

Flexible work

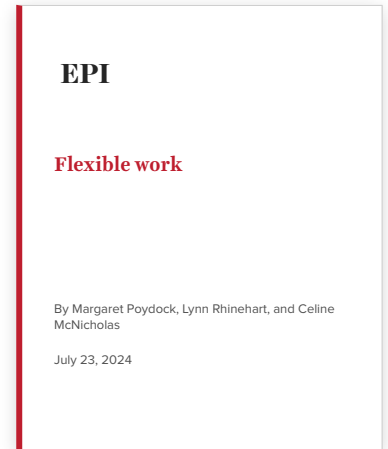
What workers, especially low-wage workers,
really want and how best to provide it

Report • By Margaret Poydock, Lynn Rhinehart, and Celine McNicholas • July 23, 2024

Flexible work

What workers, especially low-wage workers, really want and how best to provide it

Summary: Many workers, especially low-wage workers, aren't getting key benefits they want—such as paid leave and predictable schedules—because lawmakers are letting companies and employers get away with anti-worker practices.



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Key findings

- Most workers want stable jobs with predictable schedules, wages, and benefits that allow them to meet their family's needs.
- Low-wage workers, who are predominantly women, immigrants, and people of color, are far less likely to receive paid time off or have schedule flexibility.
- The U.S. lags other industrialized democracies when it comes to paid family and medical leave policies, which are overwhelmingly favored by Democratic and Republican voters alike.
- Companies and employers misuse the concept of “flexibility” to justify forcing workers to make a false choice between flexibility and basic worker protections.
- Workers with a union are far more likely to have paid time off, schedule certainty, and other benefits they seek.

Why this matters

Allowing employers and companies to distort labor law to their advantage not only harms gig economy, flexible, or part-time workers, it also sets a lower bar for other types of employment and shifts the costs of social insurance programs onto workers and taxpayers.

How to fix it

Policymakers should prioritize providing workplace benefits and protections that offer employees real flexibility with real protections, including paid leave, scheduling fairness, and the strengthened ability to form and join unions.

Comparison of workplace legal protections for employees and independent contractors in the United States

Labor standard	Employee	Independent contractor
Minimum wage	✓	✗
Overtime pay	✓	✗
Unemployment insurance	✓	✗
Workers' compensation	✓	✗
Paid sick days	✓	✗
Paid family leave	✓	✗
Health and safety protections	✓	✗
Right to a union	✓	✗
Discrimination and sexual harassment protections	✓	✗

Note: Employees receive these protections in places where they are statutorily prescribed.

Source: EPI analysis of federal and state laws.

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Much has been written about workers' desire to have more flexibility in their work schedules to accommodate family matters, medical appointments, and other personal needs. The COVID-19 pandemic reinforced and strengthened this demand, as workers struggled to juggle work with multiple family and health responsibilities in extremely challenging circumstances. In response, many companies have expanded paid leave benefits and telework opportunities, and unions have actively worked to bargain these benefits for their members.

The United States continues to lag behind other industrialized democracies when it comes to a national paid leave law protecting workers. The U.S.' lack of paid leave policies—family, medical, and sick leave—has a disproportionately harsh impact on low-wage workers, who are predominantly women, immigrants, and people of color. These workers are far less likely to receive paid time off or have flexibility in controlling their work schedules, even though their need for leave is every bit as acute.

Workers with a union are far more likely to have paid time off and schedule certainty. Unions have bargained for paid leave, scheduling flexibility, and other benefits important to workers—particularly workers with familial demands (EPI 2021). The reach of this union advantage is limited, however, given that only 6% of private-sector workers are covered by a collective bargaining agreement (Shierholz et al. 2024).

Policymakers have tried to enact various laws to address workers' needs for paid time off and flexible and predictable work schedules. Particularly at the state level, policymakers have adopted paid time off requirements, and in a few places, ordinances requiring greater predictability around scheduling—an important reform that gives workers (and particularly low-wage workers) the certainty they need to be able to schedule appointments or even work another part-time job if they need to. However, progress has been slow, and these reforms still do not cover most workers. At the federal level, progress has been stalled as Congress has failed to act on paid leave or scheduling fairness legislation.

Some workers are doing gig or short-term work—including

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digital platform or app-based gig work—in an effort to have more flexibility and control over their work schedules.¹ This is the case despite research showing that the majority of gig and other contingent workers would prefer permanent, full-time employment (NELP 2021).

