, and threatens their health, well-being, and 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.





FOR GENDER JUSTICE



## STATE POLICY AGENDA

# PROMOTE OPPORTUNITY FOR YOUNG WOMEN AND GIRLS IN YOUR STATE

Young women and girls, including trans and cisgender women and girls, as well as gender-nonconforming people are students, workers, and parents. As such, they face unique barriers—from school pushout to inability to access health care to unfair wages—that make it harder for them to succeed. Unfair and discriminatory policies can keep these young people from making the best decisions for themselves about their education, health, jobs, families, and futures. Additionally, the COVID-19 pandemic has exposed inequities that already existed in these systems for Black, Latinx, and Native American communities—leading many young people to feel like the system is rigged against them. According to an [October 2020 Ipsos/Vice News poll](#), nearly two-thirds (65%) of young adults ages 18 to 30 say that “politicians don’t care about people like me.”

Young people know it doesn’t have to be this way. They are looking for policymakers to show 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, Latinx, 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 schools are more likely to disbelieve and punish women and girls of color (especially Black women and girls), LGBTQ students, pregnant and parenting students, and students with disabilities. Additionally, 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 members.

Schools, health care providers, and employers should not get in the way of young people working to secure their futures, and government should help eliminate these barriers—centering the young people of color for whom barriers are often the greatest. Policymakers 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 girls to be suspended from school, even though they are no more likely to misbehave nor is their misbehavior more severe. Instead, these girls are more likely to be suspended for minor offenses like [dress code](#) violations or subjective offenses like “defiance.” These practices keep girls out of the classroom, making it harder for them to succeed and increasing their chances of being pushed out of school or being involved with the juvenile legal system. States can reverse this trend by passing laws that ensure educators have the tools to identify and address

their implicit biases as well as the underlying problems that contribute to perceived misbehavior in the classroom. States can also pass laws that end suspensions and expulsions for minor or subjective offenses and that replace exclusionary discipline with alternatives that keep students in the classroom while building positive social and emotional connections to school.

**Investing in Counselors, Not Criminalization:** In the wake of a nationwide reckoning with racism and police violence coupled with a pandemic that has highlighted the educational inequities that have long existed in school districts with significant populations of Black, Latinx, and Native American students, many youth advocates have pushed school districts to divest from resources that criminalize students and instead invest in resources that allow students to thrive academically, socially, and emotionally. For example, [3 million students](#) attend schools with police but no school nurse. [Six million students](#) attend schools with police but no school psychologist. At the same time, a growing body of research has [not found any evidence](#) that school-based police make schools safer; instead, the presence of school-based police has been shown to [increase the likelihood](#) that children—[especially Black children](#)—will be arrested for normal childlike behavior. For example, while [Black girls](#) are only 16% of girls in elementary and secondary schools, they make up [39% of girls arrested on campus](#). During this time especially, when students are not only disconnected from school but also wrestling with the emotional toll of living through a pandemic and recession that has disproportionately affected Black, Latinx, and Native American communities, policymakers should not only replace school-based police with mental and other health professionals, but also solicit and include the input of students, parents, and community advocates on how to invest in better, safer schools for all students.

**Addressing Sexual Assault in K-12 & Higher Education:** Violence starts early. [One in five girls](#) ages 14 to 18 report being kissed or touched without their consent—similar to the rate of women who report being 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 require schools](#) to teach all students about consent and healthy relationships, train all staff how to recognize and address sexual harassment, and conduct regular climate surveys to gauge whether students feel safe in school. In addition, states should require schools to provide supportive measures to all students who report sexual harassment and prohibit schools from disciplining those who break a school rule in connection to their own victimization. Furthermore, students who want a school-based resolution should be able to choose, without pressure, between a prompt and equitable disciplinary investigation or non-disciplinary proceeding, such as a restorative justice process, that is conducted by trained individuals.

**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. The shift to online learning during

the COVID-19 pandemic has exacerbated the digital learning gap and revealed biases hostile to student parents, such as teachers not allowing students to turn off cameras to nurse or penalizing students for tending to child care needs. States can implement basic protections that enshrine and improve upon federal requirements by requiring schools to explicitly outline lactation accommodations, inform students of their right to have pregnancy-related absences excused, as well as excuse absences for parenting students to care for children who are ill. States can also provide technology supports to help parenting students navigate learning from home. 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. These barriers have been exacerbated further by the COVID-19 pandemic and accompanying economic crisis, and also by anti-abortion politicians who have attempted to exploit the pandemic to block patient access to time-sensitive, essential abortion care. States can use their authority to regulate self-funded student health insurance to require coverage of comprehensive reproductive health care, including birth control, abortion, prenatal 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 10% of the working people who would benefit if the federal minimum wage rose to \$15 by 2025, [nearly two-thirds of all teens who work would get a raise if the minimum wage went up to \\$15](#) by 2025, 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. Black and Latinx workers, in particular, are more likely than their white counterparts to be [paid low wages](#) and to [experience volatile work schedules](#). 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 schedules and more predictable and stable work hours.

## STATE POLICY AGENDA

# STOP SEXUAL HARASSMENT IN YOUR STATE

As the Me Too movement has made clear, [sexual harassment is widespread](#), affecting working people in every state, in nearly every kind of workplace setting and industry, and at every level of employment. The COVID-19 economic crisis has increased the risk of harassment, discrimination, and retaliation at work, especially for those historically most marginalized by workplace harassment—[low-paid workers](#); Black women and other women of color; LGBTQ people; immigrant women; and women with disabilities—many of whom are [working on the front lines of the crisis](#). [High unemployment rates](#) have left many working people more desperate to keep a paycheck and less willing to report workplace abuses.

In addition, 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 [elementary and secondary schools](#) and [in college](#)—both on campus and, as we have increasingly seen during COVID-19, online. And patients experience sexual harassment at the hands of [health care providers](#). In each of these contexts, sexual harassment holds women and girls back, including trans and cisgender women and girls, as well as gender-nonconforming people, threatens their safety, health, and economic opportunities, and excludes them from public life. For women of color, immigrant women, women with disabilities, and LGBTQ people, 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 and the economic recession unleashed by COVID-19 has increased workers' vulnerability to harassment and retaliation

at work. Recent polls show that [83% of voters](#) surveyed agree that policymakers should focus on ending sexual harassment at work and in school, and [68% of voters](#) think addressing sexual harassment and assault should be a major or top priority for elected officials.

## 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 field of study, profession, or industry altogether—often higher-paying, male-dominated fields—which perpetuates the gender wage gap.

Sexual harassment and assault by health care providers can result in physical and psychological harm and prevent patients from accessing the health care they need. This is particularly true for Black and Native American women and LGBTQ people who are more likely to experience discrimination when seeking out care, more likely to avoid care due to fear of discrimination, and more likely to suffer health disparities.

