



set up to fail

when low-wage work jeopardizes parents'
and children's success

ABOUT THE CENTER

The National Women's Law Center is a non-profit organization working to expand the possibilities for women and their families by removing barriers based on gender, opening opportunities, and helping women and their families lead economically secure, healthy, and fulfilled lives—with a special focus on the needs of low-income women and their families.

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About this project

This report is part of a project undertaken by the National Women's Law Center (the "Center") that seeks to advance the understanding of how the often-challenging conditions of low-wage work affect working parents' efforts to support their children's development and early learning, and to begin to identify public and private policy solutions and organizing strategies that can help low-wage working parents and their children succeed.

This project builds on earlier work by the Center, in collaboration with the Ms. Foundation for Women, Adhikaar for Human Rights and Social Justice, the Center for Frontline Retail, the Coalition of Immokalee Workers, the Garment Worker Center, Restaurant Opportunities Centers United, and the Retail Action Project, the results of which were presented in the 2014 report, *Listening to Workers: Child Care Challenges in Low-Wage Jobs*.

As part of the current project, the Center, in partnership with the National Domestic Workers Alliance, OurWalmart, the Retail Action Project, and the Service Employees International Union, held listening sessions with parents employed in low-wage retail, fast food, and home care jobs, as well as child care providers. In these sessions, parents described the challenges they face as they try to keep their families afloat and provide their children with the care and early education experiences they need to thrive. They highlighted the unpredictable and inflexible work schedules and low wages that make it difficult for them to care for their children, make ends meet, and obtain the early learning opportunities they want for their children. The child care providers participating in the sessions not only described how these challenges affected the parents and children they served, but also their own parallel struggles.

In addition to these conversations with parents and providers, the Center reviewed the latest research and interviewed representatives from the private sector as well as experts in the fields of low-wage work, child development, child care, and workforce development for their perspectives on these issues. A full list of the individuals interviewed for this report is provided in the appendix.

This report synthesizes and integrates the research and interviews to explain how certain conditions prevalent in the low-wage workforce can make it difficult, if not impossible, for parents to give their children the best possible start in life. The next phase of the project includes a convening of diverse stakeholders—including low-wage worker organizations, researchers, employers, directors of workforce development programs, and child care advocates and administrators—which will begin to generate cross-cutting strategies to address families' interrelated work and child care/early education challenges. An agenda for action with potential public policy solutions, model employer practices, and organizing strategies will be developed following the stakeholder convening.

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Introduction

Every day, working parents in low-wage jobs are scrambling. They are desperate to keep food on the table and a roof over their families' heads, and to provide a better life for their children. The majority of these parents are women, who are now breadwinners or co-breadwinners in close to two-thirds of families in the U.S.¹ but are vastly overrepresented in the low-wage workforce.²

Even when they work full time, mothers and fathers working in retail, restaurant, home care, and other low-wage jobs may not earn enough to lift their children out of poverty. Their working hours may start early in the morning or end late at night, or both, and bleed over into the weekends. Their employers may give them only a few days' notice of their work schedules, which can have too few hours one week and too many the next, wreaking havoc on child care arrangements. And when they must miss work to meet the demands that all parents face—sick children, doctors' appointments, parent-teacher conferences—their jobs may be at risk.

Workers in the most demanding and low-paid service-sector jobs have never had an easy time making ends meet. But economic and technological changes are contributing to further declines in workers' job quality, greater employment instability, and stagnating wages.³ The pressures on parents in the low-wage workforce are tremendous—yet their ability to bargain with their employers to make their jobs more manageable is limited.

For many low-wage working parents, the conditions of their jobs effectively set them up to fail: meeting both their work and family obligations becomes an impossible juggling act. Parents report that they are getting by on little sleep, and don't have the time or resources to meet their own health needs. They can't spend the time they want to with their children, whether to read to them, help them with homework, go to the park or the zoo, or even share a meal. And

too often, despite their best efforts, parents' low wages and work conditions undermine their children's chances for success as well. Research shows that achievement gaps between poor and low-income children and their higher-income peers emerge in the earliest years of life, and these disparities can persist and even widen throughout childhood. Other features of low-wage work that increase parents' stress—including nonstandard and constantly fluctuating work hours, rigid attendance policies, and a lack of any paid time off—can also adversely affect children's development. The relentless struggle to earn a living from low-wage work takes a toll on parents and children alike, while the rapid brain development and skill formation that occur in the first years of life make young children particularly vulnerable to deficits in the nourishment, care, and attention they need to thrive.⁴

The relentless struggle to earn a living from low-wage work takes a toll on children and parents alike.

High-quality early care and education can help ameliorate the effects of poverty and instability and support children's healthy development. But for parents with limited incomes and volatile schedules, the challenge of finding child care that they can afford, and that covers their hours of work, is a constant battle, often requiring them to piece together hours with relatives, friends or neighbors, informal providers, and, if they are lucky, formal early education programs. Despite how hard these parents are working, they can never get ahead: side jobs bring more income but cut further into precious family time; parents may earn too little to support their families but too much to qualify for child care or food assistance, or they may encounter long waiting lists for child care assistance; and their work schedules and

caregiving responsibilities make it difficult for them to participate in education or training programs that could help them find better jobs.

Set Up to Fail draws on academic and policy research as well as workers' own stories to describe the challenges faced by low-wage working parents in meeting their work and family responsibilities. Part I describes the demographics of the low-wage workforce. Part II highlights job conditions that significantly, and detrimentally, affect low-wage working parents. Part III considers the impact of those job conditions on children's health, development, behavior, and school readiness. Part IV examines the barriers that often keep low-wage working parents from accessing the early care and education experiences that could improve outcomes for their

children, and the education and training opportunities that could improve their own job prospects. These challenges, while presented separately in this report, are interconnected and inseparable in the lives of millions of families.