Moreover, this flexibility is often illusory, given the degree of control employers retain over workers and their schedules. Even more problematic is the effort by some companies, led by digital platform transportation companies like Uber and Lyft, to leverage the flexibility myth in attempts to defend their employment practices. These app-based companies misclassify their drivers as independent contractors, claiming that this is a necessary practice for meeting drivers’ demands for flexibility. However, this practice deprives drivers of crucial workplace protections, including guarantees for paid time off and scheduling certainty, where such laws exist. Moreover, experience has shown that companies can easily meet workers’ need for flexibility while maintaining their status as employees.

Policymakers should reject this Orwellian move by the app-based companies and others to use workers’ desire for flexibility to justify their employment practices. Allowing these practices for app-based workers will not be limited to drivers but will quickly spill over to health care, hospitality, and many other workers, given the growing use of app-based placement services in these industries (Gerstein 2024). Policymakers should focus on enacting legislation to provide workplace benefits and protections that offer employees real flexibility with real protections—including paid leave legislation; scheduling fairness legislation; and legislation to strengthen workers’ ability to form and join unions, so they can bargain collectively for these benefits and protections.

Research on workers’ demand for flexibility and related benefits

Flexibility is often cited as a core reason for individuals seeking app-based and gig work. In a survey conducted by the Pew Research Center, 49% of gig workers cited “being able to control their own schedule” as a reason why they enter the gig workforce (Anderson et al. 2021). The same survey found that flexibility is also highly valued among individuals in gig work: 53% of gig workers said being able to control their own schedule was “essential or important” to them. A survey conducted by Morning Consult for the Flex Association found that 42% of respondents said they chose app-based work for their “ability to choose when to work” (2022).²

Research shows that gig workers don’t always find the flexibility and earnings that they are seeking and are more likely to move to another job. A survey conducted by EPI and Harvard’s Shift Project found more than half (55%) of gig workers intended to find a new job in the next three months, compared with 36% of W-2 service-sector workers (Zipperer et al. 2022).

Research shows that in general, workers prefer flexibility in their work arrangements. A 2021 survey by Workable found that 58% of workers surveyed valued the ability to work

flexible schedules (Mackenzie 2023). A survey by Future Forum found that 80% of knowledge workers surveyed want flexibility regarding where they work, whereas 94% want schedule flexibility (2022). According to a Morning Consult survey conducted for Zoom, 81% of U.S. respondents said that flexible hours and schedules were top priorities (2023). A Gallup survey of service facing workers found that 31% of respondents valued flextime and the ability to choose when they worked. Further, the survey found that 33% of respondents valued flexible start and end times (Pendell 2023).

Most recent survey data from the Department of Labor (DOL) shows that a significant portion of workers currently have some sort of flexible work arrangement. In a Bureau of Labor Statistics (BLS) survey, 57% of wage and salary workers had a flexible schedule with the ability to vary start and stop times. Of these workers, 35% could frequently change their schedule; 46% could occasionally change their schedule; and only 19% rarely had the opportunity to change their schedule (2019). Data from DOL Women’s Bureau (n.d.) find that 57.2% of men have flexibility in the times they begin and end work, compared with 55.8% of women surveyed. Union workers have more input into the number of hours they work (Bivens et al. 2017).

Despite this research showing that workers would like flexibility in their schedules, many workers experience the opposite: a lack of stability and predictability in their schedules. For example, according to research by the Shift Project, the majority of retail and food service workers they surveyed have little advance notice of their schedules; two-thirds have less than two weeks’ notice, among which 50% get less than a week’s notice. Workers’ schedules are also often changed at the last minute, with 14% reporting at least one cancelled shift in the last month and 70% reporting at least one change to the timing of one of their shifts in the past month. Women workers and workers of color are particularly hard hit by these unpredictable scheduling practices. Significantly, 75% of workers in the Shift survey said they would like a more stable and predictable schedule (Schneider and Harknett 2019).