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, employers, and health care institutions to take steps to prevent and promptly address harassment. Too often, harassers are not being held accountable by schools, employers, or health care 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 to people not reporting 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 Workplace Sexual Harassment:** Everyone deserves dignity, respect, and safety at work. But sexual harassment is widespread—at least [25%, and as many as 85%](#), of women surveyed report having experienced sexual harassment at work. Long-standing gaps in federal and state laws, 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-paid jobs, women of color, people with disabilities, 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; extend the statute of limitations for bringing harassment and discrimination claims to three years; improve victims' 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 anti-harassment training and ensuring tipped workers are entitled to the same minimum wage as other workers, so workers do not have to tolerate harassment as the price of tips.

**Preventing Sexual Harassment and Assault in PK-12 & 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, as research has shown that PK-12 students who receive sexual health and consent education are less likely to be a victim or perpetrator of sexual harassment and violence. 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 PK-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 who dress a certain way are somehow "asking" to be harassed or assaulted. [States should](#) require schools that choose to have a dress code to implement a universal, inclusive, and gender-neutral dress code that does not perpetuate discriminatory stereotypes. 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 (e.g., underage drinking, engaging in consensual sexual acts at school) and for students who violate a school code because of the harassment or assault they faced (e.g., missing school to avoid a harasser, acting out in an age-appropriate way due to trauma). 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 continue to experience sexual assault and harassment by health care providers, which is devastating to patient health and well-being. States should explicitly prohibit health care providers from sexually harassing or assaulting their patients and pass or enhance other protections for patients.





FOR GENDER JUSTICE



## STATE POLICY AGENDA

# ENSURE THAT ALL PEOPLE CAN ACCESS THE HEALTH CARE THEY NEED

The COVID-19 pandemic has laid bare the many inequities in our health care system—from the millions who still lack health care coverage to the disproportionate devastating mortality rate in Black, Latinx, and Native American communities, to barriers and discrimination faced by people of color and LGBTQ people seeking care, to states using the pandemic as an excuse to take away access to abortion care. Even apart from the pandemic, too many people in this country go without access to the health care they need, especially reproductive health care, and are shamed, judged, and discriminated against for their decisions about pregnancy and parenting.

State policymakers must comprehensively address the crisis in health care, including eliminating long-standing restrictions and systems rooted in control, racism, and misogyny, expand access to all forms of health care, and ensure that our laws respect and support people in accessing care.

## PATIENTS NEED POLICIES THAT PROTECT THEIR ACCESS TO COMPREHENSIVE HEALTH CARE

Alongside making clear that comprehensive reproductive health care is essential care during public health crises such as the COVID-19 pandemic, states must enact a range of additional policies to ensure that each person can access the health care they need, when and where they need it, without financial difficulty, discrimination, barriers, or stigma. These policies should focus on ensuring access to health care, protecting the right to abortion and meaningful access to abortion care, and removing barriers and expanding access to birth control.

## ENSURING ACCESS TO HEALTH CARE

**Protecting Against Discrimination in Health Care:** All patients should have access to health care free from discrimination. But across the country, [patients encounter discrimination](#) in health care and health insurance. This is devastating to patient health and well-being and exacerbates disparities in health care that harm women and girls of color, LGBTQ people, and other marginalized communities. States can address this by ensuring explicit and robust state protections against health care discrimination based on race, color, national origin, sex, age, disability or any combination of these characteristics.

### Addressing Maternal Mortality and Other Maternal Health

**Disparities:** Everyone should have access to the necessary resources for a safe and healthy pregnancy, but Black and Native American women face [maternal mortality](#) at rates two to three times higher than their white counterparts. This endangers pregnant people and places emotional and financial burdens on families. States can increase access to comprehensive coverage for persons before, during and after pregnancy by expanding Medicaid eligibility; eliminating Medicaid cost-sharing during pregnancy and 12 months postpartum; establishing maternal mortality review committees to address the interpersonal, systemic, and institutional racism that drives maternal health disparities; and eliminating administrative burdens for stabilizing social services, such as SNAP and housing assistance programs.

**Ensuring Safe and Healthy Communities:** Communities thrive when individuals and families are safe and healthy. A racial justice reckoning, combined with COVID-19's health and economic devastation, have put health, safety, and justice at the forefront of our nation and are making clear how deeply connected these issues are. Across the country, communities are demanding policymakers

acknowledge the intersection of food insecurity, police brutality, racial discrimination, environmental racism, housing instability, and gender-based violence and their impact on individual and community health, each which disproportionately impact women of color, LGBTQ people, and other marginalized communities. Policymakers can commit to drafting legislation with intentional consideration of the legislation's impact on health and issuing a racial impact statement on every piece of legislation.

## PROTECTING THE RIGHT—AND MEANINGFUL ACCESS—TO ABORTION:

**Protecting People's Reproductive Health Decisions:** The constitutional right to [abortion](#) is under dire threat, including from burdensome and stigmatizing abortion restrictions that have no health benefit whatsoever. These laws have already put abortion out of reach for many, disproportionately harming people of color, people struggling financially, and those living in rural areas. These communities also are more likely to face barriers to accessing other reproductive health care, including birth control and care during pregnancy. States should act to recognize and protect an individual's right to make reproductive health care decisions by passing legislation to protect an individual's decision making and right to access reproductive health care including abortion, contraception, sterilization, and care during pregnancy and childbirth, without government interference.

**Protecting People From Discrimination Based on Their Reproductive Health Decisions:** Bosses should not be allowed to discriminate against an employee because of decisions they make about whether or how to start a family. But women across the country have been fired or otherwise punished in the workplace because of their personal reproductive health decisions. [States should protect individuals from discrimination](#) by their employer based on their decision to use contraception, have an abortion, use assisted reproductive technologies, become pregnant, or have a child, or any other reproductive health decision. States should ensure that individuals do not face discrimination from an employer who disagrees with the employee's personal reproductive health decisions.

**Protecting Patients Seeking Care:** Across the nation, hospitals and other health care entities are [refusing to treat patients](#) seeking health care based on institutional religious beliefs, even when such refusals force a patient to delay or forgo care altogether. [Laws in 46 states](#) permit health care institutions or individual providers to refuse to provide some reproductive health care services, including abortion, contraception, and sterilization, based on religious or other objections. These laws and practices put religious beliefs over patients' needs and they can—and have—[resulted in](#) infection, infertility, and even death. States should repeal any state laws that allow health care providers to use religious beliefs to deny patients health care. States can further ensure patients get the care they need by requiring hospitals in the state to provide health and life saving medical services, including

medically appropriate care for a miscarriage, when needed. States can also protect patients' access to care 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.

**Protecting Abortion Providers From Discrimination:** 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. States 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. States should also protect employees' ability to make public statements about abortion without fear of retaliation from their employer.