The instability and stress experienced by parents in the low-wage workforce, and the resulting risks for their children's health, development, and achievement, are serious. But research and the success of on-the-ground programs point to proven strategies that can help working parents gain greater financial security and provide a better foundation for their children's future success. This report concludes by identifying policy areas in which such strategies are needed, which will serve to frame the agenda for change that is the focus of the next stage of this project.

Who are the parents in low-wage jobs?

I have two children at home with me—they are 15 and 4. My son is in preschool from 7:30 am to 2:30 pm. My husband works from 12:30 pm to 11:15 pm every day. After I pick my son up, I wait for my daughter, who is in high school, to get home from school to watch my son. She gets home around 2:45 pm, and I have to be at my job—delivering pizzas—by 4 pm. I work until the store closes, around 11 pm or 12 am. And on the weekends I work as a live-in home care provider for a group home—from Friday at 6:30 pm to Sunday at 6:30 pm.

By the time I get home they're in bed. So they get a glimpse of me when I drop my son off at school, when I pick him up, when my daughter gets home from school—that's the entire time they get with me.

I don't know what else to do. . . . We're in a position where I can't leave. And we're barely making it, we still can't make it. And our kids, we don't have any income to put them in an extra-curricular program or have an after-school thing or anything.

Laure, a home care worker and pizza deliverer in Georgia*

Laure is one of more than 23 million people in the United States who work in low-wage jobs, defined here as those typically paying \$10.50 per hour or less.⁵ Two-thirds of these workers are women, and the vast majority are neither teenagers nor high-school dropouts: most women in the low-wage workforce (70 percent) are at least 25 years old, and 80 percent have a high school degree or higher.⁶

Of these workers, more than six million are parents with children under 18—and three-quarters of these parents are mothers.⁷ Nearly half of these mothers are raising children on their own.⁸ Mothers in the low-wage workforce are disproportionately women of color and immigrant women: 57 percent are women of color and 33 percent are immigrants, though women of color and immigrant women constitute just 39 percent and 19 percent, respectively, of mothers in the workforce.⁹ Just over half of mothers working in low-wage jobs work full time—and many who are working part time would prefer to find full-time work.¹⁰

Mothers in the low-wage workforce are disproportionately women of color and immigrant women.

Many of these parents work as home health aides, child care workers, fast food workers, restaurant servers, maids, cashiers, and in other demanding service-sector jobs that make up the ten largest low-wage occupations (see *Table 1*).¹¹ Four of these occupations are among those projected to see the most growth in the next decade.¹² Women represent half or more of the workers in all of these occupations and roughly nine in ten workers in three of these occupations.¹³ People of color, particularly African Americans and Hispanics, are overrepresented in nearly all of these occupations relative to their share of the overall workforce, as are immigrant workers (see *sidebar, next page*).¹⁴

*The first names used to identify the individuals quoted in this report are pseudonyms.

IMMIGRANTS IN THE LOW-WAGE WORKFORCE

Immigrants represent about one in six workers in the U.S., and they typically are paid less than U.S.-born workers.¹⁵ Immigrant workers are uniquely vulnerable to exploitation and labor law violations,¹⁶ due to factors that make it particularly difficult for them to learn of and enforce their rights in the workplace.¹⁷ For example, immigrant workers who lack English proficiency may not be able to access agencies charged with enforcing labor laws.¹⁸ Undocumented workers who report employer abuse may risk deportation if their immigration status is discovered by immigration authorities as a result.¹⁹

TABLE 1. Share of women, people of color, and foreign-born workers in the ten largest low-wage occupations

Occupation	Median Hourly Wage	Share Women	Share African American	Share Asian American	Share Hispanic	Share Foreign-Born
<i>Overall workforce</i>	\$17.09	46.9%	11.4%	5.7%	16.1%	16.8%
Retail salespersons	\$10.29	49.8%	12.3%	4.6%	16.2%	13.8%
Cashiers	\$9.16	72.2%	18.3%	6.9%	22.0%	15.8%
Combined food preparation & serving workers, including fast food	\$8.85	61.9%	20.5%	3.3%	18.7%	12.6%
Waiters & waitresses	\$9.01	71.8%	7.5%	6.6%	19.4%	17.0%
Personal care aides	\$9.83	83.9%	23.0%	7.9%	18.2%	25.1%
Maids & housekeeping cleaners	\$9.67	88.6%	16.8%	5.5%	43.8%	50.8%
Food preparation workers	\$9.40	54.7%	13.4%	6.9%	27.2%	24.5%
Home health aides*	\$10.28	88.5%	35.9%	4.5%	15.4%	23.5%
Hand packers & packagers	\$9.77	53.8%	18.2%	5.9%	43.3%	39.3%
Child care workers	\$9.48	95.5%	15.9%	3.5%	21.6%	19.9%

* Demographic information based on nursing, psychiatric and home health aides. For sources, see *infra* note 11.

Challenges for parents: how low-wage jobs can undermine caregiving

POVERTY-LEVEL PAY

This is pretty much how my day goes: I get up, and get my daughter to school by 8 am. I am at my first job by 9 am. I get off at 1 pm and try to take a nap before I pick up my daughter at 5:30 pm. We do dinner and homework, and I try to take another nap. Then I go to work at my second job at 10 pm in a warehouse because I'm not getting the hours with home care, and if I do get the hours it's still not enough money. . . . I make it home by 7 am and start over. Some days I'm going off of three or four hours of sleep. On Saturday, sometimes I get to sleep late, sometimes I'll get up and try and do a movie with her . . . but if I do that, a bill doesn't get paid.

I have rent, life insurance, car insurance, the light bill . . . I work at least 60 hours a week, so I now make too much for food stamps and my daughter doesn't get free lunch—that is another \$400 a year for food . . . so the struggle is real with me right now.