Other research similarly demonstrates that despite valuing flexibility, workers would prefer stable, full-time employment with benefits. According to a report by the National Employment Law Project (NELP), 79% of people surveyed said they would prefer having one stable full-time job instead of having more than one job with schedule and location flexibility—with a variation of only three percentage points across gender, age, and race (NELP 2021). In addition, NELP reported on polling by the global management consultant firm McKinsey & Company, who found that contract, freelance, and temporary workers would overwhelmingly prefer to have permanent employment, with first-generation immigrant (76%), Latinx (72%), Asian American (71%), and Black (68%) respondents most strongly favoring permanent employment. According to a survey of New York City residents, 57% of app-based workers said they would prefer to have an employer that provided benefits (NELP 2021). In the same vein, the majority of app-based workers surveyed by Veena Dubal said they would prefer to be classified as employees (2019).

It is important to point out that Black and Latinx workers provide a disproportionate share of digital labor platform work in the United States. BLS data show that Black and Latinx workers make up almost 42% of workers for Uber, Lyft, and other “electronically mediated

Table 1

Percentage of civilian workers with access to paid leave by wage category, March 2023

Leave benefit	Lowest 10%	Lowest 25%	Second 25%	Third 25%	Highest 25%	Highest 10%
Family	6%	14%	26%	30%	41%	48%
Holidays	46%	60%	84%	90%	85%	86%
Personal	15%	26%	49%	56%	67%	67%
Sick	40%	58%	84%	88%	95%	96%
Vacation	43%	55%	83%	90%	82%	84%

Source: Bureau of Labor Statistics, *Employee Benefits in the United States*. Last modified September 21, 2023.

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work” companies, although they comprise less than 29% of the overall U.S. workforce (NELP 2021).

Moreover, the lack of paid sick time disproportionately harms low-wage workers. While access to paid sick time has grown from 63% to 78% of all private-sector workers since 2010, most low-wage workers—i.e., the workers who need it most and are most harmed by taking unpaid leave—still lack access to paid sick days. Among the 10% of private-sector workers with the highest wages, 96% have access to paid sick days (**Table 1**). By contrast, among the 10% of workers with the lowest wages, just 39% have access to paid sick days (Gould and Wething 2023).

Finally, it is worth noting that paid leave requirements are extremely popular, with large majorities of both Democratic and Republican voters favoring paid family and medical leave policies and viewing them as important to improving workers’ lives (Todaro 2023).

Flexibility is often illusory

The argument that digital platform or app-based work provides drivers with flexibility overstates the amount of control drivers actually have over their work lives. In fact, Uber and Lyft exercise significant control over how drivers handle their work, and drivers are “deactivated”—i.e., fired—if they deviate from company policy. Thus, the so-called flexibility drivers seek is often illusory (Mishel and McNicholas 2019).

Uber advertises to drivers that they will work for themselves. On its website, the company claims that driving for Uber is flexible, with the driver in control. Interested drivers just download the driving app and complete a “sign-up” process, requiring only that drivers have a valid driver’s license and insurance and “complete a background screening.” The company states that drivers set their own hours and may “cash out” after each trip (up to five times per day on the app). Uber brands itself as merely a technology platform that allows drivers to find earning opportunities for their own entrepreneurial endeavors (2019).

However, in reality, Uber drivers' experiences are a far cry from the company's marketing narrative. Drivers have no say on setting fares, on what they are paid, or on the commissions the company takes. Drivers are not shown the passenger's destination or how much they could earn on a fare before being asked to accept a ride request, and they have limited say on whom they choose to have as customers (Rosenblat 2018a). Drivers are not even able to choose the route to take—Uber reserves the right to retroactively adjust the fare if it decides that an inefficient route was taken (Rosenblat and Stark 2016; UK Judiciary 2016). And Uber also exerts control over drivers through an automated passenger rating system. Tools like the fare and rating systems serve as “algorithmic managers,” nudging drivers to act in certain ways and penalizing them when they don't. For example, in certain services on Uber's platform, drivers who fall below 4.6 stars on a five-star rating system may be “deactivated”—never “fired.” This pressures some drivers to tolerate bad passenger behavior rather than risk losing their livelihoods because of retaliatory reviews (Rosenblat 2018b). Given that a driver's low rating (as unilaterally defined by Uber) may lead Uber to deactivate them from the app (i.e., fire them), drivers do not have the independent control typically associated with a small business owner.

