



## BARGAINING FACT SHEET

# Family Leave

## AND EXPANDING THE FAMILY AND MEDICAL LEAVE ACT

### WHAT IS FAMILY LEAVE?

Family leave allows employees to take time off from work to care for their families, deal with an emergency or recuperate from a serious illness with a guaranteed job when they return. The Family and Medical Leave Act (FMLA) was passed in 1993, allowing eligible employees to take up to 12 weeks of unpaid leave a year to take care of a serious personal illness, care for a newborn or newly adopted baby or new foster child or to care for a seriously ill parent, child or spouse. Unfortunately, this law only applies to employers with 50 or more employees and, in order to qualify, employees must have worked 1,250 hours in the previous 12-month period. Whether workers are covered by FMLA or not, many cannot afford to take leave without pay. Unions have attempted to address the limitations of the FMLA and the absence of paid leave in the workplace by bargaining for paid family leave.

### SOME IMPORTANT FACTS

- About 80 percent of adults support paid parental leave that allows working parents of new babies to stay home from work to care for their children.
- Some 69 percent of Americans under 40 say they will need family leave in the next 10 years.
- Eighty-three percent of working women say expanding the FMLA and providing paid leave is important to them.
- Almost 41 million Americans are not covered by the Family and Medical Leave Act because they work for employers not covered under the law—this amounts to more than 40 percent of the private-sector workforce nationwide.

### NEEDS ASSESSMENT

Before bargaining for paid family leave or expanding the FMLA, it is important to identify the actual family leave needs of the members. This information can be gathered through a needs assessment survey or in a bargaining survey.

For help, refer to the sample *Bargaining Questions on Work and Family* by the Labor Project for Working Families or contact one of the organizations listed in the Resources section at the end of this fact sheet.

### CONTRACT LANGUAGE

Below are examples of family-friendly provisions in union contracts encompassing paid leave. For actual contract language or more examples, please contact the Labor Project for Working Families (see Resources).

### Paid Family Leave

Negotiating paid family leave allows employees to take care of a sick family member or bond with a new baby or child. Workers also need the flexibility to take time off work in short increments, such as a day, half-day or even just a few hours without using vacation time.

### Contract Examples Maternity Leave

- *UFCW/RWDSU Local 3*: United Storeworkers Local 3 negotiated paid maternity leave benefits. Through the Storeworkers Security Plan, Local 3 members are entitled to eight weeks of maternity leave with pay at two-thirds of salary up to \$300 per week.

## **Adoption Leave**

- *California Faculty Association and the California State University Board of Trustees*: CFA, affiliated with SEIU, the National Education Association and the American Association of University Professors, negotiated paid leave that allows employees to take a maximum of 20 days upon the adoption or fostering of a new child.

## **Emergency Leave or Short-term Leave**

- *Harvard Union of Clerical and Technical Workers and Harvard University*: HUCTW, an AFSCME affiliate, and the university agreed that paid release time may be available for members' brief absences to cope with emergencies not covered by other such paid leave as sick, vacation or personal time.

## **Bereavement Leave**

- *Communications Workers of America/The Newspaper Guild Local 35 and Bureau of National Affairs Inc.*: Local 35 negotiated a bereavement leave with pay of up to 37.5 hours in the event of the death of a spouse, child, stepchild, parent, stepparent, parent-in-law, one acting as a parent or co-habiting life-partner. Leave of up to 22.5 hours is available on the death of a grand-parent, brother or sister. An additional 7.5 hours of bereavement leave is granted to employees required to travel outside the continental United States to attend the funeral of one of the aforementioned parties.

## **Leave for Victims of Domestic Violence**

- *AFSCME, SEIU and the Commonwealth of Massachusetts*: AFSCME and SEIU won leave time from the state of Massachusetts for members who become victims or whose children become victims of domestic violence. Members may take up to 10 days each year for legal and other services.

## **Stress Leave**

- *SEIU and Hope Community Mental Health Center, Los Angeles*: SEIU Local 399 negotiated one day of paid stress leave after one year of service, two days after two years and three days after three years and in each year thereafter.

## **Mentoring or School-related Leave**

- *AFSCME Local 2620 and State of California*:

AFSCME negotiated for Unit 19 members to receive up to 40 hours of "mentoring leave" per calendar year to participate in mentoring activities once they have used an equal amount of their personal time for these activities. "Mentoring leave" is paid leave time that only may be used by an employee to mentor. It does not include travel to and from the "mentoring" location.

## **Sick Time for Sick Family Members**

Caring for a sick family member is one of the biggest challenges that working families face. Individuals often use up vacation time caring for a family member. Allowing the use of individual sick time to care for a family member means vacation time is left untouched.

## **Contract Example**

- *CWA/TNG Local 35 and Bureau of National Affairs*: The Newspaper Guild Local 35 negotiated to allow members to use their own sick time to take care of a sick family member. Members also may use up to five sick days to care for a disabled spouse, parent or person acting as a parent or a cohabiting life-partner with a physician's statement showing the disability of the family member.

## **FMLA in Contract**

Including FMLA in a union bargaining contract can serve two purposes. First, any violations of the FMLA can be settled through the union's grievance procedure. Without contract language, the only recourse is to file a complaint with the Department of Labor or to hire a lawyer. Second, unions can add language that enhances the law.

