BACKGROUND

Family leave refers to periods of leave guaranteed under federal law such as the Family and Medical Leave Act (FMLA), and the growing number of state laws that have passed in recent years: California’s Paid Family Leave; New Jersey’s Family Leave Insurance; Rhode Island’s Temporary Caregiver Insurance; Washington State’s Paid Family and Medical Leave; New York’s Paid Family Leave; Massachusetts’ Paid Family Leave and the District of Columbia Universal Paid Leave Act. It also refers to family leave negotiated through the collective bargaining process.

While the FMLA provides job-protected leave for qualifying workers, it does not meet the needs of all employees. The terms of the FMLA are limited. Those who do qualify may not be able to afford to take unpaid time off from their jobs. Accessible and affordable family leave for all workers is a necessity that unions can further through collective bargaining and by participating in state public policy efforts for paid leave and the national policy discussion.

Unions have bargained broader and more inclusive family leave contract terms to strengthen and enhance these benefits at a time when families need them more than ever before.

FEDERAL AND STATE LAWS

The Family and Medical Leave Act (FMLA) of 1993 is a federal law that applies to employers with 50 or more employees, public agencies, and elementary schools. Eligible employees generally are entitled to take unpaid, job-protected leave for up to 12 workweeks in a 12-month period for the birth and care of a newborn, the placement and care of an adopted or foster child, and the serious health condition of the employee or a spouse, child, or parent.

Several states have passed their own versions of FMLA that lower the threshold to cover more workers, expand the definition of family to include a wider range of family members, and increase the options of how workers can use their FMLA leave.

The states listed above CA, NJ, RI, WA, NY, MA, and DC—have also passed laws to establish paid family leave insurance programs that enable workers to get income replacement during family leave. Make sure to check your state laws before bargaining.

The FAMILY Act is the Federal Paid Leave proposal that when passed, will set up an Office of Paid Family Leave as a separate trust fund under the Social Security Administration. Employers and employees will pay in to the trust fund with contributions covering both administrative and business expenses. It will provide up to 12 weeks of pay for eligible employees who need time off to welcome a new baby, care for self or a seriously ill family member. Details regarding this act will be finalized upon passage. Join the fight for the #FamilyAct.

COLLECTIVE BARGAINING

While existing federal and state laws are non-negotiable, they set the floor to bargain for broader work family contract language. Using current laws as a framework, unions can negotiate additional protections in the collective bargaining agreement by clarifying terms and expanding definitions to be inclusive and flexible.

Here are several areas where unions can bargain to strengthen and enhance family leave benefits:

Cover current laws

Include the FMLA and other state and federal laws in the contract so that potential disputes will be subject to grievance and arbitration, at the option of the employee.

Expand who is covered

Bargain for language that provides a comprehensive family definition to ensure that a wider range of blood and chosen family members are included. Family members such as a spouse, and parents thereof; children, including adopted and foster children and spouses thereof; parents; brothers and sisters, and spouses thereof; and any individual related by blood or affinity whose close association with the employee is the equivalent of a family member. Provisions can go as far as to allow leave for court appearances, visiting incarcerated family members and other activities.

www.working-families.org
Provide greater flexibility
Grant new parents the right to return to work on a part-time basis after parental leave, with the right to return to full-time status. Specify additional reasons for taking leave under the FMLA (e.g., preventive medical appointments, moving covered relative to different location, etc.), and include non-medical family emergency situations (e.g., domestic breakup, domestic violence, etc.) provisions.

Increase affordability
Bargain for language to provide pay during FMLA leave. The collective bargaining agreement can contain language on family leave funds (e.g., payment during leave) or can integrate benefits such as paid sick leave or vacation to cover wage loss.

Broaden leave parameters
Guarantee the continuation of benefits for a longer period of time or continuation of other benefits such as seniority accrual while the employee is on family leave; or include provisions to shorten the minimum time an employee needs to have worked to be eligible for FMLA leave.

Clarify the notification process
Include provisions that specify reasonable and required procedures for taking/granting family leave (e.g., employee notification to the employer, such as advance notification for foreseeable leave, short notice in case of emergency, employer response, etc.).

A wide range of actual contract language is available for free in the Labor Project’s LEARN WorkFamily database at www.learnworkfamily.org.

Get more information and download free resources at www.working-families.org.

GET INVOLVED
Labor’s involvement is crucial to building the 21st-century family-friendly workplace. While progress has been made, much needs to be done so workers can take time to care for themselves and their families without losing their jobs, wages, or benefits. Unions have addressed the limitations of the FMLA and the absence of paid leave in the workplace through stronger contract language. It is equally important for unions to participate in efforts to advance family-friendly workplace policies at the local, state and national level.

Join the Labor Project’s efforts to advance family-friendly workplace policies by keeping up to date with the policy wins at www.FamilyValuesatWork.org. We’re a network of 27 state labor-community coalitions working for paid sick days, paid family and medical leave insurance and other policies that are building the movement, models and momentum for paid leave across the country. Contact us also to join the fight to bring paid family leave to millions through the federal law the FAMILY Act.