Jonelle, a home care worker and warehouse employee in Illinois

Mothers like Jonelle face tough choices every day. With low wages, even a full-time job—or multiple jobs—is no guarantee of financial security. At \$10.50 per hour, a full-time, year-round worker earns \$21,000 annually, just above the poverty line for a mother with two children; a worker paid the federal minimum wage of \$7.25 per hour makes just \$14,500 annually—thousands of dollars below the poverty line for a family of three.²⁰ Mothers in the low-wage workforce who are raising very young children (age 3 and under) are especially economically vulnerable: one-third live in poverty, compared to about 12 percent of mothers with very young children in the workforce overall.²¹

These parents have to sacrifice time with their children and their own well-being to work enough hours to make ends meet. Nearly 70 percent of poor children (10.4 million) live in families with at least one worker.²² Among children in low-income families (with household incomes below 200 percent of the poverty

One in three mothers in the low-wage workforce who are raising very young children lives in poverty.

line), 83 percent (26.1 million) live with at least one worker—and in more than half of these low-income families, at least one person works full time, year round.²³ Parents of color and immigrant parents are especially likely to be paid wages that are inadequate to support their families, even if they work full time: 60 percent of African American parents, 62 percent of Hispanic parents, and 61 percent of foreign-born parents who work full time, year round earn wages or salaries that amount to less than twice the poverty line, compared to 41 percent of their white counterparts.²⁴ And for a family with young children, an income equal to twice the poverty line is unlikely to cover all of their basic necessities: housing, food, transportation, health care, and the myriad other

things that growing children need—along with the tremendous expense of child care.²⁵

Despite their low incomes, many parents are not able to access government supports that are designed to help struggling families.²⁶ For example, when Jonelle earns more than \$20,712 a year, her family of two loses eligibility for food stamps (Supplemental Nutrition Assistance Program benefits) and free school lunches,²⁷ and when she earns above \$25,812, she does not qualify for child care assistance in Illinois.²⁸ Others who do qualify for child care assistance may not receive it due to insufficient funding—like Renee, a home care worker from Massachusetts with a 6-year-old son, who is on a waiting list for assistance. Because she can't afford the high-quality child care she wants for her son on her own, Renee often relies on her aunt, who has serious health problems, to look after him—"which is pretty sad because she can't even watch herself."

Low wages make it hard for working parents to sustain the lives they want for themselves and their children. And for many parents, these challenges are compounded by their job schedules: nonstandard and unpredictable hours interfere with caregiving and yield income that is not only inadequate but also unstable.

NONSTANDARD, UNSTABLE & UNPREDICTABLE HOURS

They can change our schedule up to two days in advance. So I can arrange my whole week of who's picking up and who's dropping off, and then Friday they are like, "here is another whole new schedule."

Gaby, a nanny in Atlanta, referring to her former employment at Starbucks

The schedules associated with many low-wage jobs can wreak havoc on working parents' ability to meet their caregiving obligations in multiple ways. For one, the industries that employ many of the women interviewed for this project—including retail, food service, and home health care—often require nonstandard work hours. The precise definition of "nonstandard hours" varies, but is often described as a majority of work hours performed outside of 6 am to 6 pm on weekdays.²⁹ Among the ten largest

low-wage occupations (see *Table 1 above*), four are also among the occupations with the highest rates of nonstandard work: over half of waiters and waitresses, more than four in ten home health aides, and about one-third of cashiers and personal care aides work the majority of their hours outside of the weekday norm.³⁰ Overall, more than one in four low-wage workers have nonstandard work schedules.³¹

For many low-wage workers, especially in the service sector, unstable, unpredictable, and often inadequate hours, scheduled with little regard for an employee's needs or preferences, are common.

Moreover, these estimates likely fail to capture many workers whose hours may fall between 6 am and 6 pm but are not "standard" in any meaningful way, including workers with unpredictable schedules or who, while primarily working weekday hours, also frequently have evening, night, and/or weekend hours.³² For many low-wage workers, especially in the service sector, unstable, unpredictable, and often inadequate hours, scheduled with little regard for an employee's needs or preferences, are common. They are characteristic of "just-in-time" scheduling practices that make it difficult for parents to arrange reliable child care and transportation—not to mention pay their bills, given that unstable and unpredictable hours lead to unstable and unpredictable paychecks.

- **Instability.** A recent analysis of data from the National Longitudinal Survey of Youth (NLSY) found that among early-career employees (ages 26 to 32)—workers who are particularly likely to have young children at home³³—74 percent of those in hourly jobs report at least some fluctuations in the number of hours they worked in the previous month, with hours fluctuating, on average, by 50 percent of their usual work hours.³⁴ Among retail and food service workers, close to nine in ten report variable hours.³⁵

- **Unpredictability.** In the same NLSY survey, 41 percent of hourly workers report knowing their work

schedule one week or less in advance—and the more workers' weekly hours fluctuate, the more likely they are to report short notice of their schedules.³⁶ African American and Hispanic workers are more likely than white workers to receive no more than a week's notice.³⁷ Additional studies find that workers in retail, restaurant, and hospitality jobs commonly receive just a few days' notice of a scheduled shift.³⁸

Sometimes notice is even shorter: an employee scheduled for a “call-in” or “on-call” shift must be available to work, but will find out just hours before the shift whether she must actually report to work.³⁹ Workers generally are not paid for being on call,⁴⁰ but if they are unavailable when directed to report for work, they may be penalized.⁴¹ Last-minute changes to scheduled shifts are also common in some jobs,⁴² often with the aid of scheduling software (see sidebar). And shift length can be highly unpredictable as well; on a busy day, an employee may be told to extend her shift⁴³—and if business is slow, she might be sent home soon after she arrives, with transportation and child care costs amounting to more than that day's pay.⁴⁴

- **Lack of employee control.** In a 2008 survey, about half of low-wage workers reported having little or no control over the timing of their work hours, and other surveys have similar findings.⁴⁵ One analysis of a national data set found the number of workers reporting that their job schedules varied *and* that they did not have input into the start and end times of their jobs increased by 74 percent between 1997 and 2004.⁴⁶ Early-career employees of color in hourly jobs report less control over their work hours than do their white counterparts.⁴⁷

I work the third shift, because I want to be active in [my children's] lives when I can so I figure it is best to work while they are sleeping. Otherwise, I would barely be in their lives. . . . I try to use my phone to monitor them—I am constantly sneaking away to call and ask things like, “what are you doing, are you doing homework, did you take a bath, did you eat?” . . . I know this isn't the best situation, but it is the best I can work out.