## **Contract Examples**

### **Shorter Eligibility Period**

- *Amalgamated Transit Union Local 192 and AC Transit*: ATU successfully negotiated contract language that reduces FMLA eligibility requirements by half. ATU members qualify for FMLA after six months of service and a minimum of 625 hours.

## **Expanding the Reasons for Taking Leave**

- *AFGE and the Social Security Administration*: AFGE and the Social Security Administration have a

bargaining agreement to expand the Family and Medical Leave Act. Employees may take off up to 24 hours a year for school and such early childhood activities as parent-teacher conferences or participating in volunteer school activities, routine family medical appointments and elderly relatives' care needs.

### **Expanded Definition of 'Family'**

- *Office and Professional Employees Local 3 and United Way of the Bay Area:* OPEIU Local 3 successfully negotiated to include domestic partners within the definition of family under FMLA. The employee now can request family care or medical leave to care for a parent, spouse, child or domestic partner who has a serious health condition.

### **Increased Coverage to Bargaining Unit**

- *SEIU Local 1877 and Standard Parking LP:* SEIU Local 1877 negotiated with Standard Parking LP, an employer with fewer than 50 employees, to put language similar to FMLA language in the contract. Under this agreement, eligible employees may take time off without pay to care for an immediate family member. Employees have the option to use accrued paid sick leave and/or vacation time instead of this unpaid leave, but are not required to use their accrued paid time off.

### **Unpaid Leave**

For many working parents the ability to take leave, even unpaid, is a necessity. This can be a challenge for employees who are not covered by the Family and Medical Leave Act or if the leave is for situations that do not fall under the law's umbrella.

### **Contract Example**

- *AFSCME Council 31 and State of Illinois Department of Central Management Services:* AFSCME negotiated a family responsibility leave through which a member who wishes to be absent from work in order to meet or fulfill responsibilities arising from the employee's role in his or her family or as head of the household may take unpaid leave for up to one year. The leave is granted in the absence of another more appropriate form of leave.

### **Paid Time Off (PTO)**

PTO generally combines sick and personal leave time and is separate from other vacation time employees may have. It can be used for any personal reason, such as caring for a sick child or recuperating from one's own illness.

### **Contract Example**

- *SEIU Local 250 and Catholic Healthcare West:* The union successfully negotiated PTO language for its members. Employees can use PTO for vacations, religious observances, medical visits, personal or family needs. Employees also accumulate extended sick leave hours of 1.85 hours per pay period to use for sick leave that extends beyond five days.

### **Part-time Return to Work**

After the birth or adoption of a new child or gaining of a foster child, returning to work full-time can be a difficult challenge. Finding quality, full-time care can be both costly and difficult. Working part-time for a short period allows an employee to adjust to his/her new responsibilities.

### **Contract Examples**

- *Communications Workers of America and Bell Atlantic:* CWA successfully negotiated language that permits return to work at a reduced schedule after the birth or adoption of a child for up to 12 months. The employee returns to the same status and benefits as before the leave. Hours assigned for the reduced schedule are in the range of hours that the employee would have worked on a full-time schedule.
- *AFT Local 3695 and the University of Connecticut:* AFT negotiated part-time return to work after the birth or adoption of a child. Parents may work half-time for up to six months and may request half-time work for up to 12 months; leave beyond the first six months is subject to management approval. In addition, there is six weeks of paid leave for child-bearing and up to six weeks of paid accrued time for both the mother and father without management approval.

## **Donated Leave**

Donated leave and leave banks are a way for employees to give some of their vacation and/or sick time hours to other employees experiencing a serious family or personal crisis. Workers designate a specific amount of hours they wish to “deposit” into a company “leave bank,” which can be drawn from by employees in need.

## **Contract Example**

■ *Office and Professional Employees Local 3 and the Van Bourg law firm:* OPEIU Local 3 and the Van Bourg law firm negotiated a policy that allows employees to transfer vacation and sick benefits in excess of two weeks to another employee with catastrophic illness. In addition, an employee who is leaving the firm may transfer all of his/her accrued sick leave or vacation time to a co-worker in need.

## **RESOURCES**

### *AFL-CIO Working Women's Department*

Provides information on issues that face women in the workplace.

Website: [www.aflcio.org/women](http://www.aflcio.org/women)

Phone: 202-637-5064

### *Labor Project for Working Families*

Maintains a national database of family-friendly contract language. Provides technical assistance to unions on negotiating work and family benefits and policies.

Website: <http://laborproject.berkeley.edu>

Phone: 510-643-7088

### *Coalition of Labor Union Women (CLUW)*

Provides educational tools on a variety of topics of concern to union women.

Website: [www.cluw.org](http://www.cluw.org)

Phone: 202-223-8360

### *National Partnership for Women & Families*

A national organization that uses public education and advocacy to promote fairness in the workplace, quality health care and policies that help women and men meet the dual demands of work and family. The organization coordinates a national campaign for family leave benefits.

Website: [www.nationalpartnership.org](http://www.nationalpartnership.org)

Phone: 202-986-2600