

The Conversation On Workplace Flexibility In America

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On June 23, 2014, President Obama held a first-ever, day-long White House Summit on Working Families in Washington, D.C. designed to "focus on creating a 21st century workplace" and promote a national conversation on workplace flexibility, family-friendly work policies, and the possibility of paid maternity leave.

President Obama urged companies to adopt family-friendly workplace policies, and companies with such policies were present at the Summit and held up as good examples to emulate. The President bemoaned Congress' lack of action in this area, but remarked that he would "sign a presidential memorandum...requiring every federal agency to address flexible work schedules and give employees the right to request flexible work schedules." President Obama also criticized those companies that had not adopted flexible workplace policies:

[T]oo many are forced to choose between their health and their job. Right now, if you're pregnant you could potentially get fired for taking too many bathroom breaks – clearly from a boss who has never been pregnant – or forced [onto] unpaid leave. That makes no sense.

In regard to paid maternity leave, according to the President, "[o]nly three countries in the world report that they don't offer paid maternity leave – three – and the United States is one of them." He further opined, "[i]t's time to change that. A few states have acted on their own to give workers paid family leave, but this should be available to everyone, because all Americans should be able to afford to care for a family member in need." Specifically, California, New Jersey, and Rhode Island have a paid system of leave. Employers in other states can choose to provide paid maternity leave, but currently, the 1993 Family Medical Leave Act only requires up to twelve weeks of unpaid leave for eligible employees.

The President stated that "work gives us a sense of place and income," but that "family is also the bedrock of our lives, and we don't want a society where folks are having to make a choice between those two things." The President also urged Congress to pass the Pregnant Workers Fairness Act, which the Obama Administration believes will help to protect women from discrimination in the workplace by making it crystal clear that employers must provide reasonable accommodations to workers who have a pregnancy-related medical need. Some critics of this Act would respond that the Americans with Disabilities Act already addresses the requirement that pregnant employees be provided necessary reasonable accommodations. Regardless, these statements and initiatives highlight the Administration's promotion of workplace flexibility, and why it is important for employers to remain cognizant of their obligations so that, if the Obama Administration acts, they may appropriately adjust policies to remain in compliance.

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