

The Paycheck Fairness Act Fact Sheet

Forty-seven years after President John F. Kennedy signed the Equal Pay Act ensuring "equal pay for equal work," the Census Bureau reports that, on average, full-time working women earned 78 cents to every dollar earned by men. The Lilly Ledbetter Fair Pay Act, signed into law on January 23, 2009, ensures that victims of discrimination have fair access to the courts, but additional legislation is needed to close the persistent gap between men's and women's wages.

Action Needed

Business and Professional Women's Foundation urges Senators to co-sponsor and support the Paycheck Fairness Act (HR 12/S 182). The House of Representatives passed the Paycheck Fairness Act in January 2009, but it will only be brought to a vote in the Senate if more co-sponsors are added.

The Paycheck Fairness Act will strengthen the Equal Pay Act in ways necessary to guarantee that women workers are not shortchanged solely because of their gender.

The Paycheck Fairness Act will:

- **Close a Loophole in the Employer Defense** – PFA requires employers to demonstrate that wage gaps between men and women doing the same work are truly a result of factors other than sex. Wage differentials based on merit, quantity of productivity and seniority are still allowed under the law.
- **Prohibit Employer Retaliation** - PFA prohibits retaliation against workers who inquire about employers' wage practices or disclose their own wages.
- **Clarifies What "Establishment" Means When Comparing Wages** - PFA clarifies that a comparison between employees to determine fair wages need not be between employees in the same physical place of business.
- **Increases Training, Research, and Education** - PFA provides for increased training for EEOC employees to help them identify and respond to wage discrimination claims. It also calls for enhancing research and education programs at the US Department of Labor (DOL), including programs to research ways to eliminate gender-based pay disparities and provide information to employers to assist them in eradicating such disparities.
- **Improves Collection of Pay Information by the EEOC** - PFA requires the EEOC to develop regulations directing employers to collect wage data, reported by the race, sex, and national origin of employees. These data will enhance the EEOC's ability to detect violations of law and improve its enforcement of the laws against pay discrimination.
- **Reinstates Pay Equity Programs and Enforcement at the Department of Labor** – PFA requires the DOL to reinstate activities that promote equal pay, such as: directing educational programs, providing technical assistance to employers, recognizing businesses that address the wage gap, collecting wage-related data, and conducting and promoting research about pay disparities between men and women.
- **Develops Voluntary Guidelines for and Recognizing Model Employers** - PFA establishes a competitive grant program to develop salary negotiation training for women and girls.

Key Points

Wage disparity persists, which is why we must strengthen laws against wage discrimination.

- In 2008, women working full time earned an average of 22.9% less than their male counterparts. The gender wage gap closed by less than a penny between 2007 and 2008.
- Wage disparity persists **across all educational levels and in all states.**
- In 2003 the Government Accountability Office (GAO) found that women managers consistently made less than their male counterparts and in seven of the 10 management positions in different industries, the pay gap had increased between 1995 and 2000.
- Among workers with a high school diploma, women's median annual income was \$19,175, compared to \$28,827 for men – almost \$10,000 less. Among workers with a bachelor's degree, women's median annual income level was \$32,394, compared to \$50,527 earned by men – roughly \$18,000 less.

Eliminating the wage gap is good for families and for business.

- If the wage gap was eliminated, **annual family incomes would increase by \$4,000. This would cut the poverty rate by half!** Working families lose \$200 billion in income annually to the wage gap.
- Pay equity would *not* lead to a reduction in men's wages. **Federal law prohibits reducing pay for any employee to remedy discrimination.**
- Evidence across the world shows that increases in women's wages as a result of pay equity efforts do not cost employers more, and implementing pay equity does not unnecessarily disrupt the economy. In fact, forward looking employers recognize that eliminating pay differentials makes good business sense and that **pay equity can help with competitiveness, worker retention, and productivity.**

The wage gap has a long term effect on women's economic security.