## REMOVING BARRIERS AND EXPANDING ACCESS TO BIRTH CONTROL:

**Enshrining Contraceptive Coverage Protections in State Law:** Barriers that exist in insurance coverage of [birth control](#) can cause people to use birth control inconsistently and incorrectly, leading to an increased risk of unintended pregnancy and related threats to their health, the health of their families, and their economic security. These barriers are especially acute for those who are already more likely to experience barriers to access, including Black women, Native American women, and other women of color. To make sure that insurance coverage of birth control meets people's needs and does not erect barriers to birth control use, states should enshrine the Affordable Care Act's contraceptive coverage requirement in state law, ensuring coverage of birth control without out-of-pocket costs, and improve upon it by requiring coverage and dispensing of a full year of birth control at once and prohibiting prescription requirements for coverage of over-the-counter birth control.

**Expanding Medicaid Family Planning Eligibility and Improving Medicaid Coverage of Birth Control:** The federal Medicaid statute requires coverage of family planning services and supplies without out-of-pocket costs, free of coercion, and from the family planning provider of an enrollee's choice. 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. States should expand Medicaid eligibility for family planning services to individuals otherwise ineligible for Medicaid, require coverage and dispensing of no less than one full year of birth control for Medicaid enrollees, and require coverage of over-the-counter methods of birth control without requiring a prescription.



FOR GENDER JUSTICE

## POLICY BRIEF



# #METOO AT SCHOOL: COMPREHENSIVE PROTECTIONS FOR STUDENTS AGAINST SEXUAL HARASSMENT

## THE PROBLEM

Far too many students in both PK-12 schools and institutions of higher education experience sexual harassment, a category that includes sexual assault. [One in five girls ages 14-18](#) have been kissed or touched without their consent, and [one in four women](#) are sexually assaulted in college. But [only 2% of girls ages 14-18](#) and [12% of college women](#) who are sexually assaulted report the incident to their schools. And although COVID-19 has dramatically changed student experiences in many ways, students continue to be affected by sexual harassment, both on campus and in online classrooms.

Many students do not report sexual harassment because of shame, fear of retaliation, fear of school discipline, fear of police or immigration officials, concern that their harasser will get in trouble, and/or a belief that their harassment was not “serious enough” (e.g., because it began consensually or involved alcohol or drugs). When students do report sexual harassment, they are often ignored, disbelieved, or even punished by their schools. Schools often discipline survivors for engaging in consensual sexual activity with their harasser, having premarital sex, engaging in self-defense, acting out in age-appropriate ways due to trauma, missing school to avoid their harasser, or telling other students they were sexually harassed. Schools are more likely to [disbelieve](#) and punish women and girls of color (especially [Black women and girls](#)), [LGBTQ students](#), [pregnant and parenting students](#), and students with [disabilities](#) due to stereotypes that label them as “promiscuous,” “aggressive,” less credible, and/or less deserving of protection. When schools fail to provide effective responses, student victims receive lower grades, lose scholarships or honors, are forced to drop out of school, and, in some cases, are even expelled.

In May 2020, the Trump administration issued a [harmful Title IX rule](#) requiring schools to ignore sexual harassment and use uniquely unfair and retraumatizing investigation procedures in sexual harassment investigations. While the Biden administration plans to undo the Trump rule, this process will take time. And regardless of what federal law requires, states can still take further action to protect student survivors through legislation that addresses complaint procedures, supportive measures, and prevention.

## THE SOLUTION

States should pass comprehensive protections against sexual harassment in schools by strengthening prevention measures, supporting student victims rather than punishing them, and ensuring meaningful accountability of sexual harassers and schools that fail to protect students’ rights. Effective policies must protect all students, including women and girls of color, LGBTQ students, pregnant and parenting students, and disabled students, who are often more likely to be sexually harassed and more likely to be disbelieved, punished, or criminalized when they come forward.

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## BASIC ELEMENTS OF THE SOLUTION

Strengthen prevention measures:

- Require PK–12 schools to provide developmentally appropriate sex education to all students on a wide range of topics, including consent, healthy relationships, reproductive health, and [LGBTQ identity](#).
- Require schools to train all school staff on how to recognize and respond to sexual harassment, notify the school's Title IX coordinator, and provide effective supportive measures and accommodations for students who have reported sexual harassment.
- Require schools to conduct regular climate surveys on student experiences with sexual harassment and make the survey data publicly available.
- [Eliminate school dress codes](#), as they promote rape culture, rely on sex and race stereotypes, and are discriminatorily enforced. At a minimum, require schools to implement a universal, non-discriminatory dress code.
- Invest in school guidance counselors, social workers, psychologists, nurses, and other [non-police staff](#) to build positive school climates and support sexual harassment victims.
- Remove police from schools to protect all students—especially Black and Native American students—from [sexual harassment](#), discriminatory discipline, and violence at the hands of school police.

Support student victims instead of punishing them:

- Require schools to provide a [wide range of supportive measures](#) to students who report sexual harassment, including excused absences, counseling, tutoring, homework/exam adjustments, changes in academic/busing/dining/housing/work schedules, one-way no-contact orders; continued scholarship/honors eligibility, and the option to retake a class without financial penalty.
- Prohibit schools from disciplining students who report sexual harassment for misconduct that occurred during the reported incident (e.g., drug or alcohol use, consensual sexual activity, self-defense) or that occur after the reported incident because of it (e.g., class absences, age-appropriate expressions of trauma, public discussion of the sexual harassment).

Ensure meaningful accountability of sexual harassers and schools:

- Require schools to investigate all complaints of sexual harassment, even if the complaint is dismissed under the school's Title IX procedure for not meeting the new Title IX requirements. To the extent it is not preempted by the Title IX rule, require schools to have a [fair harassment complaint procedure](#), including by applying a preponderance of the

evidence standard, prohibiting direct cross-examination by a party or their representative, and prohibiting the use of mediation to address sexual assault, dating violence and domestic violence.

- Provide funding to schools that allow students to voluntarily choose a [restorative process](#) to address sexual harassment. Unlike a traditional disciplinary process or other informal processes like mediation, a restorative process requires the wrongdoer to admit they caused sexual harm, centers the victim's needs, and allows the wrongdoer to make amends to the victim and change their future behavior.
- Strengthen students' ability to enforce their rights under state anti-sexual harassment laws by filing complaints with a state agency (e.g., Department of Education, Office of Attorney General) or filing private lawsuits in court and increase [civil penalties](#) against schools for violations of state anti-sexual harassment laws.

## TALKING POINTS ON THE SOLUTION

- Schools are often the first places where people experience sexual harassment, and it is critical to address this behavior early on and prevent it from happening again.
- Sexual harassment is already hard to report, and students who come forward should be offered a wide range of supportive measures to help them succeed in school—not punished because, for example, they were drunk during a sexual assault or because they skipped class in order to avoid their harasser. When schools don't protect students from sexual harassment, survivors get lower grades, are forced to drop out of school, and, in some cases, are even expelled.
- [More than 80% of voters](#) surveyed agree that we need stronger policies to end sexual harassment in schools.
- Schools can and must do more to prevent sexual harassment from happening in the first place. For example, comprehensive sex education is [proven](#) to reduce the chances that a student will be a victim or perpetrator of sexual harassment, sexual assault, or dating violence.
- Even in the face of harmful federal requirements, states can nonetheless take action to ensure fair investigations and meaningful accountability. For example, [a new California law](#) requires institutions of higher education to investigate off-campus incidents, prohibit direct cross-examination of students, and apply the preponderance of the evidence standard in sexual harassment investigations.