Drivers cannot readily turn down short rides; rides that are not close by (note that the time between dispatch and rider pickup costs time and vehicle expense and provides no revenue to the driver); or rides that go to destinations that will make it difficult to obtain a follow-up ride. When the app alerts a driver to a potential ride, the driver has a very short time—about 15 seconds—to respond as to whether they will accept the rider (Rosenblat and Stark 2016; Rosenblat 2018a). There is no other way to provide a ride through Uber (such as picking up someone hailing you on a street corner) other than this process that is governed by the algorithms and the app (Rosenblat and Stark 2016).³

Like digital platform or app-based drivers, workers with flexible or part-time schedules also lack real control over their schedules, with employers making last-minute changes to their schedule, which wreaks havoc with child care, medical appointments, transportation, and other needs (Schneider and Harknett 2019; Waldman 2024). Unless they are protected by a union contract or a local fair scheduling ordinance, workers do not control their schedule or work hours; these decisions rest with their employers. Employers typically use their power to shift schedules and work hours based on production needs—or for less legitimate reasons, such as retaliation for union organizing (Greenhouse 2023). Adjusting workers' hours according to “just-in-time” scheduling is common in (but not unique to) app-based work and undermines workers' actual control over their schedules and their scheduling flexibility.

The importance of employee status

The problem of employers misclassifying workers as independent contractors is pervasive and widespread. Employers in the construction industry, building services, and homecare, among other sectors, have misclassified workers as independent contractors to gain a cost advantage over law-abiding employers, which has resulted in the loss of important workplace benefits and protections for workers (Rhinehart et al. 2021). This problem has

Table 2

Comparison of workplace legal protections for employees and independent contractors in the United States

Labor standard	Employee	Independent contractor
Minimum wage	✓	X
Overtime pay	✓	X
Unemployment insurance	✓	X
Workers' compensation	✓	X
Paid sick days	✓	X
Paid family leave	✓	X
Health and safety protections	✓	X
Right to a union	✓	X
Discrimination and sexual harassment protections	✓	X

Note: Employees receive these protections in places where they are statutorily prescribed.

Source: EPI analysis of federal and state laws.

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become even more widespread with the growth of app-based services such as Uber and Lyft, who misclassify their drivers as independent contractors. Other app-based staffing services such as Instawork and Gigpro follow this same practice, often treating hotel, health care, and other workers as independent contractors instead of employees (Gerstein 2024).

Misclassification has significant negative implications for worker protections. Most federal and state labor and employment protections are granted only to those classified as employees—and not to those classified as independent contractors. This includes basic protections such as minimum wage, overtime pay, unemployment insurance, and workers' compensation, as well as health and safety protections, nondiscrimination protections, paid sick or medical and family leave, and rights to organize and collectively bargain (**Table 2**).

Misclassification robs workers of income and employment-based benefits because it shifts financial responsibilities for Social Security tax onto workers and deprives them of coverage under labor and employment laws. This is very costly, resulting in lost annual income and benefits of over \$10,000 for a typical construction worker and over \$6,000 annually for a home health aide (Schmitt et al. 2023).

In addition, misclassification deprives the federal, state, and local governments of important tax revenue and contributions to social insurance programs such as workers compensation and Social Security. These lost revenues amount to billions of dollars each year (NELP 2020). EPI research estimates suggest social insurance programs losses per worker range between \$585 per year (security guards) and \$1,781 per year (construction workers). Higher estimates put the range of annual per-worker revenue losses between \$1,101 (security guards) and \$3,031 (truck drivers) (Schmitt et al. 2023).

Not only are these costs shifted onto workers, but they have been shifted onto other taxpayers as well. Because they are (mis)classified as independent contractors, Uber and Lyft drivers are not generally covered by unemployment insurance.⁴ When demand dropped dramatically at the start of the COVID-19 pandemic, drivers were unable to draw on unemployment benefits from the state unemployment insurance system. Congress enacted legislation to provide unemployment benefits to independent contractors, and one in five Uber and Lyft drivers applied for and received these benefits, at taxpayer expense (Iacurci 2021).

The Fair Labor Standards Act does not prevent flexible schedules

One of the myths perpetuated by digital platform or app-based companies and other employers is that workers *need* to be classified as independent contractors in order to have flexibility in their hours because of the federal Fair Labor Standards Act (FLSA). This is incorrect and sets up a false choice.

