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PAID FAMILY LEAVE TRANSFORMS A STRONGER, HEALTHIER AMERICAN WORKFORCE

OUR CHOSEN FAMILIES

What makes a contemporary family? Is it ties of blood, marriage, birth, adoption, tight neighbors or close friendships? What is the glue today that makes a chosen family?

In a highly competitive economy for top talent, employers are designing innovative and far more flexible ways to support their employees and to reflect the crucial balance families need to care for each other. Evolving workplace trends are intended to empower employees to tell management how they define families, caregiving, health needs, parenting desires and gender identities. With this evolution, employers are leading transformational ways to update paid family leave as an essential way to improve the health, security and productivity of all workers and inclusive of LGBTQ families. *[See detailed examples describing the innovations led by MassMutual and Accenture.]*

71%
include
CLOSE FRIENDS
in their
definition
of **family**

Source: MassMutual



TODAY'S BROKEN SYSTEM

Surprisingly, the United States is the only industrialized nation in the world without some form of guaranteed paid leave. Currently, the federal Family and Medical Leave Act (FMLA) allows many American workers to take up to 12 weeks of **unpaid, job-protected leave** per year due to significant family or medical events, including the birth and care of a newborn and the care of an immediate family member dealing with a serious health condition.¹ FMLA covers all private sector and public agencies. In HRC's 2020 Corporate Equality Index, 75% of rated businesses

¹ "Family and Medical Leave Act - Wage and ..." <https://www.dol.gov/whd/fmla/>. Accessed 24 May, 2019.



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provide parity in their core benefits offerings to spouses and partners of employees, which includes FMLA or FMLA-like leave for same- and different-sex domestic partners.²

Workers are often unable to take this federally-guaranteed time off to care for themselves or family members because they cannot afford the loss of wages, which are all the more important during significant family events and health crises. To truly allow workers the ability to take time off to provide vital care for themselves or loved ones, employers are increasingly offering employees paid leave benefits, which permit employees to take sufficient paid, job-secured time off for significant life events like the birth or adoption of a child and the emergence of significant health issues. These employers know that paid leave not only helps ensure the health and well-being of employees and their families, but also improves employee productivity and satisfaction and helps employers attract and retain top talent by giving them a competitive edge.

PAID LEAVE IS AN LGBTQ ISSUE

Without access to paid leave, employees who take unpaid leave can be thrown into financial chaos and struggle to cover everyday expenses like groceries and rent without a steady income. According to a 2018 survey conducted by the Human Rights Campaign, financial concerns are the greatest factor forcing LGBTQ people to return to work early after taking leave—or forcing them to forgo taking time off entirely.³ The negative consequences of this loss of income is severely compounded in the context of leave-qualifying events like the serious illness of an employee's loved one or the employee's own life-threatening diagnosis.

LGBTQ people are particularly vulnerable in the absence of guaranteed paid leave. This is especially true in states that lack explicit protections for employment discrimination based on sexual orientation and gender identity. LGBTQ people are more likely to be living in poverty,⁴ mistreated in the workplace,⁵ and discriminated against during the hiring process⁶—making a request for unpaid time off, without clear and enforceable protocols, both impractical and un navigable.

LGBTQ people may also be unable to take time off to care for a loved one without “outing” their identities or relationships at work, which may result in adverse treatment and could cost them their jobs. Some fear the stigma they could face if they reveal the need to take time off for HIV-related care or transgender-specific treatment. Too many others, especially transgender people of color and those who are low-income, may face other forms of anti-LGBTQ discrimination, housing instability, and violence. These hardships are likely to compound each other, especially as individuals lose their steady source of income and grapple with significant life events. Moreover, while it is encouraging that some far-sighted employers have recognized the

² Human Rights Campaign Foundation, “Corporate Equality Index,” www.hrc.org/cei

³ Human Rights Campaign Foundation, *2018 U.S. LGBTQ Paid Leave Survey*, https://assets2.hrc.org/files/assets/resources/2018-HRC-LGBTQ-Paid-Leave-Survey.pdf?_ga=2.195338661.800741352.1568654239-1505457067.1540225167, Page 10.