Lydia, a home care worker in Illinois

JUST-IN-TIME SCHEDULING AND SCHEDULING SOFTWARE

The “just-in-time” scheduling practices described here maximize flexibility for the employer at the expense of the employee, as companies attempt to minimize labor costs by continually matching the number of employees to real-time shifts in perceived consumer demand. To aid in “scheduling to demand,” employers can now turn to software that breaks down schedules into increments as small as 15 minutes and adjusts schedules frequently, including cutting or extending workers' shifts, based on real-time factors.⁴⁸ For example, as a manager at a Jamba Juice explained to a reporter for the New York Times, “If the mercury is going to hit 95 the next day . . . the software will suggest scheduling more employees based on the historic increase in store traffic in hot weather.”⁴⁹ The use of scheduling software may also increase the incidence of scheduling workers for call-in shifts and “clopening”—that is, to work the closing shift one night and the opening shift the next morning.⁵⁰ Although scheduling software can be programmed to avoid these outcomes and to take account of employee preferences,⁵¹ in a recent survey of service-sector workers, employees reported that they are most likely to receive consistent schedules when they are distributed in person, and least often when scheduling software is used.⁵²

While both full-time and part-time workers are affected by these trends and practices, part-time working parents are especially vulnerable. Many employers view part-time jobs as a critical tool to match staffing levels to demand;⁵³ part-time workers typically experience considerably more variability in hours⁵⁴ and even less advance notice of their schedules⁵⁵ than workers in full-time jobs. Part-time workers also tend to be paid significantly less per hour than their full-time counterparts.⁵⁶ And many part-time workers would prefer full-time hours: one in five part-time employees (7.2 million people) work part time involuntarily.⁵⁷ Women who work part time involuntarily are more than twice as likely to be poor as women who work part time for other reasons, and five times as likely to be poor as women who work full time.⁵⁸ For some who work part-time voluntarily—especially women—the “choice” of part-time work is forced by, for example, the unaffordability or unavailability of child care.⁵⁹

One in five part-time employees (7.2 million people) work part time involuntarily.

Even when parents prefer part-time work, thinking it will allow them to balance work with school, child care, or other family obligations, the volatile nature of their jobs can make it next to impossible to actually do so.⁶⁰ Sara, a retail worker at Macy's, reported that when she began working she was promised that managers would schedule her for 20 to 25 hours per week, and she could pick up additional hours by logging on to the scheduling website. But she's not getting those additional hours, and the hours she does get fluctuate weekly. Her erratic schedule prevents her from making sure her daughter has a consistent bedtime. Sara often gets home late and her daughter still needs dinner, help with homework, and time to talk to her before going to sleep.

Sara's experience is not unusual. As another retail worker explained to researchers, new employees “can . . . write out their availability. ‘Well, I'm available this day. I'm available this schedule.’ And they come in with the intention that that's what they're going

to get. And then a week later, they find out, ‘they're not working around my availability.’”⁶¹ Part-time workers may not only see their preferences ignored,⁶² but also may be penalized by having their hours reduced after expressing shift preferences.⁶³ Moreover, in many low-wage jobs, even workers hired as full time are not guaranteed a minimum number of hours.⁶⁴ “Open availability” is often required as a precondition to full-time status, but that just means an employee must be available to work at any time, not that she will be scheduled accordingly.⁶⁵

Not surprisingly, many low-wage workers—unable to control how many or how few hours they have, or when those hours are scheduled—ultimately have no choice but to quit.⁶⁶ As Gaby, who has a 4-year-old son with special needs, explained, “My last job was at Whole Foods and my hours were ridiculous. . . . They would call me in on my two days off. I worked seven days a week for five months straight before I finally had to quit.”

I work 5 am until 11 pm or midnight regularly. A lot depends on the parents' schedules, which change all the time. When the schedule changes, from morning to night, it will be past midnight when they arrive. Because they don't have anywhere else to leave the kids. We don't charge more for that because the parents can't pay, so what's the point?

. . . It makes me sad to have to wake up their kids to go home in the middle of the night. To get them out of bed and wake them up, and take them outside, especially in the winter, is hard on them. And then we get notes from their teachers saying they are falling asleep in class.

Marisol, a child care provider in Chicago

When a parent never knows whether she will work 10 hours or 40 in a week and has no control over when those hours will be, it is impossible to budget for expenses, secure reliable child care, establish consistent routines at home, hold down a second job to make ends meet, or otherwise plan a life for herself and her family. In addition, the expectation that workers will be available 24/7, subject to the whims of their employer, becomes particularly problematic when a parent has to deal not only with the day-to-day challenge of finding child care,

but also with the illnesses and emergencies that inevitably arise in children's lives.

LACK OF FLEXIBILITY FOR CAREGIVING

I've had to call out three times because my [4-year-old] son was sick and I needed to pick him up from pre-K. After my third call-out, they put me on a four-month probation. Now if I call out again, I could get fired.

Angel, a retail worker in New York

While many low-wage workers are expected to turn on a dime to meet their employers' demands, they can put their jobs in jeopardy by simply requesting time off to deal with unanticipated caregiving obligations. Under "no fault" attendance policies found in many low-wage jobs, any type of unplanned absence results in a sanction, no matter the circumstances.⁶⁷ Workers from Walmart and McDonald's told the Center that "calling out," even for legitimate reasons, leads to adverse consequences. One worker had to call out for her shift when her child care facility unexpectedly closed due to cold; she was written up. Another was written up after she missed a shift because her son broke his arm and she had to take him to the emergency room. A third worker, after calling out when she and her daughter had pinkeye, saw her hours cut. When these emergencies arise, all try to find someone to cover their shift, but often the switch is not approved because it puts the replacement worker too close to 40 hours—and thus eligible for overtime compensation that their employers don't want to pay.