Enacted in 1935, the Fair Labor Standards Act, is the primary federal law establishing minimum wage and overtime protections. The FLSA requires employers to pay workers at least an established hourly minimum wage—currently stuck at \$7.25 per hour due to Congress’ failure to raise the minimum wage for 15 years. The FLSA also requires employers to pay employees overtime at the rate of 1.5 times their regular rate of pay for hours worked in excess of 40 in any given week. Employers must keep records documenting an employees’ work hours to help ensure compliance with the law.

Not all employees are covered by the FLSA’s overtime protections. For example, among others, administrative, executive, and professional employees are excluded from the FLSA’s overtime requirements.⁵ Still, roughly 140 million workers are covered by the FLSA’s overtime protections.⁶

Companies and employers incorrectly claim that the FLSA prevents flexible scheduling, but employers control scheduling decisions and can organize work schedules to meet FLSA’s requirements. Employers have long been able to provide flexible schedules and comply with wage and hour laws, and flexible schedules have been negotiated by employers and unions in compliance with the law. Scheduling decisions are the employer’s prerogative (in negotiation with their workers’ union, if there is one), and they can and do set and change schedules in accordance with production demands.

As the Department of Labor states, “The Fair Labor Standards Act (FLSA) does not address flexible work schedules. Alternative work arrangements such as flexible work schedules are a matter of agreement between the employer and the employee (or the employee’s representative)” (DOL Wage and Hour Division 2024a; 2024b).

Nor does the FLSA restrict an employer’s ability to change workers’ schedules according to the employer’s needs. According to DOL, “The Fair Labor Standards Act (FLSA) has no

provisions regarding the scheduling of employees, with the exception of certain child labor provisions. An employer may therefore change an employee’s work hours without giving prior notice or obtaining the employee’s consent (unless otherwise subject to a prior agreement between the employer and employee or the employee’s representative)” (DOL 2024). Moreover, FLSA’s requirements are employer specific. If an employee works 20 hours each week for one employer and 25 hours for a second employer, the employee is not entitled to overtime from either employer (unless there is a joint-employer relationship between them).

Thus, as long as the employer retains sufficient records documenting an employee’s work hours; pays employees at least the hourly minimum wage; compensates the employee at the overtime rate for hours worked over 40; and meets any applicable obligations to bargain with the employees’ union, the employer may set and implement flexible scheduling policies without running afoul of the FLSA. The idea that the FLSA prevents flexible scheduling—and that independent contractor status is needed to allow flexibility—is false.

Collective bargaining can yield paid leave benefits and schedule flexibility and predictability

Unionized workers are far more likely to receive various workplace benefits compared with nonunion workers. These benefits include paid leave of various types (sick, family, vacation, personal), employer-provided health care, retirement benefits, and more. Establishing these benefits as part of collective bargaining and including them in a collective bargaining agreement gives unionized workers confidence and security that these benefits will be there when they need them, because a collective bargaining agreement is a legally binding contract (Bivens et al. 2017; Shierholz et al. 2024).

For example, 86% of unionized workers have paid sick time at work, compared with 72% of workers without a union (Gould 2020). Unionized workers have more input into the number of hours they work each week. Unionized workers are far more likely to know their work schedules four weeks or more in advance compared with nonunion workers (**Figure A**). Thus, unionized workers are far more likely to have the stable jobs with good wages and benefits that workers seek.

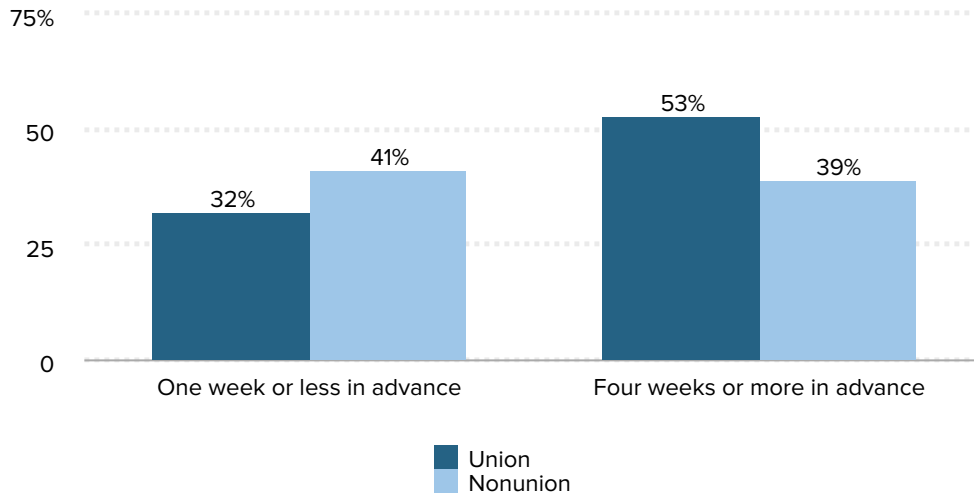
In addition to providing paid leave and other benefits, unions and employers have created mechanisms through collective bargaining for workers to have part-time, flexible schedules, along with scheduling predictability and certainty that allows workers time to meet their other needs.