⁴ The Williams Institute. “New Patterns of Poverty in the Lesbian, Gay, and Bisexual Community,” <https://williamsinstitute.law.ucla.edu/wp-content/uploads/LGB-Poverty-Update-Jun-2013.pdf>

⁵ Out and Equal Workplace Advocates. “2017 Workplace Equality Fact Sheet,” <http://outandequal.org/2017-workplace-equality-fact-sheet>

⁶ The Williams Institute. “Gender Identity and Sexual Orientation Discrimination in the Workplace: A Practice Guide,” <https://williamsinstitute.law.ucla.edu/wp-content/uploads/CH40-Discrimination-Against-LGBT-People-Sears-Mallory.pdf>



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imperative of offering paid leave benefits in the absence of nationwide paid leave protections, these benefits may not always be inclusive of LGBTQ people, diverse families, or specific medical needs:

- Parental leave policies may not equally cover parents of all genders or those who become new parents through surrogacy, adoption, or foster care.
- Family care leave may be restricted to legal guardians and their spouses, while failing to cover domestic partners, other close family members, and other primary caregivers for a child, senior, or person with a disability.
- In the absence of guaranteed protections under the law, employers may offer paid leave as a benefit but deny individual paid leave requests, forcing employees to take unpaid time off, even when they are seeking medically necessary care.

OUR CHOSEN FAMILIES

For many LGBTQ people, some who may face rejection from their biological or adoptive families, the term family takes on a broad meaning. Close friends, for instance, can be considered family and may provide support that traditionally comes from biological or adoptive families. Because of pervasive societal and familial discrimination, LGBTQ people are often more vulnerable during life's unexpected challenges and rely on diverse networks of support during leave-qualifying life events, such as severe illness. The individuals that form these diverse support networks—which include other family members, friends, neighbors, or loved ones who share a deep bond similar to that of marriage, blood, or adoption—are sometimes called “**chosen family**.”



65% say someone
NOT RELATED
by blood, adoption
or marriage
is their **most trusted**
family member

Source: MassMutual

According to [HRC's 2018 Paid Leave Survey](#), 58 percent of respondents indicated that they anticipate needing to serve as caregiver for at least one chosen family member should they experience a serious health condition. Moreover, some LGBTQ people opt to enter into domestic partnerships with their significant others and many form families through various assisted reproductive technologies. All of these diverse family and family-forming structures should be accounted for in paid leave policies.



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BENEFITS OF INCLUSIVE PAID LEAVE

Enacting inclusive paid leave policies is not just the right thing to do, these policies also support the bottom line. Inclusive paid leave helps employers attract top talent. Prospective employees, including prospective LGBTQ employees, value workplaces that demonstrate a commitment to the health and well-being of all employees and their diverse families. Paid leave can also improve employee retention. By allowing employees to take paid leave without jeopardizing their family's financial security, workers are able to provide vital care for themselves and their loved ones, ultimately leading to healthier, happier employees who are more likely to remain loyal to their company. For similar reasons, inclusive paid leave policies also contribute to higher productivity and employee morale.

CREATING INCLUSIVE PAID LEAVE POLICIES

Many of the largest private employers have generous paid leave policies. However, employers should take care to account for the unique concerns of LGBTQ employees as well as their diverse family structures. If a company currently has a paid leave policy, HR and D&I leadership teams should review its terms to ensure its full inclusivity. The following principles should guide the creation or alteration of paid leave policies.