While low-wage employers often have formal policies that allow employees to request a limited number of planned absences, such as for parent-teacher conferences or doctor's appointments, many require that such requests be submitted with considerable advance notice.⁶⁸ For example, Walmart workers reported that they are required to request any time off three weeks in advance—a policy that does little to help a parent who needs to pick up her child who has just come down with a fever. In one survey of low-wage workers, more than one in three reported receiving negative sanctions when she or he needed a schedule change on short notice to

accommodate last-minute personal needs, such as an illness (the worker's own or a child's), a child care arrangement that fell through, or a school-related problem.⁶⁹

CAREGIVER DISCRIMINATION

Rigid attendance policies in low-wage jobs can have the effect of discriminating against working parents, who are more likely to need flexibility to manage their caregiving responsibilities. In addition, low-wage workers are more likely than middle-class and professional workers to experience more direct discrimination related to their status as a caregiver.⁷⁰ For example, a pregnant worker in a low-wage job can face various forms of discrimination and harassment, including being fired once she announces her pregnancy, being refused minor accommodations that would enable her to continue doing her job, and harassment regarding her appearance or choice to have a child.⁷¹ Workers who have children can be forced to listen to demeaning comments about their status as single parents or questioning their commitment to their jobs,⁷² and can also experience discrimination related to hiring, firing, and compensation. For example, one study found that employers recommended mothers for hire less often, recommended lower starting salaries for them, and rated them less competent than non-mothers with nearly identical resumes.⁷³ The intersection of gender and racial stereotypes, particularly about pregnancy and motherhood, can make women of color especially vulnerable to caregiver discrimination.⁷⁴

Workers reported, and research reinforces, that a supportive supervisor can make it easier to meet both work and family responsibilities.⁷⁵ For example, one retail worker described to researchers how her supervisor helped switch her hours to enable her to pick up her son from a child care center every evening: “My manager, she’s real cool about everything. You know, you just have to tell her what you need and . . . she’s always like, ‘You know your family comes first.’”⁷⁶ But it is rare that policy guarantees this type of employee-driven schedule flexibility⁷⁷—and rare that low-wage employers will provide *paid* time off for workers to manage their caregiving obligations.

While many low-wage workers are expected to turn on a dime to meet their employers’ demands, they can put their jobs in jeopardy by requesting time off to deal with unanticipated caregiving obligations.

LOW-WAGE WORKERS ARE LESS LIKELY THAN OTHER WORKERS TO BE ELIGIBLE FOR LEAVE UNDER THE FAMILY & MEDICAL LEAVE ACT

The federal Family & Medical Leave Act (FMLA) provides up to 12 weeks of unpaid, job-protected medical or family leave to eligible workers. However, the FMLA only applies to certain employees who work for certain kinds of employers. As a result, about 40 percent of the workforce is not covered by the FMLA, including many low-wage workers.⁷⁸

To be eligible for FMLA leave, an employee must first work for a covered employer:

- A private sector employer with 50 or more employees;
- A public agency, including a local, state, or federal government agency; or
- A public or private elementary or secondary school.⁷⁹

If an employee works for a covered employer, the employee must also have:

- Worked for that employer for at least 12 months;
- Worked at least 1,250 hours for that employer during the 12 months immediately preceding the leave; and
- Worked at a location where the employer has at least 50 employees within 75 miles.⁸⁰

Due to the erratic schedules and high incidence of part-time work described above—along with the short job tenure that often results—low-wage workers are less likely than other workers to meet FMLA eligibility requirements, even when they work for covered employers.⁸¹ For example, to meet the threshold of 1,250 work hours in 12 months, an employee would have to work an average of 24 hours per week for a single employer—no easy feat for a low-wage worker with an unpredictable schedule and no guaranteed hours.

Moreover, low-wage workers rarely can afford to go without a paycheck, often making it impossible to take the FMLA’s unpaid leave even if they qualify for it. In fact, the most common reason given by workers who needed FMLA leave but did not take it was that they couldn’t afford to take unpaid time off.⁸²

LACK OF PAID LEAVE

They [twins] were preemie, so they have to stay until they turn a certain amount of weeks. So they came home within two weeks and then it was like, 'are you ready to come back to work now?' They just came home! I had to go back to work. I had no choice.

Low-income mother featured in *A Necessity, Not a Benefit*⁸³

Access to paid leave is notably lacking in the U.S. compared with other developed nations. The U.S. is one of only a handful of nations across the globe, and the only OECD nation, that provides no government guarantee of paid leave for new mothers,⁸⁴ as well as the only highly competitive country that provides no government guarantee of paid medical leave for serious illnesses.⁸⁵ A few states have enacted modest paid sick days or paid family leave requirements,⁸⁶ but for most working parents, the extent to which they have access to family leave to care for a new child or a seriously ill family member, medical leave to attend to their own serious health condition, sick days to deal with a minor illness, doctor's visit, or a sick child,

or vacation or personal leave to rest and help manage other family obligations, depends entirely on employer policies. And low-wage workers, who can least afford to go without pay, are the least likely to be able to access paid leave when they need it.

Low-wage workers, who can least afford to go without pay, are the least likely to be able to access paid leave when they need it.