- **The wage disparity grows as women get older.** From ages 19 to 24, women are paid 94% of what their male counterparts receive, but by the time these women reach the ages of 46 to 64, they will earn only 68% of what men are paid. When they retire, women who have worked full time will receive \$8,000 less annually in retirement income than their male counterparts.

The wage gap is not a matter of personal choice.

- The 2003 GAO study concluded that even after accounting for "choices" such as work patterns and education, women earn an average of 80 cents for every dollar that men earn. Moreover, the GAO has found that women with children earn about 2.5 percent less than women without children, while men with children enjoy an earnings boost of 2.1 percent, compared with men without children. So mothers pay a penalty for their choices while fathers receive a bonus.



Myths and Facts about the Paycheck Fairness Act

Despite prior legislative attempts to close the wage gender gap, women are still paid only 78 cents for every dollar paid to men. The Paycheck Fairness Act (PFA) will strengthen existing laws and introduce new tactics to end this form of discrimination against women. Unfortunately, there are several common misconceptions about the PFA.

MYTH: The PFA will bankrupt employers because it would eliminate the caps on punitive* and compensatory* damages*, which would result in an explosion of court cases, and would allow class-action lawsuits.

FACT: This is false.

The PFA will simply extend to victims of sex-based discrimination the same standards for class action lawsuits and the same options for damages that are currently available in cases of race-based discrimination.

Under our current laws, victims of race-based discrimination can sue for compensatory and punitive damages, and the courts are free to award whatever amount they deem just. Victims of sex-based discrimination don't have the same rights. They can only sue for back wages, and their recovery is limited to the least possible amount they might have earned.

This is so profoundly unfair that it actually makes it worthwhile for an employer to pay a woman less than her male counterparts, and gamble that she won't sue for back wages in the future. If she doesn't sue, the employer keeps the "savings"; if she does, the employer only has to dole out the amount that should have been paid in the first place. There is no downside to employers for sex-based wage discrimination.

Why should women who are the victims of sex-based wage discrimination have fewer rights than employees who are subjected to race-based discrimination? The answer is: they shouldn't. The PFA corrects this injustice by eliminating the restrictions that treat sex-based wage discrimination as a relatively trivial matter.

Race-based discrimination damage awards have not bankrupted employers; there is no reason to think things will be different when this remedy is extended to victims of sex-based discrimination. Besides, every employer has a surefire way to protect him- or herself from discrimination lawsuits: **don't discriminate.**

MYTH: The PFA is unfair to employers because they will have to pay damages even if the pay disparity was unintentional.

FACT: This is false.

Punitive damages are only awarded if the plaintiff can demonstrate that the employer acted with malice, or reckless indifference.

MYTH: The PFA would unfairly penalize employers who pay workers at some worksites more because the cost of living is higher in that location.

FACT: This is false.

Under the PFA, employers can justify wage disparity based on objective and identifiable differences in the cost of living. The PFA clarifies that a plaintiff can only compare her pay to that of an individual doing the same job at a location within the same county.

MYTH: The PFA is unfair to employers because it would impose “comparable worth guidelines” that don’t consider the market forces that drive employers to offer higher salaries for certain jobs.

FACT: This is false.

The PFA does not address “comparable worth” or apply any such guidelines to employers.

MYTH: The PFA would re-impose debunked statistical analyses and auditing methods.

FACT: This is false.

The PFA would require the EEOC to develop regulations directing employers to collect wage data, aggregated by the race, sex, and national origin of employees.

*Definitions

Damages: Monetary compensation that is awarded by a court in a civil action to an individual who has been injured through the wrongful conduct of another party. Damages attempt to measure in financial terms the extent of harm a plaintiff has suffered because of a defendant's actions.

Compensatory damages: Compensation awarded by the court that is intended to restore what a plaintiff has lost as a result of a defendant's wrongful conduct.

Punitive damages: Compensation that is awarded not to compensate a plaintiff for injury suffered but to penalize a defendant for particularly egregious, wrongful conduct.