- Paid leave policies should cover:
 - **Parental leave** to allow employees to welcome children into their families, including through childbirth, surrogacy, adoption, foster care, or other placement;
 - **Family care leave** to enable employees to care for loved ones with serious medical conditions, including serving as a caregiver for a spouse, domestic partner, chosen family member, child, parent, or grandparent; and
 - **Medical leave** to allow employees to manage their own health, including undergoing treatment for a serious health condition, recovering from a physical or mental illness, obtaining medically-necessary transition-related health care, and receiving HIV-related care.
- **Parental leave policies** should use inclusive language and not focus solely on “birth mothers” (e.g., maternity leave), which excludes fathers, non-birth mothers, and adoptive or foster parents, who are all equally deserving of the time needed to bond with a new child.
 - Moreover, policies that offer additional time off and/or short-term disability for “birth mothers” to allow for physical recovery from childbirth may inadvertently leave out parents of other genders who may also give birth, including transgender men, non-binary individuals, and people of other identities. Policies should use the inclusive term “birth parent” instead.
- **Family care leave policies** should define “spouse” to include all legal spouses, which includes spouses of the same-sex. Policies should also include both same- and different-sex domestic partners.
 - Many American families—and especially LGBTQ families—have parental relationships and responsibilities that are outside of a legal and/or biological relationship. Employers should follow existing U.S. Department of Labor guidance for FMLA when offering paid or unpaid leave benefits, which allows all employees with parent-child



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relationships to claim parental and family care leave for one another, regardless of legal or biological standing.

- For a variety of reasons, there may be instances where an employee must take time off to care for a seriously ill loved one outside of the relationships listed above, including a grandparent, relative, or close friend. LGBTQ people may be more likely to rely on and/or be responsible for care for such chosen family members, who may not have other immediate family who are able or willing to care for them. **Family care leave policies should allow employees to access paid leave for the care of chosen family members.**
- **Medical leave policies** should expressly cover employees who are seeking paid leave to undergo medically-necessary transition-related care (like gender affirmation surgery, hormone therapy, and other gender-affirming care) and employees who need time off to receive HIV-related health care (including adjusting to new medications or grappling with co-infections).

Moreover, paid leave policies should offer full or partial wage replacement during leave and should be clearly outlined in employee handbooks alongside other benefits and guidelines. Human resources staff should be prepared to answer questions regarding paid leave policies, and managers should be prepared to support their team members who need to take leave. Finally, employers should offer flexible work arrangements, including part-time or telework options, if an employee needs additional accommodations to manage their health or care for loved ones once their paid leave period ends.

ADDRESSING OTHER BARRIERS TO ACCESSING PAID LEAVE

Even where paid leave policies exist, LGBTQ employees may hesitate to request leave if the request has the potential of “outing” the employee. For example, employees may fear the stigma they may face if they reveal the need to take time off to care for a same-sex spouse or to receive HIV-related or transgender-specific health care. Due to a patchwork of local and state non-discrimination protections, and a lack of express federal protections, many “outed” employees may face the risk of being fired simply because of who they are.

Employers should take additional steps to ensure that employees are not at risk of adverse employment actions if paid leave requests have the potential of “outing” them. Employers can reiterate their inclusive nondiscrimination employment policies that cover sexual orientation and gender identity. To better cultivate a workplace environment that prioritizes inclusion, all employees should regularly undergo LGBTQ-inclusive diversity training and have a variety of employer-provided options to bolster their LGBTQ cultural competency. Employers should also ensure that employee health care plans provide express coverage for medically-necessary transition-related care (including gender-affirming surgeries, hormone therapy, and related mental health care).



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CONCLUSION

Although employees have access to unpaid FMLA leave, unpaid leave is a luxury many employees and their families simply cannot afford. LGBTQ people stand to uniquely benefit from job-secured paid leave, given that LGBTQ people are more likely to be living in hardship circumstances or poverty and more likely to be mistreated or discriminated against in the workplace.

Businesses are increasingly enacting inclusive paid leave policies because they realize that it is not only the right thing to do, but also good for business. By allowing employees to take paid leave without jeopardizing their family's financial security or their long-term job security, workers are able to provide vital care for themselves and their loved ones, ultimately leading to healthier, happier employees who are more likely to remain loyal, be productive, and report high levels of satisfaction. In crafting or updating paid leave policies, employers should be deliberate in utilizing inclusive language that takes into account the unique concerns of LGBTQ employees and their diverse family structures.