The March 2015 National Compensation Survey from the Bureau of Labor Statistics reveals:

- Just 12 percent of all private industry workers reported access to any paid family leave. Among workers in the lowest 25 percent of wage earners (earning less than \$11.64 per hour), only 5 percent had access to paid family leave.⁸⁷
- A majority of all workers (61 percent) reported access to paid sick days, but less than a third (31 percent) of the lowest 25 percent of wage earners had any paid sick days.⁸⁸

TABLE 2. Access to paid leave by selected characteristics

	Paid Family Leave	Paid Sick Days	Paid Vacation	Paid Personal Leave
All workers	12%	61%	76%	38%
Management, professional & related workers	22%	81%	88%	57%
Service workers	6%	39%	53%	20%
Full time	15%	74%	91%	47%
Part time	5%	24%	34%	15%
Wages in:*				
Lowest 25 percent	5%	31%	48%	16%
Highest 25 percent	23%	84%	91%	58%

*Surveyed occupations are classified into wage categories based on average wage for the occupation, which may include workers with earnings both above and below the threshold.

Source: Bureau of Labor Statistics, National Compensation Survey (March 2015), Table 32, Leave benefits: Access, private industry workers.

- Part-time workers are particularly likely to lack access to paid family leave and paid sick days. While among full-time workers, nearly three in four (74 percent) have paid sick days, and 15 percent have paid family leave,⁸⁹ among part-time workers, just one in four (26 percent) have paid sick days, and 5 percent have paid family leave.⁹⁰

While rates of access to different types of leave vary somewhat depending on the source of the data, “the evidence of highly uneven access by income is clear and consistent.”⁹¹ Additional survey data indicate that women and workers of color are especially likely to have an unmet need for leave.⁹²

It's like okay, I got laid off, it's not my fault. I had a baby. . . . You know, it's hard to have childcare, get some type of someone to babysit and also work around your schedules. Because if I was going to do retail or anything like that, you got to work around their schedule. It's not about yours. So it's tough.

*Mother out of work for over 12 months featured in **A Necessity, Not a Benefit**⁹³*

A lack of any paid time off to care for a new baby and recover from childbirth, or to attend to a child's needs as she grows, in combination with volatile schedules and low wages, can make having a family and keeping a job virtually impossible. The absence of paid family leave is a particular obstacle to continuing to work given the high cost of infant care—for example, the average cost of full-time center care for an infant ranges from \$4,822 in Mississippi to \$17,062 in Massachusetts.⁹⁴ Among

Almost one in five low-wage working mothers reported losing a job due to her own illness or caring for a family member.

working women without a high school diploma—i.e., those most likely to be working in low-wage jobs—only 19 percent used paid leave upon the birth of their first child, while fully half quit their jobs and another 11 percent were let go from their jobs, an analysis of Census Bureau data found.⁹⁵ In another survey of low-wage workers, almost one in five low-wage working mothers reported losing a job due to her own illness or caring for a family member,⁹⁶ and in a longitudinal study of low-income families in the U.S., researchers found that having a child with chronic health issues increased the likelihood of job loss by 36 percent.⁹⁷ And children in low-income families are more likely than their higher-income counterparts to have health problems that require their parents' care.⁹⁸

Low pay. Nonstandard hours. Unpredictable and erratic schedules. Lack of control over scheduling. Punitive employer responses to last-minute, caregiving-related absences. Lack of access to paid sick or family leave. Unsurprisingly, these characteristics of low-wage work create an incredible amount of stress in workers' daily lives. But the families of parents in low-wage jobs feel the impact of that stress and instability as well.

Challenges for children: how low-wage jobs can undermine development and school success

The workers participating in the Center's listening sessions discussed their deep concern about the consequences—both actual and potential—of being forced to choose work over family. They expressed fear over the long-term implications of their schedules on their ability to parent their children, and guilt that their absence could lead to problems that closer supervision would prevent. Many expressed pain at being unable to enjoy time off with their children, or to spend any money on family activities. They described sacrificing quality time with their loved ones in exchange for a roof over their heads. Parents of very young children were particularly worried about providing them with the best possible start in life; they wanted to ensure that their children would be prepared to begin school but too often struggled to find and afford care that would simply keep them safe.

A considerable body of research confirms what these parents know to be true: the features of low-wage work, including low pay, unstable and unpredictable schedules, and lack of paid leave—separately and cumulatively—undermine their ability to provide the opportunities they want for their children.

Parents of very young children want to ensure that their children are prepared to begin school but too often struggle to find and afford care that will simply keep them safe.

LOW WAGES: IMPACT ON CHILDREN

To succeed in school, the children of parents in low-wage jobs must beat the odds: a large body of research shows that children growing up in poor or low-income families have lower academic achievement relative to their peers from higher-income families, as well as poorer outcomes in adulthood. While many children are resilient, the challenges they face deprive them of opportunities to develop their full potential.

To enter school ready to succeed, young children need to develop cognitive skills (including math and reading) and non-cognitive skills (including behaviors conducive to learning)—but gaps between low-income children and their higher-income peers emerge in both of these dimensions beginning in the earliest years of life.⁹⁹ For example, one analysis of a large national data set found that, on average, infants from low-income families at just 9 months old score lower on a cognitive assessment, are less likely to receive positive behavior ratings, and are less likely to be in excellent or very good health than their counterparts from higher-income families—and these disparities grow larger by 24 months.¹⁰⁰ In a study employing a composite measure that considers early math and reading skills, learning-related and problem behaviors, and overall physical health, researchers found that fewer than half (48 percent) of poor children, versus 75 percent of children from moderate- and high-income families, are school-ready at age 5.¹⁰¹

Numerous factors may contribute to the association between childhood poverty and negative outcomes, but leading theories focus on the ways in which low income diminishes the resources available to parents to spend on their children (the “parent investment”

EARLY DISPARITIES LINK TO DISPARITIES IN ADULTHOOD

Early disparities related to family income often persist and even widen throughout childhood.¹⁰² For example, one in-depth longitudinal study of 42 families found that by age 3, children from the lowest-income families were exposed to only a third as many words as children of parents in professional jobs—and vocabulary development at age 3 strongly predicted reading and language skills at age 9 to 10.¹⁰³ Children who live more years in poverty tend to fare worse on a number of outcomes, and face the highest risk of living in poverty as adults: one analysis shows that nearly a third of persistently poor children go on to spend half their early adult years living in poverty, compared to just one percent of children who are never poor.¹⁰⁴