For example, the United Food and Commercial Workers (UFCW) International Union’s St. Louis area local unions, Locals 655 and 88 and Schnuck’s grocery recently negotiated a new “Flexforce” program through which workers use an app to create their own schedule

Figure A

Unions give workers more predictability and input over their work schedules

Percentage of workers reporting knowing work schedule



Source: Adapted from Lonnie Golden, *Irregular Work Scheduling and Its Consequences*, Economic Policy Institute, April 2015.

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from available shifts. Flexforce workers receive the same benefits as other union members. UFCW represents thousands of Schnucks employees in the greater St. Louis area (Schnucks 2024). The program was recently expanded to cover more stores and workers.

Similarly, UNITE HERE has bargained provisions allowing certain hotel and casino employees to bid for shifts and create a schedule that meets their needs. These employees receive employer-paid health insurance, retirement contributions, and other important benefits, in addition to scheduling predictability.⁷

The Teamsters have tens of thousands of UPS drivers who have a set part-time schedule—leaving time for personal needs—and still receive health care, retirement, and other important benefits (UPS 2023).⁸ The Teamsters negotiated historic raises for part-time drivers in the most recent negotiations (Teamsters 2023).

These are just a few examples of the collectively bargained approaches to providing schedule flexibility and part-time arrangements that provide workers with the flexibility they need but also with scheduling predictability and certainty and benefits. Strengthening the law to enable more workers to form and join unions and bargain such benefits with their employers would be an important step in addressing workers' need for flexibility and paid leave.

Policy reforms to support paid leave and scheduling flexibility and predictability

As the research summarized above shows, most workers want stable employment with predictable schedules and wages and benefits that allow them to meet their family's needs. These needs can be met through promoting various reforms that empower workers and protect flexible work without exploitation and include:

- strengthening workers' ability to form and join unions;
- preventing misclassification of workers as independent contractors; and
- establishing minimum standards around paid leave and scheduling fairness.

These reforms can be—and have been—pursued at the federal, state and local levels. A brief description of these reforms follows.

Federal reforms

Pass the Protecting the Right to Organize (PRO) Act. As explained above, workers with a union are in a much stronger position to negotiate with their employers for paid time off, predictable work schedules, and other important protections. Workers covered by a collective bargaining agreement also have “just cause” protection, meaning that the employer cannot retaliate against them or fire them without a valid reason. This gives workers more confidence to access and use the benefits they have earned, because they have less fear of employer retribution when they do so. Strengthening the ability of workers to form and join unions, as the PRO Act would do, would provide a mechanism for workers to organize and bargain for flexibility, fairness, and related workplace benefits. Current law is too weak to meaningfully assure workers these rights, given employer ability to interfere and the absence of any financial penalties for violating the law. The PRO Act also adopts the ABC test to prevent misclassification of workers as independent contractors. Particularly given the record-high levels of demand for unions among nonunion workers, and especially young workers and workers of color, passage of the PRO Act should be a top priority for lawmakers.

Pass the Healthy Families Act to provide earned sick leave. The Healthy Families Act, first introduced in 2004, includes provisions that would allow workers in workplaces with 15 or more employees to earn at least one hour of paid sick time per 30 hours worked, up to 56 hours or seven days of paid sick time per year. Despite repeated introductions of the Healthy Families Act (most recently in May 2023) federal policymakers have so far not been successful in passing it. The lack of a national standard for paid sick leave places the United States behind its international peers. Passage of the Healthy Families Act is particularly important for low-wage workers, who disproportionately lack paid leave.

It should be noted that the Biden Administration's proposed budget for 2024–2025

includes paid family, medical, and sick leave (White House 2023).