For more on this inclusive paid leave, see the Human Rights Campaign Foundation's report entitled "2018 U.S. Paid Family Leave Survey," available at www.hrc.org.



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“WHO ARE WE TO DECIDE WHO AN EMPLOYEE’S LOVED ONE IS?”

In January 2019, Massachusetts Mutual Life Insurance Company (MassMutual) announced a significant new expansion to employee benefits around leave, family creation, gender affirmation and more that directly empower all of their employees—and express a deeper understanding of the lives of LGBTQ people.

Most remarkable of all, MassMutual leaves it entirely up to employees to decide the meaning of their “loved ones.”

Dr. Claudia Coplein, MassMutual's head of health and wellness, revealed that under the new benefits, employees have up to two weeks paid leave to care for a seriously ill loved one and up to 15 days leave after the death of a loved one. “We’ve left it up to the employee to define who is a loved one. A loved one could be your next-door neighbor who raised you because your parents had to work two jobs each to support the family. Or it could be your college roommate who is like a sibling to you. Who are we to decide who an employee’s loved one is?”

- **Caregiving for all ages:** A new caregiver leave provides up to two weeks paid leave to care for a loved one who is suffering from a serious health condition. It is at the discretion of the employee to define who a ‘loved one’ is and there is no requirement that the person is an immediate or extended family member.
- **Bereavement redefined:** A more robust and flexible bereavement leave provides up to 15 days of paid time off to grieve the loss of a loved one, and again, with the employee defining who the loved one is.
- **Parenting:** To ensure new mothers have adequate time to recover and bond with their child, maternity leave for birth mothers has increased to 18 weeks of fully paid leave—made up of 10 weeks of maternity leave and eight weeks of parental leave. Non-birth mothers, fathers and adoptive parents are eligible for eight weeks of fully paid parental leave.
- **Volunteering:** Three days of paid time off is available to employees annually to give back to their communities by sharing their time and talent with a cause close to their heart.

MassMutual believes this evolution will make the company more flexible and inclusive—not to mention enhance its power to retain and attract exceptional talent. According to Dr. Coplein, “these changes help all employees, including LGBTQ associates, to better take care of themselves, the ones they love and their communities.”

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SUPPORT FOR FAMILIES AND WORKING PARENTS

For Accenture, it is critical to support all working parents, including LGBTQ people, by offering flexibility and support through improved benefits and innovative programs. This advanced and inclusive approach highlights a culture of equality that enables parents to have the time essential to bond with a child. For instance:

- U.S. birth mothers are offered up to 16 weeks of paid maternity leave as well as up to 8 weeks off for other primary caregivers and two weeks of paid time off for secondary caregivers including adoptive parents and parents using a surrogate.
- For those seeking adoptions and surrogacy services, financial assistance is given for medical, agency and legal fees.
- For primary caregivers of any gender, the opportunity is given to work locally and limit travel for a full year following the person's return to work after the birth or adoption of a child.
- Accenture gives its people a "safety net" for days when regular child care arrangements fall through. 80 hours per year of subsidized back-up dependent care is available for children, spouses or elderly family members.
- The firm offers a Paid Time Off (PTO) program which allows people to use their PTO for any reason.
- Accenture also brings new resources online to aid families in unique ways. For instance, all parents have an online search tool for ongoing child care as well as prioritized enrollment in childcare centers. People at the firm also have a personalized portal and one-on-one support for childhood issues such as ADHA as well as other learning and developmental disabilities.

Accenture is a leading global professional services company, providing a broad range of services and solutions in strategy, consulting, digital, technology and operations. Leveraging its deep expertise across industries and business functions, it helps organizations shape their vision for the future. Accenture drives innovation to develop and implement differentiated solutions that accelerate growth and increase efficiency — and it may run parts of clients' businesses on their behalf. Ultimately, Accenture enables clients to maximize their performance and create sustainable value for their stakeholders. For more information, visit www.accenture.com.