Children of color—whose parents, as noted, are overrepresented in the low-wage workforce—are especially at risk. For example, compared to their white counterparts, African American and Hispanic children are more likely to be born into poverty.¹⁰⁵ They are more likely to experience persistent poverty during their childhoods.¹⁰⁶ And they are more likely to attend racially and economically segregated schools that lack the resources necessary to promote student achievement, including the attainment of postsecondary education that could enable students to enter higher-wage careers and escape poverty in adulthood.¹⁰⁷

model),¹⁰⁸ and increases the stress experienced by family members and strains their relationships with one another (the “family stress” model).¹⁰⁹ Children in low-income families can be at a disadvantage if their parents lack the time and resources to support their children’s learning to the extent they would like.¹¹⁰ Poorer neighborhoods also typically have fewer playgrounds, parks, and health care and child care facilities, as well as schools with fewer resources,

which can explain the finding that “the affluence of neighborhoods is associated with child outcomes . . . over and above family poverty.”¹¹¹ In addition, parents living in poverty face a higher risk of both physical and mental health problems—which can negatively affect parents’ interactions with each other and with their children, as well as their ability to support their children’s learning.¹¹² The stress that low-income children themselves experience may also affect their development.¹¹³

Fewer than half (48 percent) of poor children, versus 75 percent of children from moderate- and high-income families, are school-ready at age 5.

These factors often interact—for example, financial challenges can increase parents’ stress levels, and parents’ mental health can affect their ability to work and earn more income to support their children—with worrisome consequences for children.¹¹⁴ The additional features of low-wage work discussed above can exacerbate both the scarcity of time and money for working parents and the stress involved in managing work and family obligations.

NONSTANDARD SCHEDULES AND LACK OF WORKER CONTROL: IMPACT ON CHILDREN

Like low income, parents’ work schedules outside of the weekday norm can impair both behavioral and cognitive outcomes for children, likely due at least in part to the increased stress such schedules impose on working parents—and young children in low-income families appear to be particularly at risk.¹¹⁵

For example, in-depth studies of low-income families with preschool-aged children that have looked at mothers working nonstandard hours have found that their children exhibit fewer positive behaviors than children whose mothers work standard schedules.¹¹⁶ Longitudinal studies examining national data sets have also linked parents’ nonstandard work to children’s behavior problems in early¹¹⁷ and middle childhood¹¹⁸ as well as in adolescence,¹¹⁹ with larger effects often observed in families in which the parents work in lower-wage jobs.¹²⁰ Children’s cognitive development

may also be affected: for example, parents' employment in nonstandard schedules early in their children's lives is associated with lower expressive language ability in early childhood,¹²¹ and longer periods of nonstandard work are linked to lower reading and math performance in middle childhood and adolescence.¹²²

To explain these associations, researchers suggest that, like poverty, nonstandard work schedules can increase parents' stress, straining their relationships with their children¹²³ (and with one another¹²⁴). In addition, parents with nonstandard schedules may not be available for their children when they would like to be, such as for family meals, homework help, and other routines. Older children in these families may have more unsupervised time than their peers whose parents work standard schedules—as well more non-school demands, such as caring for younger siblings and doing more household chores in their parents' absence.¹²⁵ The interplay between nonstandard work and the low wages that often accompany it can be particularly challenging, as parents “may experience greater stress from working nonstandard hours combined with financial strain and hardship.”¹²⁶

Like poverty, nonstandard work schedules can increase parents' stress, straining their relationships with their children.

In the literature reviewed here, few studies distinguish between different types of nonstandard schedules.¹²⁷ Among those that do, several suggest that night shifts are the most problematic.¹²⁸ Research on variable hours is particularly limited and the results are mixed, with some research showing effects on child developmental outcomes akin to other nonstandard schedules,¹²⁹ some showing detrimental effects,¹³⁰ and some showing positive effects.¹³¹ The extent to which variable-hour workers are able to choose their schedules—which is not captured in the survey data analyzed—may be responsible for these disparate results, with the more positive outcomes reflective of workers with more control over their

Young children of parents employed in low-wage jobs with nonstandard schedules and little control over either the hours or content of their work may be especially at risk of poorer behavioral and cognitive outcomes that can undermine their school readiness and later academic performance.

work hours and the degree to which they vary.¹³² Moreover, as noted above,¹³³ it is particularly difficult to accurately measure variable schedules in survey data—and these studies largely draw on data sets from the 1990s and first decade of the 2000s, which are unlikely to capture the effects of the most recent developments in scheduling, such as the software that has enhanced employers' capacity to use “just-in-time” models.¹³⁴

Children's development may be affected not only by whether parents control their work schedules, but also the degree of control parents exert *at work*—that is, the extent to which their jobs involve autonomy and decision-making.¹³⁵ While some literature presumes that low-wage jobs inherently lack these features, a recent in-depth study of low-wage workers and their children found that the parents studied experienced varying degrees of autonomy in their jobs.¹³⁶ According to this research, mothers' job autonomy in the first year of their children's lives was associated with fewer behavioral problems and better adaptive skills for children five years later; for both mothers and fathers, higher autonomy was correlated with less reactive parenting styles, which was in turn related to fewer behavioral problems and higher reported adaptive skills in children.¹³⁷ But young children of parents employed in low-wage jobs with nonstandard schedules and little control over either the hours or content of their work may be especially at risk of poorer behavioral and cognitive outcomes that can undermine their school readiness and later academic performance.

