

May 6, 2013

Dear Member of Congress:

**We, the undersigned organizations, urge you to oppose the so-called Working Families Flexibility Act of 2013 (H.R. 1406), a smoke-and-mirrors bill that offers a pay cut for workers without any guaranteed flexibility or time off to care for their families or themselves.** As members of Congress on both sides of the aisle have acknowledged, people today are struggling to meet the demands of job and family, as well as to make ends meet. Americans urgently need lawmakers to take the next step on the road to a family friendly nation. But H.R. 1406 is not what the nation needs. It is, at best, an empty promise and it would cause considerably more harm than good.

**The Working Families Flexibility Act offers a false choice between time and pay.** The bill's supporters claim H.R. 1406 would give hourly workers more flexibility and time with their loved ones by allowing them to choose paid time off, rather than time-and-a-half wages, as compensation for working more than 40 hours in one week ("comp time"). But the irony is that workers will only get more time with their families after they've spent long hours away at work. And there is nothing in H.R. 1406 that guarantees that workers will be able to use the comp time they have earned when they need it.

**The worker flexibility offered by H.R. 1406 is nothing more than a mirage.** That's because this proposal gives the employer, not the employee, the "flexibility" to decide when and even if comp time can be used. The bill permits the employer to deny the request entirely if the employee's use of comp time would "unduly disrupt" operations or to grant leave on a day other than the day requested by the employee. This means that H.R. 1406 provides no guarantee that workers can use their earned time when a child falls ill, to attend a parent-teacher conference, or to help an aging parent settle in to a nursing home. Employers can veto an employee's request to use comp time even in cases of urgent need.

**H.R. 1406 would put workers at very real risk and provides an interest-free loan to employers.** An employee who does not accept comp time could be penalized with fewer hours, bad shifts and loss of overtime hours. And because it is cheaper to provide comp time than to pay overtime wages, there is a significant incentive for employers to hire fewer people and rely on overtime hours – paid for in future comp time – to get work done. It would permit employers to defer compensation for unused comp time for as long as 13 months, creating an interest-free loan for employers and hardships for workers.

**H.R. 1406 provides few protections for workers and no additional resources to the U.S. Department of Labor for education, investigations and enforcement.** While this bill adds significant new provisions to the Fair Labor Standards Act (FLSA), it provides no additional funds for the education and enforcement efforts the new provisions will require. Workers would have few remedies in cases of employer misconduct or bankruptcy. The problem of wage theft (the non-payment or underpayment of wages for hours worked) would be exacerbated by making it easier for employers to avoid overtime compensation obligations.

**The Fair Labor Standards Act (FLSA) currently allows employers to provide workers with flexibility and time off without compromising their right to be paid fairly for the hours they work.** The types of flexibility allowable under the FLSA include alternative start and end times, compressed or variable work hours within a week, split shifts, work at multiple locations and paid or unpaid time off. The proponents of H.R. 1406 set up a false dichotomy that would force workers to choose between flexibility and overtime pay when, in reality, the FLSA does nothing to prevent employers from offering both.

**Instead of wasting time on smoke and mirrors, Congress should focus on policy solutions that have been proven to work.** We urge Congress to adopt policies that will provide families with the economic security and the time that they need:

- The Healthy Families Act (H.R. 1286/S. 631), which makes earned paid sick days available to millions of workers;
- Paid family and medical leave insurance modeled on successful state programs in California and New Jersey;
- Expanded access to the FMLA for more workers for more reasons, and so parents could, in fact, have the time they need to attend parent-teacher conferences without risking their jobs;
- The Fair Minimum Wage Act (H.R. 1010/S. 460) which brings the minimum wage back to a reasonable level and, in so doing, provides businesses with customers, improves our economy, and help locals communities thrive;
- The Paycheck Fairness Act (H.R. 377/S. 84), which helps close the gender-based wage gap; and
- Measures to encourage fairer and more predictable work hours and prohibit mandatory overtime.

**Workers simply should not have to put in extra time beyond a 40-hour week *and* forgo pay to earn time to care for themselves or their loved ones.** We urge Congress to reject H.R. 1406 and instead adopt family friendly policies that provide true flexibility for working families, not an empty promise that would make life appreciably harder for families that are already struggling.

Sincerely,

*National Organizations*

**National Partnership for Women & Families**

9to5

A Better Balance: The Work and Family Legal Center

African American Ministers In Action (AAMIA)

African American Ministers Leadership Council (AAMLC)

American Association of University Women (AAUW)

American Federation of Government Employees (AFGE)

AFL-CIO

American Federation of State, County and Municipal Employees (AFSCME)

