

Updates on Legal Protections for Women in the Workplace

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US Workforce Trends



- According to the International Labor Organization, US workers put in the longest hours on the job in industrialized nations.
- US workforce hours run contrary to the world-wide trend of steady or declining work hours in industrialized countries.

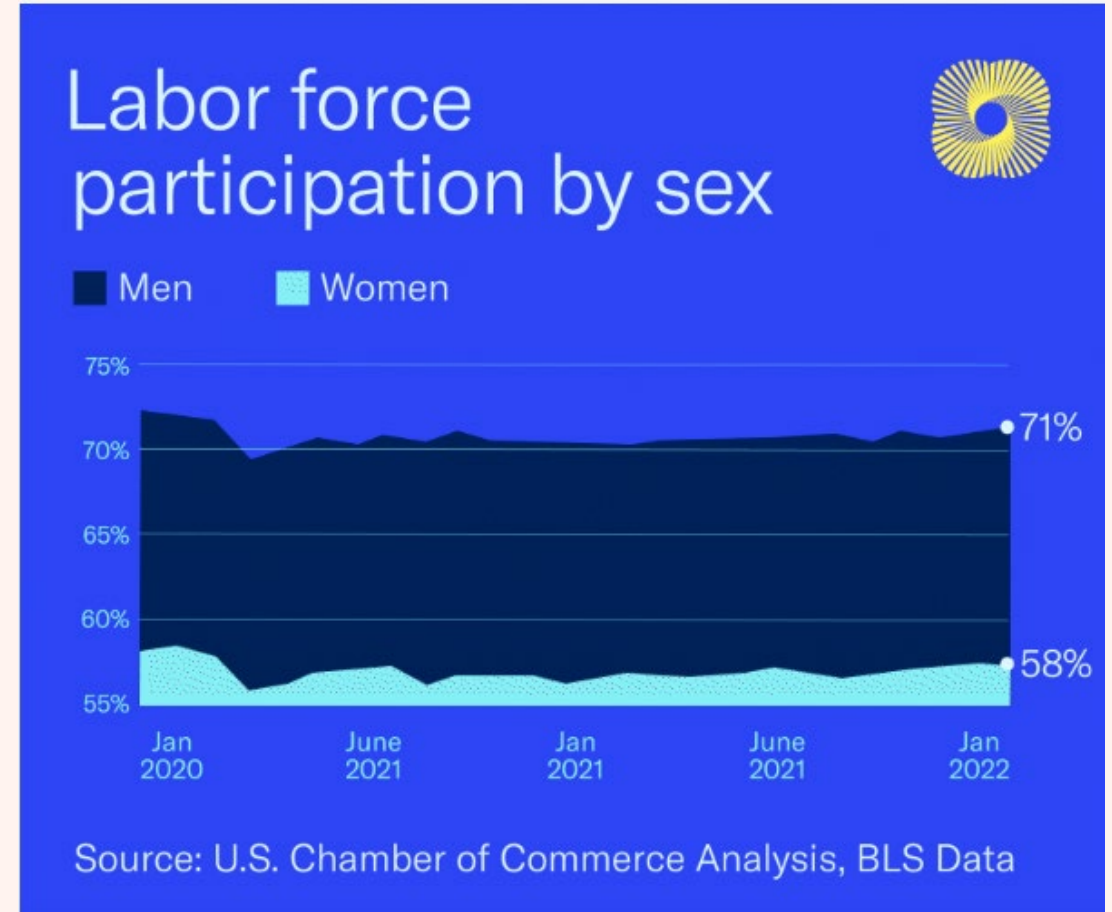
US Workforce Trends

- Not only do American families work longer hours; they do so with fewer laws to support working families.
- Among the top 30 industrialized democracies, the United States is the only one which lacks paid maternity-leave laws.
- Unsurprisingly, American families report significantly higher levels of work-family conflict than citizen of other industrial countries.



Disproportionate Impact of Women

- Half of all workers and nearly 60% of parents cite lack of childcare as their reason for leaving workforce.
- Nearly one in three unemployed women are not returning to work because they must provide care for a family member.
- The labor force participation rate for women with children was 72.5% in March 2020, much lower than the rate of 93.1% for men.



**State/Local Laws to Protect
Women in the Workforce**



Pennsylvania Human Relations Act

- Applies to State employees as well as any employer of 4 or more individuals.
- Prohibits discrimination in employment based on sex by employers, employment agencies, and labor unions.
- Prohibits retaliation against individuals for complaining or filing legal actions for employment discrimination.

City of Allentown

- Applies to employers with 4 or more employees
- Prohibits discrimination against employees and independent contractors based upon sex

City of Bethlehem

- Applies to all employers with 1 or more employee
- Prohibits discrimination in the workforce on the basis of sex, familial status, and marital status



Philadelphia Fair Practices Ordinance

- Applies to employers of all sizes within the City of Philadelphia
- Prohibits discrimination based on sex, marital status, familial status, and domestic/sexual violence victim status
- Requires all employers to reasonably accommodate mothers who need to pump breastmilk during the workday

Federal Laws to Protect Women in the Workforce



Pregnant Workers Fairness Act (PWFA)

- Requires employers with at least 15 employees to provide reasonable accommodations for a worker's known limitations related to pregnancy, childbirth or related medical conditions

Reasonable Accommodations



Accommodations may be needed for normal pregnancy symptoms – such as morning sickness, bladder control – or more serious complications resulting from gestational diabetes or preeclampsia



Reasonable Accommodations

- Seating
- Water
- Closer parking
- Flexible hours
- Appropriately sized uniforms and safety apparel
- Additional bathroom, meal and rest breaks
- Relief from strenuous activities
- Avoiding exposure to compounds unsafe for pregnancy



How to request an accommodation?