FOR GENDER JUSTICE

## POLICY BRIEF

# ENSURING SAFE AND THRIVING WORKPLACES: STRENGTHEN PROTECTIONS AGAINST WORKPLACE HARASSMENT



## THE PROBLEM

As the Me Too movement has made clear, workplace harassment, [including sexual harassment](#), is widespread, affecting working people in every state, in nearly every kind of workplace setting and industry, and at every level of employment. Although people of all genders experience sexual harassment and assault, women, including trans and cisgender women, as well as gender-nonconforming people, are disproportionately affected, and [Black women](#) seem to be especially likely to experience harassment. Sexual harassment holds women back, threatens their safety and economic opportunities, and excludes many from public life. The high unemployment rates in the wake of the COVID-19 economic crisis have left many working people more desperate to keep a paycheck and less willing to report workplace abuses. This increases the risk of harassment, discrimination, and retaliation at work, especially for those historically most marginalized by workplace harassment—workers in [low-paid jobs](#); Black women and other women of color; LGBTQ people; immigrant workers; and people with disabilities—[many of whom are working on the front lines of the crisis](#).

[Gaps in state and federal laws](#) have left many of those most vulnerable to workplace 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 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

The need for strong workplace anti-discrimination and anti-harassment protections is clearer and more urgent than ever. States should expand anti-harassment and anti-discrimination protections to cover more 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 should 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.

## BASIC ELEMENTS OF THE SOLUTION

- Amend anti-harassment and anti-discrimination laws to protect independent contractors, interns, graduate students, and guestworker recruits. Reduce the employer size thresholds for such laws

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so that workers in all workplaces with at least one employee are protected.

- Extend the statute of limitations for workplace 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 time limit.
- Protect all workers from retaliation. 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.
- 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 lawsuit.
- 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.
- 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.
- 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.

## TALKING POINTS ON THE SOLUTION

- Sexual harassment affects working people in every state and at every level of employment. [Sexual harassment holds women back](#), threatens their safety, health, and economic opportunities, and excludes them from public life.
- Justice, healing, and preventing sexual harassment or assault will come from confronting the power imbalances in our workplaces. This is a systemic issue. It's about power and control. We need to keep challenging old systems of power. We need to keep fighting for gender and racial equity across spaces. When we refuse to stay silent, when we show up and name the real problems, we can build a better future for everyone.
- 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 co-worker relationships. 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.
- [Eighty-three percent of voters](#) surveyed agree that policymakers should focus on ending sexual harassment at work, and [68% of voters](#) think addressing sexual harassment and assault should be a major or top priority for elected officials.
- Since 2018, [an unprecedented 19 states](#) have enacted legislation that closes loopholes in existing harassment laws or creates new protections for victims of harassment and discrimination, including Tennessee, Virginia, Maryland, New York, Illinois, Vermont, California, and Washington.



FOR GENDER JUSTICE

## POLICY BRIEF

# COMBAT PAY DISCRIMINATION: STRENGTHEN EQUAL PAY LAWS



## THE PROBLEM

More than 55 years after the passage of the Equal Pay Act, women are still paid less than men in [all 50 states](#) and in [nearly every occupation](#). Nationally, in 2019, a woman working full-time, year-round was typically paid just 82 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 American women, and Latinas working full-time, year-round were typically paid just 63 cents, 60 cents, and 55 cents, respectively, for every dollar paid to their non-Hispanic, white male counterparts. Asian American women working full-time, year-round were typically paid only 87 cents for every dollar paid to non-Hispanic, white men, and the wage gap was [substantially larger for some subgroups of Asian American women](#). These gender and racial wage gaps have left many Black women and Latinas—who are [disproportionately on the front lines of the COVID-19 crisis](#) in essential jobs or being hit with job loss—with [little to no financial cushion](#) to weather the current crisis. Unless we take action to ensure employers' pay setting practices are equitable, these wage gaps may well widen in the wake of COVID-19, when women who have lost their jobs or been forced to quit to care for children or family members seek to re-enter the workforce and are forced to accept a lower paying job because they don't have the savings to hold out for a higher paying one.

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. Stereotypes about appropriate behavior for women also negatively impact earnings for women who do not conform to those stereotypes, including [lesbian women and transgender women](#). And many common employer pay setting practices, like [relying on an applicant's salary history](#) to set pay or [refusing to provide pay transparency](#) to applicants or employees, perpetuate the wage gap. 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% of private sector employees](#) report that discussing their wages is either prohibited or discouraged by employers. 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.

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## BASIC ELEMENTS OF THE SOLUTION

- Prohibit employers from retaliating against employees who share pay information with co-workers or applicants.
- Prohibit employers from requiring job applicants to provide their salary history in the hiring process and from relying on applicants' salary history to set pay.
- 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.
- Extend equal pay protections to other protected 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.
- 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 employees working in the same position. Require that employers that pay 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 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.
- 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.
- The COVID-19 crisis has highlighted the consistent undervaluing of women's work and is likely to further widen gender and racial wage gaps if equal pay measures aren't prioritized. Gender and racial wage gaps have left women with less savings to weather a crisis and forced too many to break into retirement funds, forcing women to accept lower pay offers as they seek to re-enter the workforce and leading to long-term impacts on future economic security.
- Equal pay measures are crucial to help more people get back into the workforce and help employers rebuild their businesses from the COVID-19 crisis. Equal pay measures, including salary range transparency, give job seekers tools to secure pay that accurately values their worth and gives employers the tools to efficiently, effectively, and fairly rebuild their workforce.
- Families suffer when women are paid less. Ending pay discrimination will not just help close the wage gap, but will also strengthen families and households. Bringing women's earnings in line with men's would typically bring in an [additional \\$10,138](#) a year to support a family and pay for two months' supply of groceries, three months' child care payments, three months' rent, three months' health insurance premiums, fourth months' student loan payments, and six tanks of gas.
- Closing the wage gap is particularly important for [Black, Latina, and Native American women](#) who tend to be paid less than white, non-Hispanic women, and are more likely to be in poverty. Bringing Black women's earnings in line with white men's would typically bring in an additional \$24,110 a year. For Latinas, it would bring in an additional \$29,098 and for Native American women an additional \$24,656.
- 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.
- A national movement to strengthen equal pay laws has been sweeping through the states. In the last three years, [16 states](#) from Alabama to Illinois to Virginia have taken steps to close loopholes in their equal pay laws or otherwise strengthen enforcement of those laws. And at least 20 states and the District of Columbia ban retaliation against workers who talk about their wages.
- A recent poll found that [77% of voters](#) surveyed agreed that policymakers should focus on closing the gender wage gap and ensuring equal pay.