Caps on damages: A cap on damages sets an artificial limit on the amount that an individual can recover, essentially tying the hands of juries and judges.

Healthy Families Act Fact Sheet

Nearly half (48%) of private-sector workers don't have a single day of sick leave to care for their own health, or that of a family member. Nearly one quarter of working parents with a child three years old or younger can't take even one day off to care for that child without losing pay. Almost 40% of all low-income workers lack any form of paid leave.

Currently, no state or federal law guarantees workers a minimum number of paid sick days. The lack of this benefit has forced millions of Americans to choose between their paychecks and their own health or the health of a family member.

Action Needed

Business and Professional Women's Foundation encourages Members of Congress to support and become a co-sponsor of the Healthy Families Act (HR 2460/ S 1152).

The Healthy Families Act will guarantee workers paid sick leave in order to:

- Recover from serious illness or injury,
- Provide care for a sick or disabled child, spouse, or parent,
- Attend medical appointments, and,
- Seek assistance and recover from incidents of domestic violence, sexual assault, and stalking.

The Healthy Families Act protects both employees and employers. It will:

- Guarantee full-time workers seven job-protected paid sick days per year, and a prorated number of hours or days for part-time workers (those who work less than 30 hours per week),
- Only apply to employers with fifteen or more workers,
- Give employers the option of requiring certification of illness or injury by an appropriate medical or legal professional for any absence longer than three days, and
- Have no effect on employers who already offer the benefits described in this legislation.

Key Points

The American family has changed dramatically in the last 50 years. Employee benefits should reflect the way we live now – not a half-century ago.

- Back in the 1960s, the overwhelming majority – 70% -- of American families with children had a **mother who stayed home to provide round-the-clock childcare**. Today, that statistic is reversed: two-thirds of families with children have either two employed parents, or a single employed parent, **most of whom now work full-time**.

- Not only are many more parents working, but **working parents today work more hours** than their counterparts of a half century ago. In addition, a growing number of workers are **responsible for the care of elderly or disabled family members**. For victims of **domestic violence or sexual assault**, many courts and agencies that provide assistance only conduct business during regular office hours.
- Unfortunately, many private sector employers are still using benefits policies that were **developed for the family of yesterday, not today**. In the past, employed fathers generally did not need paid leave to take care of personal and family matters: for that they depended on “non-working” mothers. Today, many employees are **forced to choose between taking unpaid leave and possible job loss, or the health and safety of themselves and their families**.

Paid sick days are good for working women, working men and families.

- The lack of paid sick leave particularly **hurts working mothers**, who still bear a disproportionate responsibility for care of the family. Half of all working mothers report that they have **had to miss work to care for an ailing child**. Of those mothers, half reported that they forfeited their salaries to do so.
- The lack of paid sick leave **also hurts men**. While single working mothers outnumber single working fathers, 30% of working fathers report having had to take unpaid leave to care for themselves or a family member. Due to lingering **stereotypes** about what are and are not proper gender roles, some men report having been **denied leave** to care for a family member: they are “supposed to” **put their jobs first**.

Paid sick days are good for business.

- **The lack of paid sick leave leads to “presenteeism,” and that is bad for business.** Presenteeism is the practice of **employees coming to work while ill**, thereby infecting other employees. Ultimately, it costs businesses less to allow a sick person to stay home with pay than it does if the sick worker **causes the illness of the others in the workplace**. The American Productivity Audit and studies in the Journal of Occupational and Environmental Medicine, the Employee Benefit News, and the Harvard Business Review show that presenteeism is a **large drain on productivity** – larger than that of either absenteeism or short-term disability.
- Companies that provide paid sick days and leave tend to have lower job turnover rates, lower recruitment and training costs, lower unnecessary absenteeism, and a higher level of productivity than firms that do not offer this benefit.

America is one of the very few countries in the world that do not guarantee paid sick days. American families deserve the best – not the worst – workplace policies.