Employees must communicate their need for an accommodation in order to trigger the employer's legal obligation – an employee can request a specific accommodation or leave it up to the employer after explaining the situation

Must my employer grant the accommodation?

Employers must grant accommodations unless it would trigger undue hardship – meaning it would be too difficult or expensive to grant the accommodation

If the employers cannot grant the specific accommodation requested, they should offer alternatives



The PUMP Act

- Requires employers to provide a space that is:
 - Functional for pumping milk
 - Shielded from view
 - Free from intrusion
 - Available as needed
 - NOT a bathroom

PUMP Act

Reasonable Breaktimes

Employers must give reasonable break times to employees for up to a year after the child's birth – employer cannot dictate a schedule

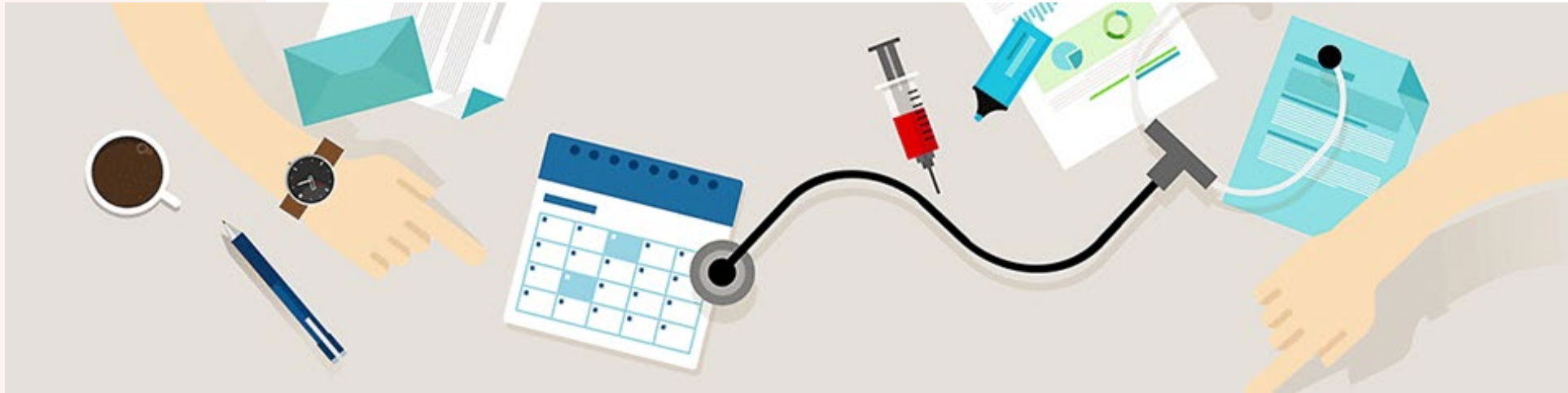
Pay

Employees are not required to be paid during breaks, unless they are not completely relieved from their work duties – but employees can use normally granted paid breaks for pumping

Undue Hardship

Employers with less than 50 employees are not subject to the act if doing so would impose undue hardship due to difficulty or expense

Family Medical Leave Act



Employees are entitled to 12 workweeks of FMLA leave during pregnancy, after the birth of a child or when caring for a newly adopted/fostered child

Family Medical Leave Act

Childbirth

Employees may take up to 12 weeks of leave after the birth of their child – the 12-month period expires upon the child's first birthday

Adoption/Foster Care

Employees may take up to 12 weeks of leave if a child is placed with them for adoption or foster care – the leave may be taken either before or after placement

Prenatal Care

Expecting mothers may take leave before childbirth if her condition makes her unable to work – spouses of expecting mothers may also take leave if the expectant spouse is incapacitated – this leave does not extend to non-married spouses



Covered Employers and Employees

- Employees are eligible for leave under FMLA if:
 - They have worked for employer for at least 12 months
 - They have worked 1,250 hours during the 12 preceding months
 - At least 50 employees work for the employer within 75 miles



Title VII/Pregnancy Discrimination Act

- Prohibits discrimination and harassment based on pregnancy, childbirth or related medical conditions in all aspects of employment

Title VII/Pregnancy Discrimination Act

Prohibits

Women from being terminated, refused a job or denied a promotion because of pregnancy

Requires

Pregnant employees to be treated the same as other employees for purposes of leave, accommodations, benefits, etc.

Prohibits

An employer from forcing a pregnant employee to go on leave when able to work

Americans with Disabilities Act



Provides pregnancy-related leave in limited circumstances when employees are experiencing pregnancy or childbirth-related complications



Americans with Disabilities Act (ADA)

- ADA prohibits discrimination in all aspects of employment because of disability
- ADA does not automatically apply to pregnancies or provide pregnancy leave

Americans with Disabilities Act (ADA)

Qualified Employers/Employees

ADA generally covers private employers with 15 or more employees and all public employers

Reasonable Accommodations

Reasonable pregnancy related accommodations may include providing leave, make facilities more accessible, restructure the job, allow changes to work schedule

What Can You Do?

AS AN EMPLOYER

- Make reasonable accommodations when requested
- Be flexible
- Request documentation when needed
- Post employees rights within the workplace

AS AN EMPLOYEE

- Know your rights
- Make sure others in the workplace, especially women are informed
- When requesting accommodations, ensure you provide necessary documentation