American Federation of Teachers, AFL-CIO

The Arc  
Business and Professional Women's Foundation  
Campaign for Community Change  
Center for Law and Social Policy (CLASP)  
Coalition of Labor Union Women  
Coalition on Human Needs  
Demos  
Direct Care Alliance  
Equal Rights Advocates  
The Every Child Matters Education Fund  
Family Equality Council  
Family Values @ Work Consortium  
Feminist Majority  
Food Chain Workers Alliance  
Friends Committee on National Legislation  
Half in Ten  
HIV Prevention Justice Alliance  
Human Rights Campaign  
Interfaith Worker Justice  
Jewish Women International  
Jobs with Justice/American Rights at Work  
Labor Council for Latin American Advancement  
Labor Project for Working Families  
Leadership Center for the Common Good  
The Leadership Conference on Civil and Human Rights  
Legal Momentum  
LULAC  
Main Street Alliance  
Maternity Care Coalition  
MomsRising  
NAACP  
National Action Network  
National Association of Social Workers  
National Consumers League  
National Council of Jewish Women  
National Council of La Raza (NCLR)  
National Council of Women's Organizations  
National Domestic Workers Alliance  
National Employment Law Project  
National Employment Lawyers Association (NELA)  
National Hispanic Council on Aging  
National Latina Institute for Reproductive Health (NLIRH)  
National Organization for Women (NOW)  
National Primitive Baptist Convention, USA, Inc.  
National Research Center for Women & Families  
National Women's Law Center  
NETWORK, A National Catholic Social Justice Lobby  
Partnership for Working Families

People For the American Way  
PICO National Network  
Progressive National Baptist Convention, Inc. (PNBC)  
Progressive States Network  
Restaurant Opportunities Centers United

**RESULTS**

Service Employees International Union (SEIU)  
United Steelworkers (USW)

USAction

**VESSELS**

Wider Opportunities for Women  
Women Employed  
Working America

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*State and Local Organizations*

**Arkansas**

Little Rock National Organization for Women  
Northwest Arkansas Workers' Justice Center

**Arizona**

Sun City/West Valley National Organization for Women

**California**

9to5 California  
Center on Policy Initiatives  
Legal Aid Society-Employment Law Center

**Colorado**

9to5 Colorado  
Colorado Fiscal Institute  
Colorado Organization for Latina Opportunity and Reproductive Rights (COLOR)  
Colorado Progressive Coalition  
FRESC: Good Jobs, Strong Communities  
Interfaith Worker Justice Committee of Colorado  
NAACP Colorado/Montana/Wyoming State Conference

**Connecticut**

Connecticut Working Families Party

**District of Columbia**

D.C. Employment Justice Center

**Florida**

Broward County Chapter of the National Organization for Women  
Farmworker Association of Florida

Florida National Organization for Women  
Organize Now  
Palm Beach County National Organization for Women  
Pasco National Organization for Women  
Tampa Chapter of the National Organization for Women

**Georgia**

9to5 Atlanta  
Victory for the World Church

**Illinois**

AIDS Foundation of Chicago  
Chicago Chapter Coalition of Labor Union Women  
Human Action Community Organization (HACO)  
Illinois State CLUW  
SEIU HealthCare Illinois & Indiana

**Indiana**

Central Indiana CLUW Chapter  
Central Indiana Labor Council  
Community, Faith & Labor Coalition

**Maine**

Maine Women's Lobby

**Maryland**

Baltimore National Organization for Women  
Job Opportunities Task Force  
Public Justice Center

**Massachusetts**

Jewish Alliance for Law & Social Action  
Massachusetts Paid Leave Coalition  
St. Paul A.M.E. Church

**Michigan**

Wayne County Chapter of National Organization for Women

**Minnesota**

Uptown National Organization for Women

**Mississippi**

The Mississippi Workers' Center for Human Rights

**New Hampshire**

NH Sisters of Solidarity  
NH National Alliance for Direct Support Professionals

**New Jersey**

Grace Cathedral Family Worship Center, Inc.  
Greater New Jersey CLUW Chapter  
Hope House Family Life Ministry  
New Jersey Citizen Action  
New Jersey Tenants Organization  
Northern NJ Chapter of National Organization for Women

**New York**

Catalyst  
Gay Men's Health Crisis (GMHC)  
New York Paid Leave Coalition  
New York State Nurses Association  
Progressive States Network  
Rockland County Chapter of National Organization for Women

**North Carolina**

Fayetteville National Organization for Women  
North Carolina Justice Center

**Ohio**

Akron Area National Organization for Women  
National Organization for Women, Greater Cleveland Chapter  
Ohio National Organization for Women  
Southeast Seventh-day Adventist Church  
Toledo Chapter, National Organization for Women  
Woodland Christian Church (Disciples of Christ)  
Zion Hill Missionary Baptist Church

**Oregon**

Central Oregon Coast National Organization for Women  
Family Forward Oregon

**Pennsylvania**

Micah Leadership Council  
New Hope Baptist Church  
Ni-ta-nee National Organization for Women  
Northeast Williamsport National Organization for Women  
PathWays PA  
Pennsylvania Association of Staff Nurses & Allied Professionals (PASNAP)  
Pennsylvania Council of Churches  
Philadelphia Coalition of Labor Union Women  
Pittsburgh UNITED  
Women's Law Project

**Texas**

Equal Justice Center  
North Dallas National Organization for Women  
Workers Defense Project

**Vermont**

Voices for Vermont's Children

**Virginia**

Charlottesville Chapter of the National Organization for Women (CNOW)  
NoVA National Organization for Women  
Vienna Area National Organization for Women  
Virginia National Organization for Women

**Washington**

Puget Sound Advocates for Retirement Action  
Thurston County Chapter, National Organization for Women  
WA State National Organization for Women

**Wisconsin**

9to5 Milwaukee  
SEIU HealthCare Wisconsin  
Wisconsin National Organization for Women  
Workers' Rights Center