- **163 nations** around the world guarantee paid sick leave, the US does not. **14 of the world’s 15 most competitive countries** provide paid sick leave.
- The world’s most successful and competitive nations are providing paid sick days without harming their competitiveness and there is no negative relationship between decent working conditions and competitiveness or job creation.



Federal Employees Paid Parental Leave Act Fact Sheet

As the nation's largest employer, with over 2.0 million civilian employees across the country (excluding the Postal Service), the federal government should be a leader in family-friendly workplace policy. Most people would be surprised to learn, however, that the federal government does not currently provide any paid parental leave for its employees. Employees must cobble together accrued annual and sick leave if they want to receive a paycheck while they are out caring for their families.

Almost all full-time federal employees are eligible to take up to 12 weeks off to care for a newborn or adopted child, as specified in the Family and Medical Leave Act (FMLA). This leave, however, is unpaid: if the employee cannot do without a paycheck, she or he must use up whatever sick and annual leave has been accrued.

Parents who have already used their time off to cover prenatal medical appointments, and new employees who have not accrued much time, are forced to choose between collecting a desperately needed paycheck or caring for their family's most vulnerable member.

Action Needed

Business and Professional Women's Foundation encourages Members of Congress to support and become a co-sponsor of the Federal Employees Paid Parental Leave Act (S 354/HR 626). FEPLA was approved by the House of Representatives on June 6, 2009 and is awaiting Senate consideration.

The Federal Employees Paid Parental Leave Act will guarantee **four weeks of paid leave** for federally-employed mothers and fathers upon the birth or adoption of a child.

Key Points

As the nation's largest employer, the Federal Government should be a leader in family-friendly workplace policy. But right now, it lags far behind the private sector and the standards set for workers in many other countries around the world.

- A 2007 study by the Congressional Joint Economic Committee showed that Fortune 100 companies typically offer six to eight weeks of paid parental leave to new mothers and two weeks to new fathers.
- According to an eight-year, 190-country study by Harvard and McGill Universities, the U.S. lags far behind other economically successful nations in terms of adopting policies that support working women and their families. The study finds that 177 nations guarantee paid lead for new mothers while the U.S. does not. 74 nations guarantee paid leave for new fathers while the U.S. does not. 13 of the 15 most competitive countries in the world provide paid leave for new mothers. **And the U.S. does not.**

Paid parental leave ensures that parents can take time off to care for a new child without suffering devastating financial consequences. There could not be a worse time to ask parents to choose between their job and their new child than during an economic downturn.

- The current practice of saving unused vacation time and sick days may work for the lucky family who never gets sick, but it is **unrealistic for most families.**

- A general **lack of infant care** requires that working parents take leave to care for their newborn. Government-sponsored day care facilities, for example, typically do not care for infants younger than 10 to 12 weeks old.
- For the many workers who are either at **low pay grades**, haven't built up their **vacation time**, or have had to **use up their sick days** before delivery, having a child means that they will either **lose several weeks of pay** that is crucial to their family's survival, or **return to work immediately** after the child is born.

The American family has changed dramatically in the last 50 years. Federal employee benefits should reflect the way we live now – not a half-century ago.

- Back in the 1960s, the overwhelming majority – 70% -- of American families with children had a **mother who stayed home to provide round-the-clock childcare**. Today, that statistic is reversed: two-thirds of families with children have either two employed parents, or a single employed parent, **most of whom now work full-time**.
- Not only are many more parents working, but **working parents today work longer hours** than their counterparts of a half century ago.
- In the past, employed fathers generally did not need paid leave to take care of a newborn: for that they depended on “non-working” mothers. Times have changed; so should our benefits policies.

Offering paid parental leave will help the federal government recruit and retain dedicated and talented workers.

- At a time when the federal government is struggling to **recruit and retain qualified employees**, the government should be offering benefits that can compete with the private sector.
- The federal workforce is aging and family-friendly benefits could help **attract younger workers**. The average age of federal workers increased from 43.6 years to 46.7 years from 1994-2004.