Pass the Schedules that Work Act to provide scheduling stability and fairness. The Schedules that Work Act would require that workers in designated occupations—including retail, food service, cleaning, and others—be given a minimum of two weeks’ advance notice of their schedules, with pay premiums for late changes (Rep. DeLauro 2023).

State and local reforms

Because of the lack of national standards for paid sick leave and scheduling fairness, several states and localities have adopted laws to provide these benefits. At the same time, rideshare companies and other app-based employers have lobbied state legislatures to classify app-based workers as independent contractors and deprive them of the protections of workplace laws. Reforms to expand protections for workers and prevent erosion of their rights should be prioritized by state lawmakers. These reforms include:

- Repeal state preemption of local labor standards that prohibit localities from developing and implementing policies to raise standards for working people. Over 44 states have preemption laws that prohibit localities from improving labor standards for workers, including minimum wage, paid sick leave, and fair scheduling laws (Sherer and Poydock 2023; EPI 2024).
- Resist or repeal language that excludes app-based workers from coverage under state employment laws or that defines “Transportation Network Company (TNC) drivers,” “marketplace contractors,” or other app-based workers as nonemployees or independent contractors (Sherer and Poydock 2023).
- Adopt strong, protective legal tests, such as the ABC test, for establishing employee status and preventing the misclassification of workers as independent contractors. Strong ABC tests are those that establish a presumption that an individual performing service for an employer is an employee, not an independent contractor, unless the employer can establish three factors: A) The work is done without the direction and control of the employer; B) The work is performed outside the usual course of the employer’s business; and C) The work is done by someone who has their own independent business or trade performing that kind of work (Rhinehart et al. 2021).
- Strengthen enforcement and increase penalties to deter the misclassification of workers as independent contractors. This includes adequately funding and staffing state agencies to strategically enforce the law and crack down on worker misclassification. In addition, states should increase penalties for employers who violate labor law to deter worker misclassification (Sherer and Poydock 2023).
- Pass earned sick time laws. There is no federal law that allows workers the ability to earn paid sick leave. Over the last decade, 15 states and the District of Columbia have adopted earned paid sick time laws. However, millions of workers—especially low-wage workers—lack access to paid leave (Gould and Wething 2023).

- Pass state or local fair scheduling laws. Several cities and more recently the state of Oregon have passed fair workweek laws to give workers more advance notice of their schedules. Some of the laws also require employers to make more hours available to part-time workers before hiring more full-time employees (Wolfe, Jones, and Cooper 2018).

Conclusion

Workers have consistently expressed their desire for good-paying, permanent jobs with scheduling predictability and benefits like paid leave, health insurance, and more. These types of jobs can be (and are being) provided for both full-time and part-time employees through collective bargaining and state and local policy reforms. Nothing in the current law requires workers to give up their rights as employees and be classified—or misclassified—as an independent contractor to enjoy flexibility in their work schedule. Policymakers should reject these arguments and prioritize passage of policies that empower workers and provide the benefits they want and deserve.

Notes

1. In the most basic terms, gig work can be defined as work done by individuals who are classified as self-employed, freelancers, or independent contractors. However, in recent years the term “gig work” has become synonymous with working for digital platform companies, including driving for rideshare apps, making deliveries for restaurants, shopping or delivering groceries, and performing errands or household tasks.
2. The Flex Association represents app-based and digital platform companies such as DoorDash, Uber, Lyft, and Instacart.
3. Several states have recently enacted legislation or won provisions in legal settlements that provide rideshare drivers with appeal rights when they are deactivated. However, most rideshare drivers currently have no appeal rights from deactivation by the companies.
4. Drivers are covered in Washington State through a new statute, and several states have sought to recover payments for unemployment insurance premiums from the rideshare companies, indicating that they believe drivers are covered by their state’s unemployment law.
5. The Trump administration tried to roll back these protections and the Biden Administration has since finalized a rule that strengthens overtime protections for workers.
6. [Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales, and Computer Employees](#), 89 Fed. Reg. 32842-32973 (April 26, 2024).
7. Interview with Susan Valentine, UNITE- HERE, Feb. 22, 2024.
8. See [National Bargaining Agreement Between the International Brotherhood of Teamsters and United Parcel Service Inc.](#) (2023).

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