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## POLICY BRIEF

# VALUE WORKING PEOPLE: RAISE THE WAGE AND NARROW THE WAGE GAP



## THE PROBLEM

All working people should be able to support themselves and their families. But far too often, employers do not provide the wages, hours, or benefits that people need to achieve economic security and stability. Even before the COVID-19 pandemic, millions of workers—[mostly women, and disproportionately women of color](#)—were struggling to support themselves and their families on poverty-level wages. [LGBTQ workers](#) and [people with disabilities](#), too, are especially likely to hold jobs in which their hard work is rewarded with inadequate pay.

In the past 40 years, Congress has raised the minimum wage just three times and enacted the last increase over a decade ago. [Twenty-nine states and the District of Columbia currently have minimum wages above the federal level of \\$7.25 per hour](#)—but in most states, the minimum wage still leaves a full-time worker with two children near or below the poverty level. And wages are even lower for many [tipped workers](#), who are also predominantly women, disproportionately women of color. In all but seven states<sup>1</sup>, employers can count a portion of tips toward wages (known as a “tip credit”) and pay their tipped employees a minimum cash wage that is lower than the regular minimum wage. This tipped minimum cash wage has been just \$2.13 an hour at the federal level for nearly 30 years, and in most states, [employers can still pay tipped workers less than \\$5 per hour](#), forcing women in these jobs to rely on variable tips for virtually all of their income—and putting them at a particularly high risk of both economic insecurity and sexual harassment.

Women’s overrepresentation in low-paid and tipped jobs is one factor driving the persistent gender wage gap: overall, [women working full-time, year-round typically are paid just 82 cents for every dollar paid to their male counterparts](#). This gap varies by race and is widest for many women of color compared to white, non-Hispanic men.

Although these inequities existed long before COVID-19, the pandemic has exposed and exacerbated them. [Black women, Latinas, and other women of color are especially likely to be on the front lines of the crisis](#), in jobs that leave them unprotected and underpaid—from personal care and home health aides to grocery store cashiers to child care workers. And tipped workers are often facing far greater risk—evidence from contact tracing shows that venues like bars and restaurants are some of the biggest [drivers of COVID-19 outbreaks](#)—for [far fewer tips](#).

## THE SOLUTION

A real economic recovery—especially for women, including trans and cisgender women, as well as gender-nonconforming people—will not be possible without higher wages for the millions of workers in low-paid jobs facing economic instability. Raising the minimum wage is one important way that policymakers can [shift power to working people](#) and value the people who are caring for our children, protecting the public health, and keeping our economy afloat. And by ensuring that a higher minimum

wage applies not only to tipped workers but also people with disabilities, young workers, domestic workers, agricultural workers, and anyone else who has been excluded from this basic labor protection, states can work to diminish, rather than entrench, historic inequities.

A \$15 minimum wage will make a meaningful difference for many people struggling to make ends meet, but it is still a modest wage relative to the expenses that working families face every day, no matter where they live in the United States: according to the Economic Policy Institute, by 2024, [a single worker without children will need at least full-time earnings at \\$15 an hour to meet basic needs](#), and workers in costlier areas and those supporting families will need more. States should view \$15 per hour as a starting point, but in some states, a higher level will be an appropriate goal.

## BASIC ELEMENTS OF THE SOLUTION

- Gradually raise the state minimum wage to at least \$15 per hour, phased in over several years.
- Raise the minimum cash wage for tipped workers until it matches the regular minimum wage so that all working people are paid at least this regular minimum wage before tips.
- Include all other working people who are currently excluded from the regular minimum wage (e.g., people with disabilities, young workers, farm workers, domestic workers, etc.).
- Index the minimum wage to rise annually based on increases in median wages or the cost of living.

## TALKING POINTS ON THE SOLUTION

- As of September 2020, [most Americans \(72%\) support raising the minimum wage](#), including most Republicans (62%), Democrats (87%) and Independents (69%). [Support has grown since the pandemic began](#), particularly among Republicans.
- [Two-thirds of Americans specifically support raising the minimum wage to \\$15 per hour](#), and [81% support requiring employers to pay the full minimum wage to tipped workers](#).
- Legislatures in seven states—California, Connecticut, Illinois, Maryland, Massachusetts, New Jersey, New York—and the District of Columbia have all [enacted \\$15 minimum wage laws](#) that will be fully phased in by the year 2026.
- In November 2020, [Florida voters overwhelmingly approved a ballot measure to increase their state's minimum wage to \\$15 by 2026](#), with 61% support.
- Raising the minimum wage is an important tool to narrow race and gender wage gaps. Because women—[particularly Black women](#)

[and Latinas](#)—often are concentrated in undervalued, low-paying jobs, they benefit the most when the minimum wage goes up. In Florida, for example, [30% of working women—and 38% of working women of color—will get a raise](#) as a result of the recent ballot initiative, compared to 23% of working men. Overall, more than one-third of Black and Latinx workers and one-quarter of Asian workers in Florida will get a raise, compared to one-fifth of white workers.

- In One Fair Wage states—where employers are required to pay tipped workers the regular minimum wage before tips—the poverty rate for women tipped workers is 31% lower than in states with a \$2.13 tipped minimum cash wage. For Black women and Latinas in tipped jobs, the poverty rates are 35% and 30% lower, respectively, in One Fair Wage states than in \$2.13 states.
- One Fair Wage could also help slow the spread of COVID-19 by ensuring that restaurant workers can depend on a paycheck from their employer, [making it easier for them to enforce COVID safety protocols with customers by reducing reliance on tips](#) from those customers.
- As cities and states reopen their economies, a central challenge is restoring consumer demand; [raising the minimum wage is a highly effective tool to do just that](#), because it puts extra dollars in the pockets of people who are highly likely to spend it—increasing sales and boosting the economy.
- Across the country, [more than 1,300 businesses have publicly expressed support for a \\$15 minimum wage](#)—recognizing that raising the minimum wage makes good business sense, since it can not only boost consumer demand but also [reduce employee turnover, increase productivity, and improve customer service](#).
- Decades of research studying the impact of state and local minimum wage increases shows that these measures consistently [boost incomes](#) for workers and their families [without costing jobs—even during economic downturns](#).
- [Increased public investments](#) can ensure that low-paid child care workers and [home care workers](#)—who are overwhelmingly women, disproportionately Black women and Latinas—fully benefit from minimum wage increases, without increasing costs for the families they serve.

1 The seven “One Fair Wage” states in which no tip credit is permitted under state law are Alaska, California, Minnesota, Montana, Nevada, Oregon, and Washington. See Wage & Hour Div., Minimum Wages for Tipped Employees, <https://www.dol.gov/whd/state/tipped.htm>, U.S. Dep’t of Labor (Jan. 1, 2021).