The Federal Employees Paid Parental Leave Act is budget neutral.

- The Congressional Budget Office has determined that this legislation is “**pay-go**” **neutral**, meaning it would not affect direct spending or receipts. Instead, it would draw on the \$190 million that federal agencies save when employees take unpaid leave. The Joint Economic Committee estimates that this is equal to **less than one-tenth of 1% of the federal payroll**.

Paid parental leave will save the federal government money.

- The agencies will **retain more employees**, which will **save turnover costs**, aid in **recruitment**, and **improve productivity** and **employee morale**. The Congressional Joint Economic Committee estimates that it costs nearly three times as much to replace an employee than to her or him with four weeks of paid parental leave.



Women WIN Jobs Act Fact Sheet

"Green jobs" are creating new employment opportunities in construction, manufacturing, and information technology. These are all sectors where women are traditionally underrepresented. Such "nontraditional" jobs for women – jobs where women are 25 percent or less of the workforce – often pay 20 to 30 percent more than jobs traditionally held by women, and frequently have better benefits, greater career training and advancement opportunities, and higher reported levels of job satisfaction.

Action Needed

Business and Professional Women's Foundation encourages Members of Congress to support the Women & Workforce Investment for Nontraditional Jobs (Women WIN Jobs) Act to help recruit, prepare, place and retain women in the high-demand, high wage jobs of the future.

The Women WIN Jobs Act will:

- Create a \$100 million competitive grant program administered by the Department of Labor to recruit, train, place, and retain women in nontraditional occupations.
- Eligible fields include any high-demand, high-wage nontraditional occupation such as those in the green economy.
- Require grantees to partner with community-based organizations that work with women, employers, business associations, public postsecondary education institutions, and registered apprenticeships, and leverage private funds and public-private partnerships.
- Target women in families with income of less than 200 percent of the poverty threshold.
- Create a national clearinghouse to disseminate best practices and provide legal and technical assistance, and require rigorous national evaluation of the program.
- Job training activities to be funded include:
 - public education and outreach
 - career guidance and counseling
 - individual assessments
 - assistance in accessing postsecondary and apprenticeship programs
 - coordination with high schools to improve the transition into a two-year or four-year college or apprenticeship
 - pre and post placement support services such as child care and transportation to promote employment retention
 - employer incentives to retain women for more than 6 months
 - collection of performance data
 - technical assistance for employers

Key Points

Women are nearly half of our nation's workforce, but many of the occupational categories going "green" remain largely segregated by gender.

- For example, electricians, one of the occupations expected to grow in the new green economy, earn on average \$50,645 annually, yet this profession remains largely segregated by gender: only 1% of electricians nationwide are women. Other examples of “green” job gender segregation include:
 - *Surveying and mapping technicians* earn on average \$41,288 annually; nationwide, only 5% are women;
 - *Heating and air conditioning mechanics and installers* earn \$42,895 on average; nationwide, only 2% are women; and
 - *Web page developers and programmers* earn on average \$63,336; nationwide, only 18% are women.
- Non-traditional jobs – those in which women comprise 25% or less of employees – pay 20 to 30% more than traditional female jobs, but only 7.3% of women are employed in these occupations.

Women continue to be directed into the lowest paying professions. All together, jobs traditionally held by women pay *less than half* of what jobs that mostly exclude women pay.

- One-half of working women are concentrated in only 25 of 504 occupational categories. Except for nursing and teaching, most are among the very lowest paying retail, service and clerical jobs.
- The green economy not only holds a promise of a more energy efficient, safe and healthy future, but the opportunity to eradicate the legacy of gender pay inequity by occupation.

There is no “natural” reason for job gender segregation.

- Women are underrepresented in the nontraditional fields because they lack information about career pathways and opportunities, they are directly or indirectly discouraged from seeking these jobs, and/or they lack job-related support (especially child care and transportation).
- The 200,000+ women currently serving in the U.S. military can and do succeed in nontraditional occupations. As these women transition to civilian jobs, we must ensure that they are not held back from pursuing the profession of their choice.
- New green collar jobs that are created can be free of the gender segregation that persists in some professions.