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## POLICY BRIEF

# ENSURE NO ONE IS FORCED TO CHOOSE BETWEEN A JOB AND A HEALTHY PREGNANCY: TREAT PREGNANT WORKERS FAIRLY



## THE PROBLEM

More than 40 years after the passage of the federal Pregnancy Discrimination Act (PDA), pregnant workers 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. When pregnant workers have asked for these temporary adjustments, however, too often employers 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-paid jobs](#)—disproportionately women of color—are particularly likely to seek and be denied pregnancy accommodations, given the physically demanding nature of many low-paid jobs and a culture of inflexibility in many low-paid workplaces. Women are especially likely to be the [primary breadwinner](#) in low-income families, 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.

While the PDA and subsequent [Supreme Court](#) cases interpreting the law have provided important protections for pregnant workers, it is often unclear when federal law requires employers to provide a pregnant worker an accommodation. The need for clear legal protections for pregnant workers who need workplace accommodations has only increased with COVID-19. As new information emerges about the risks COVID-19 poses during pregnancy, pregnant workers are urgently seeking, and far too often being denied, accommodations like proper personal protective equipment, telework, moving to a less crowded work area or changing start times so as not to risk riding public transit during peak hours.

## 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 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.

## TALKING POINTS ON THE SOLUTION

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

- Workplace accommodations help safeguard healthy pregnancies and prevent harm to higher risk pregnancies. They are an important step toward reducing [disproportionately high rates](#) of maternal and infant mortality for Black women and other women of color.
  - 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.
  - Pregnancy accommodation laws rely on an already-familiar and easy-to-apply legal standard modeled after the Americans with Disabilities Act (ADA) and provide much needed clarity to employers about their responsibility to accommodate pregnant workers. As a [South Carolina business journal article said](#), pregnancy accommodation laws are a “development that all workers and managers can cheer.”
  - Accommodating pregnant workers is not only good for working women and families, it is [good for business](#). U.S. [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. And since pregnancy is temporary, pregnancy accommodations are, by definition, short-term; many of these accommodations are low and no cost.
  - [Thirty 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, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Minnesota, Nebraska, Nevada, New Jersey, New Mexico, New York, North Carolina, North Dakota, Oregon, Rhode Island, South Carolina, Tennessee, Texas, Utah, Vermont, Virginia, 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 seven years, with bipartisan and frequently unanimous support.
- 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 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 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.

## BASIC ELEMENTS OF THE SOLUTION

- Prohibit employers from discriminating on the basis of pregnancy, childbirth, or related conditions.
- Require employers to treat those affected by pregnancy, childbirth, or related conditions





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## POLICY BRIEF

# REMOVE BARRIERS AND EXPAND ACCESS TO BIRTH CONTROL



## THE PROBLEM

Despite enormous advances in birth control access, people still struggle to get and afford birth control. Moreover, the COVID-19 pandemic and the recession have [created new barriers](#) to accessing birth control and worsened existing ones, putting more people in the position of wanting to delay pregnancy or prevent it altogether. When people 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. Amidst our current crises, states must seek to improve health and families' economic security through policies that improve access to birth control, which often have associated cost saving for states as well.

Even those 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 they will cover at one time, and some plans require that, if someone wants coverage of an over-the-counter product, they must first obtain a prescription. For many people who use birth control—especially those who are already more likely to experience barriers to access, including Black women, Native American women, and other women of color and LGBTQ people—[these kinds of barriers](#) can keep them from using birth control correctly or consistently, and are especially pronounced for those who rely on public transportation and whose work hours are not predictable.

The Trump-Pence administration was hostile to birth control and took numerous steps to make it more difficult for people to find and afford birth control. Although the Biden administration is expected to repair the damage that the Trump-Pence administration inflicted and will hopefully work to expand access, states have a critical role to play in helping to ensure their citizens can access the birth control they need, when they need it.

Additionally, the federal Medicaid statute requires coverage of family planning services and supplies without out-of-pocket costs, free of coercion, and from the family planning provider of a beneficiary's choice. These protections ensure that birth control is accessible and affordable for women eligible for Medicaid. In fact, Medicaid pays for 75% 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 take action to 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.

## BASIC ELEMENTS OF THE SOLUTION

- Enshrine the Affordable Care Act'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. This is especially important in light of the Trump administration's rules that allow virtually any employer to refuse to comply with the federal requirement.
- Expand Medicaid eligibility for family planning services to individuals otherwise ineligible for Medicaid. Especially when so many people are trying to make ends meet with less, expanded Medicaid eligibility can keep birth control accessible for more people.
- Require coverage and dispensing of no less than one full year of birth control by both private and public insurance, removing an unnecessary barrier to birth control, which is particularly important during the COVID-19 crisis.
- Require coverage of over-the-counter methods of birth control without requiring a prescription by both private and public insurance.

## TALKING POINTS ON THE SOLUTION

- Everyone should have access to birth control.
- Contraception is basic health care.
- [Nearly all voters](#) (96%) support women having access to birth control. [And nearly eight in 10 voters](#) (78%) see contraception as basic health care for women.
- Birth control is such a core part of women's lives that 99% of sexually active women have used birth control at some point.
- Protecting and expanding access to birth control is essential for many people's autonomy and well-being, and especially so as we face a crisis that threatens the health, livelihoods, and financial security of millions.
- States are facing fiscal crises right now but must still prioritize access to birth control to help people achieve their educational, financial, and family goals. Moreover, family planning programs are often cost saving for states, making them a noncontroversial issue when it comes to budgets.
- Removing barriers to birth control so that people can plan, space, and prevent pregnancies is critically important for their economic security. Access to birth control [is linked to](#) women's greater educational and professional opportunities and increased lifetime earnings.
- A person's chances of unintended pregnancy increase considerably when barriers prevent them from using birth control consistently and correctly.
- Arbitrary barriers, such as limits on how many packs of birth control you can pick up at one time or unnecessary prescriptions, shouldn't keep people from accessing birth control.

- Access to a full year's supply of birth control can help people 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% and odds of abortion decreased by 46%.
- It can be difficult for people to pick up their birth control or see their health care provider when they need it—especially during the coronavirus crisis. They 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, let alone be safe going to any of these places.
- Putting the ACA birth control benefit in state law will protect our residents and could [reduce income-based disparities](#) in unintended pregnancy rates.
- People need coverage of all birth control methods without out-of-pocket costs so that they can use the specific birth control that is right for them without cost being an obstacle. [Seven in 10 voters](#) (71%) support the ACA provision that requires insurance plans to cover birth control without a co-pay.
- People who are uninsured and struggling to make ends meet shouldn't be left without birth control coverage. [One in three Latinas](#) and [nearly half \(46%\) of Black women](#) of reproductive age report that they cannot afford to pay more than \$10 for contraception.
- Expanding access to birth control will put our state alongside states across the country that are pursuing common sense solutions to barriers their residents face:
  - o At least 15 states have passed laws requiring coverage of all FDA-approved birth control methods without out-of-pocket costs (CA, CT, DC, DE, IL, ME, MD, MA, NV, NH, NM, NY, OR, VT, WA).
  - o At least 20 states and the District of Columbia have adopted laws or policies requiring coverage of or supply of 6 or more months of birth control dispensed at one time in private insurance coverage, Medicaid coverage, or both (AL, CA, CO, CT, DC, DE, HI, IL, IN, ME, MA, MD, MO, MS, NV, NH, NJ, NM, NY, OH, OR, RI, SC, TX, VA, VT, WA).
  - o At least 12 states and the District of Columbia have passed laws requiring coverage of some or all over-the-counter methods of birth control without requiring a prescription (CA, CT, DE, DC, IL, MD, MA, NV, NJ, NM, NY, OR, WA).



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## POLICY BRIEF

# PROTECT AND ENSURE ACCESS TO ABORTION



## THE PROBLEM

Abortion is an essential part of full-spectrum reproductive health care. Meaningful access to abortion is also fundamental to pregnant people's equality, freedom, and autonomy. One in four women will need an abortion in her lifetime. What's more, for more than four decades, the Supreme Court has recognized the constitutional right to decide to have an abortion.

Yet, our constitutionally protected right to abortion is under constant attack. [Since 2011](#), states have enacted over 450 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 those seeking abortion, prohibitions on insurance coverage of abortion, and laws allowing health care providers' religious beliefs to override patient access to abortion. At the same time, over the last four years, the federal government took a number of steps to restrict access to abortion, including adding Supreme Court justices hostile to abortion who are poised to eviscerate the constitutional right to abortion. And, the COVID-19 pandemic has heightened people's need for abortion care while simultaneously exacerbating inequities in and barriers to abortion access. Moreover, anti-abortion politicians have [attempted to exploit the pandemic](#) to close abortion clinics and prevent pregnant people from making decisions about their bodies and futures.

Already, the right to abortion is meaningless for many people, due to the overwhelming number of existing anti-abortion laws and Supreme Court decisions that have chipped away at it. This is [especially true](#) for [people of color](#), [those struggling financially](#), [LGBTQ people](#), [young people](#), and [those in rural communities](#). States must act to protect and expand meaningful access to abortion to ensure that everyone is able to make decisions about their health, their families, their lives, and their futures.

## THE SOLUTION

States should be working toward a future where all people are able to make decisions about pregnancy and parenting, however much money they make, however they get their health coverage, and wherever they live, free from discrimination and coercion. States must act now to protect and expand abortion access by enacting policies that protect people's rights to make reproductive health care decisions and that expand access to comprehensive reproductive health care, enacting legislation to protect health care professionals who provide abortion care, and repealing existing state abortion restrictions.

## BASIC ELEMENTS OF THE SOLUTION

- Repeal any existing state abortion restrictions, including:
  - Laws that ban or criminalize abortion, including those that pre-date *Roe v. Wade*;
  - Medically unnecessary and burdensome restrictions on abortion providers such as admitting privileges requirements;

- o Measures meant to shame and judge people 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; and
- o Refusal of care laws that allow health care providers to use personal beliefs to override a patient's access to abortion care.
- Clarify that abortion is designated as essential care, to protect access during public health crises such as the COVID-19 pandemic.
- Enshrine abortion protections in state law, including measures that:
  - o Protect people's right to make a range of reproductive health care decisions, including abortion, without government interference;
  - o Ensure public and private insurance coverage of abortion as part of comprehensive health insurance coverage;
  - o Protect and expand access to telemedicine;
  - o Prohibit discrimination against people based on their reproductive health decisions; and
  - o Prohibit discrimination against health care professionals who want to provide abortion care and information regarding full-spectrum reproductive health care.
- o According to a 2019 poll, the majority of [Americans](#) say they are more concerned that states are making it too difficult to get an abortion than too easy.
- o Voters in Colorado [rejected a constitutional amendment](#) that would have banned abortion after an arbitrary point in pregnancy.
- Unless individuals 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 people seeking abortion care by delaying access and creating unnecessary barriers.
- A person's zip code, income, or source of health insurance should not determine their access to abortion.
- Religious exemption laws allow hospitals, doctors, and nurses to determine a patient's care based on their religious beliefs, not based on what is best for the patient. Refusals especially harm women, people of color, LGBTQ people, and others who already face barriers to care.
  - o Hospitals have refused to treat people who are experiencing a life-threatening miscarriage because of hospital policies against abortion.
  - o Hospitals that are governed by policies written by the U.S. Conference of Catholic Bishops, which prohibit providers from treating patients with certain reproductive health care services including abortion, [disproportionately harm women of color](#) as these hospitals disproportionately serve communities of color.
- When policymakers take action to protect access to abortion, they are part of a growing trend nationwide. In 2020 alone, for example:
  - o Virginia enacted the [Reproductive Health Protection Act](#), repealing medically unnecessary restrictions on abortion care, including Virginia's mandatory ultrasound law, 24-hour mandatory delay period, and burdensome regulations on abortion providers that were designed to force clinics to close.
  - o The District of Columbia enacted the [Strengthening Reproductive Health Protection Act](#), which protects people's right to make reproductive health decisions without government interference and prohibits discrimination against health care professionals who provide abortion.
  - o The Massachusetts House approved a [budget amendment](#) that would protect people's right to abortion.
  - o New Jersey Governor Phil Murphy and members of the legislature announced the introduction of the [Reproductive Freedom Act](#), a bill that would protect and expand access to reproductive health care, including birth control, abortion, and other pregnancy related care.

## TALKING POINTS ON THE SOLUTION

- Abortion is an essential part of comprehensive reproductive health care that [nearly one in four women](#) will experience in her lifetime.
- In light of a hostile Supreme Court poised to eviscerate the right to abortion, policymakers must act to ensure our state is a safe place to seek abortion care.
- The COVID-19 pandemic has created an unprecedented public health and economic crisis— now is the time to ensure access to care, not take it away.
- The COVID-19 pandemic has exposed and heightened barriers and inequities in access to abortion. Policymakers should seize this opportunity to dismantle barriers and ensure meaningful and equal access to abortion care for all who need it.
- Voters overwhelmingly support access to abortion.
  - o Polling done [on the eve of the 2020 election](#) demonstrated that a majority of voters support policymakers protecting and expanding access to reproductive health care, including abortion.
  - o Seventy-seven percent of [voters](#) believe that Roe v. Wade should not be overturned, and support for Roe v. Wade has increased [among voters](#) since 1992.
  - o According to 2020 Gallup polling, [79% of U.S. adults](#) think abortion should be legal in some or all circumstances.