Job training programs tailored to women *work*.

- A 2001 University of Texas study found that when a Women Apprenticeship and Non-Traditional Occupations (WANTO) funded program is implemented in an area, local women were 25% more likely to hold and retain nontraditional jobs. WANTO is a 17-year-old federal grant program administered by the Department of Labor designed to recruit, train, place, and retain women in nontraditional occupations.
- Despite the economy, employers in several industries face shortages of skilled workers to fill the fastest-growing and highest-paying jobs of the future – from information technology and the building trades, to renewable energy and energy efficiency – and this shortage will become even more severe when the economy grows faster. The Women WIN Jobs Act will help employers meet their employment needs by expanding the pool of eligible skilled workers.



Automatic IRA Fact Sheet

Retirement security has long been a concern for working women. Women live longer, earn less money, spend less time in the workforce accumulating Social Security benefits, and spend fewer years vested in an employer-based retirement plan. Together, these trends mean women are at an increased risk of living in poverty after they reach retirement age.

Action Needed

Business and Professional Women's Foundation encourages Members of Congress to support the Automatic IRA Act as part of a multi-pronged approach to ensuring women's retirement security.

The Automatic IRA Act will:

- Allow employees not covered by qualified retirement plans to save for retirement through automatic payroll deposit IRAs;
- Facilitate saving by the self-employed; and
- Assist employers by providing those who offer the Auto-IRA a tax credit to help cover the cost of administering the plan.
- Automatic IRAs are simplified accounts owned by individuals, not employer-sponsored retirement plans.

Key Points

The Auto-IRA is a simple, low cost way to provide employees a real retirement savings tool.

- Roughly half of U.S. workers are not offered a 401(k) or any other type of employer-sponsored retirement plan.
- 39% of working women participate in an employer sponsored pension plan compared to 42% of men. Women's participation in employer sponsored retirement plans has increased while men's has dropped as a result of improved earnings and increase in full time work.
- Studies show that automatic enrollment significantly increases participation in retirement plans, especially among women.

Americans are living longer than ever -- especially women.

- Women have **longer life spans** than men, meaning that a woman can expect to live five or more years than a man in retirement. In fact, one in three 65-year-old women today will live into their 90's.

Women face greater economic uncertainty in retirement than men and, on average, they'll enter retirement with considerably less savings than men.

- The persistent **wage gap** means women often earn less than men – for every dollar a man earns, women are paid roughly 78 cents. Women are frequently the primary **caretakers of their families**, which means they are more likely than men to need to take unpaid leave or to stop working.
- This means **women have less money** to save and **accumulate fewer benefits** from Social Security and employer-based retirement plans. Women in the workforce will receive on average \$8,000 less annually in retirement income than their male counterparts.

Retirement security is becoming a goal beyond reach for many of America's working families.

- Half of all workers have no retirement security plan other than Social Security. Only 21% of workers today receive traditional pension plans benefits. Fewer retirees will enjoy the security and regularity of monthly pension checks that many employers once paid.

The Auto IRA approach offers most employees not covered by an employer-sponsored retirement plan the opportunity to save through the powerful mechanism of regular payroll deposits that continue automatically.

- Studies show that automatic enrollment **significantly increases participation** in retirement plans.
- For women, **participation in retirement plans rises to 86% from 35%** when they are automatically enrolled.

The Auto IRA will help employers.

- The Auto IRA will **help small businesses to be more competitive** with many large and medium size companies in recruiting and retaining employees.
- In exchange for offering the Auto IRA, employers will receive a **tax credit that will help cover the cost** of administering the plan.
- Automatic IRAs involve little or no cost for employers.
 - No plan-qualification rules or IRS approvals
 - No responsibility to comply with ERISA
 - No plan documents and adoption agreements
 - No employer contributions
 - No employer responsibility to select, hold, or manage investments.