# 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, our child care and early learning system is fragile, and has now been brought to the brink of collapse by the COVID-19 public health crisis. Even prior to the crisis, 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)—struggled to find and afford child care. The average annual cost of child care for one child [ranges from over \\$3,800 to \\$21,000](#). These costs leave many families—particularly low-income families—paying unaffordable sums out of pocket. Low-income families that pay for child care spend [35% of their income on child care, compared to 7%](#) for higher-income families. The Child Care and Development Block Grant (CCDBG), the major federal child care program, is aimed at helping low-income families afford child care, but it falls far short of meeting the need. Only [one in seven children](#) eligible for federal child care assistance receives help.

Many children—particularly children in low-income families 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 [44% of four-year-olds and just 17% of three-year-olds](#). Most state programs also lack sufficient quality standards for their prekindergarten programs.

Yet, we cannot make child care and early learning more affordable for parents by reducing the costs of providing it. Child care and early education professionals who care for and teach our children—and [who are overwhelmingly women and disproportionately women of color](#)—are already paid low wages (generally less than \$12 per hour) that leave them [straining to support themselves and their own families](#).

## THE SOLUTION

States should protect and significantly expand their investments in child care across the continuum, from care for infants and toddlers to prekindergarten to school-age care. With states facing major budget crises, they should prioritize raising state revenues from progressive sources over cuts to crucial programs such as child care and [advocate for child care investments at the federal level](#).

[States' child care and early learning policies](#) should be designed to ensure that children have equitable access to healthy, safe, stable environments that promote their growth and learning. Key to this effort are initiatives that increase professional development opportunities, compensation for, and the voice of the child care and early learning workforce in state child care systems. Policies should also be designed and implemented thoughtfully—and with [input from parents and providers](#)—so that they meet the diverse

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needs of families, including those who work [non-standard hours](#), have children with disabilities, or have other special circumstances that can make it difficult for them to access or afford child care and early education programs. These families and families in underserved communities should receive priority and targeted [outreach](#) for child care assistance and early education programs.

## BASIC ELEMENTS OF THE SOLUTION

- Protect and then build on state investments, and advocate for federal investments, to help families—particularly low- and moderate-income families—find and afford stable, high-quality child care for infants through school-age children.
- Support initiatives that enable child care workers to receive a living wage and benefits and to have a pathway to higher wages equivalent to similarly qualified K-12 educators.
- Increase payment rates to child care providers that serve families receiving child care assistance, and offer additional incentives and supports to encourage and enable providers to improve their quality.
- Fund grants, technical assistance, teacher recruitment efforts, and other initiatives to build the supply of affordable, high-quality child care for infants and toddlers, children with special needs, and children in underserved areas, including low-income communities and rural areas.
- Ensure parents who work nontraditional and unpredictable hours have child care options that meet their needs, by providing higher payment rates to child care providers offering these hours and other incentives, training, and supports to offer nontraditional-hour care.
- Ensure child care programs and resources are available to a full range of child care providers, including [family, friend, and neighbor \(FFN\) care providers](#), so that all families have options that meet their needs. FFN providers are often overlooked in policymaking, but they are often the option that families most trust, the only option available to offer care during parents' nontraditional work hours, or families' preferred choice for other reasons.
- Support initiatives to expand and ensure equitable access to professional development for child care providers.
- 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.
- Take advantage of flexibilities in the CCDBG program to respond to families' and providers' needs during the current and any future crises, including by paying providers based on enrollment rather than attendance.

- 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.
- Design prekindergarten initiatives to include set-asides for infant-toddler care.
- 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.
- Establish a grassroots council of parents, providers, and other community leaders on how to best raise revenues for state investments and use funding to support the most underserved.

## TALKING POINTS ON THE SOLUTION

- The COVID-19 public health crisis brought the already fragile child care system to the brink of collapse—and demonstrated how fundamental child care is to children, families, and the economy. We must provide significant new public investments to rebuild the child care system and make it more resilient and equitable.
- High-quality child care and early learning is essential to enable parents to get and keep a job or advance their education, to give children a strong start toward success in school and a bright future, and to rebuild the economy.
- Parents are struggling to pay for child care and cannot afford to pay more than they already do, but current fees are not sufficient to support adequate pay for child care workers. Public investment is essential to solve this dilemma without placing a greater burden on parents or child care workers.
- 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.
- Child care workers are always essential, and should be compensated accordingly.



FOR GENDER JUSTICE

## POLICY BRIEF

# BOOST WORKING FAMILIES' INCOMES: ESTABLISH OR IMPROVE STATE TAX CREDITS



## THE PROBLEM

The spread of COVID-19 has unleashed a health and economic crisis of unprecedented scope. Women, and especially women of color, have borne the brunt of the economic impact. Though the overall unemployment rate has dropped since the beginning of the pandemic, hundreds of thousands of women have been pushed out of the workforce, and unemployment rates for Black women and Latinas are especially high. [Millions of women and families](#) have lost employment income, face food insufficiency, and are behind on their rent or mortgage payments since the onset of the pandemic. And unfortunately, the economic outlook for women and families in 2021 continues to be dire. Boosting working women's incomes will be critically important to ensure their well-being, enable them to meet basic needs, and stabilize the economy. Refundable tax credits—or tax credits that provide families a refund if the amount of the credit exceeds their tax liability—are [proven to help families weather recessions](#) like the one we are currently experiencing and are key to rebuilding an economy that works for everyone.

## THE SOLUTION

In far too many states, low- and middle-income families [pay a greater share of their income](#) in taxes than wealthy families. In fact, [most state tax codes exacerbate economic inequality](#) for communities of color. Even outside of an economic downturn, tax credits can help keep millions of families out of poverty and alleviate regressive state tax codes. But during recessions, refundable state tax credits can reduce the tax burden some families face and put much-needed cash back in families' hands.

## 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. In addition, allow families who file their taxes using Individual Tax Identification Numbers (ITINs) to claim EITCs.
- When designing or improving a state CDCTC, offer a generous percentage of the federal CDCTC but allow families to claim state credits even if their incomes were too low to benefit from the federal credit.
- Ensure a state CTC is refundable from the first dollar of earnings and allow workers to claim the CTC for children with ITINs. This will help more families who cannot access the federal CTC benefit from a state CTC.

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- Offer an additional Young Child Tax Credit to provide more assistance to families with young children who often receive smaller child tax credit amounts.

## TALKING POINTS ON THE SOLUTION

- State tax credits, especially those that provide a refund, can [increase family incomes](#)—supporting work and improving family well-being, children's health, and future educational and employment outcomes.
- Tax credits also [boost the economy](#) (especially during a recession) by putting money in the pockets of working families, who are likely to spend it in their local economy.
- [Twenty-eight states and the District of Columbia](#) provide EITCs (which are refundable in all but six states). [Two states](#) allow tax filers with ITINs to claim their EITC.
- State CDCTCs can provide some help to families struggling to pay for the child care they need to work. [More than half of states](#) offer some type of child and dependent care tax provision (a credit or a deduction), and 14 states, from Nebraska to New York, offer refundable credits.
- While few states offer them, state-level CTCs can [help reduce child 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.