LACK OF FLEXIBILITY AND PAID TIME OFF FOR CAREGIVING: IMPACT ON CHILDREN

A 2010 study examining job quality in four dimensions—control over how the job gets done, perceived security about the job's future, flexibility in start and stop times, and access to paid family-related leave—found that young children whose parents' jobs lacked some or all of these features experienced greater behavioral and emotional difficulties.¹³⁸ These associations were independent of income and parent education, and tended to be stronger for children in low-income families—and are likely due to the stress experienced by parents in low-quality jobs.¹³⁹

Parents' lack of access to leave—especially paid leave—for caregiving is also associated with poorer health outcomes for children.¹⁴⁰ For example, studies indicate that when mothers without paid family leave have to return to work quickly after giving birth, they find it harder to maintain breastfeeding and attend regular well-baby visits.¹⁴¹ Without paid sick days, low-wage workers have less ability to secure the ongoing health care their children need; an analysis of national survey data found that one-third of workers with annual family incomes below \$35,000 who lacked paid sick days delayed seeking medical care, or did not seek care, for an ill family member.¹⁴² These factors can put children's health at risk—and children's health, in turn, is linked to their school readiness.¹⁴³

Parents' lack of access to leave—especially paid leave—for caregiving is associated with poorer health outcomes for children.

Parents who lack paid leave may also neglect their own physical and mental health needs.¹⁴⁴ Moreover, like inadequate income and unstable schedules—and especially in combination with those factors—a lack of paid time off can be a major stressor in parents' lives, which can impair their interactions with their children and affect their development.¹⁴⁵

Low-wage workers agonize when their work schedules and conditions make it difficult for them to be the parents they want to be, especially when they see that their children's sleep, schoolwork, or the quality of their social and family interactions suffers. Yet, research shows that ameliorating these conditions can make a positive difference in children's lives:

- A modest boost to family income can benefit both short- and long-term outcomes for young children in low-income families, including improvements in math and reading test scores in school¹⁴⁶ and higher earnings as adults.¹⁴⁷
- Children fare better when their parents are able to take time off to attend to their health needs,¹⁴⁸ and in one study, parents who received full pay during leave “consistently reported better consequences compared with those who received no pay: more positive effects on their child's physical and emotional health and their own emotional health and a less negative effect on finances.”¹⁴⁹
- Workers with greater input into their schedules experience less work-life conflict.¹⁵⁰

This research demonstrates that there are strategies that would improve day-to-day conditions and future outcomes for families. Yet some of the most effective strategies—including high-quality early care and education for children and educational opportunities for parents—are out of reach due to the very features of low-wage jobs that create challenges for these families in the first place.

Challenges to advancement: how low-wage jobs can limit children's access to high-quality early care and education and parents' access to education and training opportunities for themselves

Educational opportunities, whether high-quality early learning programs for young children or education and workforce development programs for parents working in low-wage jobs, offer families the chance for a better future. But the characteristics of low-wage work make it difficult for parents to provide their children with experiences in high-quality early care and education settings, and caregiving responsibilities along with financial pressures create obstacles to parents' participation in education and training programs.

Stable, high-quality child care could ameliorate the stress experienced by parents in low-wage jobs and the risks that exist for their children.

BARRIERS TO HIGH-QUALITY CHILD CARE & EARLY EDUCATION: INACCESSIBILITY & UNAFFORDABILITY

High-quality early care and education benefits children, particularly children from low-income families,¹⁵¹ helping them gain the early math, language, literacy, social, emotional, and learning skills they need to enter school ready to succeed. One large national research study found that children in higher-quality child care had slightly better language and cognitive development during the first four-and-a-half years of life, and showed slightly more cooperative behavior during the first three years of life, than children in lower-quality care.¹⁵² Analysis of data from that same study showed that low-income

Finding child care—much less high-quality child care—can be challenging for any parent; it can be next to impossible for parents with nonstandard or irregular work schedules.

children who were in higher-quality care before age 5 had similar math and reading achievement at ages 4.5 to 11 as their higher-income peers—indicating that high-quality early care and learning experiences can moderate the effects of poverty.¹⁵³

Stable, high-quality child care—with well-qualified providers available to offer one-on-one attention to children and have meaningful interactions with them, and with books, toys, and materials to create a rich learning environment—could ameliorate the stress experienced by parents in low-wage jobs and the risks that exist for their children. Yet the very conditions of low-wage work that create those stresses and risks make it difficult to access that care. The interrelated challenges low-wage workers confront in obtaining reliable, high-quality child care and early education for their children instead add to the chaos and stress in parents' and children's lives.

Lack of child care options that meet families' needs

Finding child care—much less high-quality child care—can be challenging for any parent; it can be next to impossible for parents with nonstandard or irregular work schedules. Parents may have tremendous difficulty finding a provider available to care for their

children during early morning, evening, overnight, or weekend hours, or able to accommodate a constantly shifting schedule. Most licensed child care centers and family child care programs are open during weekday hours and expect children to attend on a regular basis—and expect to be paid to hold a regular full-time (or at least a regular part-time) slot.¹⁵⁴

Parents in low-wage jobs often have additional constraints on their options.¹⁵⁵ They may not be able to afford their own car,¹⁵⁶ and may instead have to rely on public transportation, which can limit the geographic area in which they can search for care. It can be difficult enough to figure out a way to get to work at odd hours relying on public transportation, much less plan a route that involves a detour to a child care program located far from home or work. Some of these parents have language barriers, which can further limit their child care options; parents who do not speak English may need or prefer to find a provider who speaks their language.¹⁵⁷ Some parents have children with disabilities or other special needs¹⁵⁸ and as a result have even greater difficulty finding suitable care.¹⁵⁹

With few regulated programs that are open during the hours they work and that can respond to other needs they and their children may have, parents in low-wage jobs frequently turn to family, friends, and neighbors.¹⁶⁰ A five-state study found that only 26 percent of family child care and 9 percent of center-based care was provided during evenings or weekends, compared to 54 percent of family, friend and neighbor care.¹⁶¹ A relative or friend may be able to offer parents the flexibility they need and to give their children one-on-one attention. Many parents prefer to have their children—especially their very young children—cared for by a family member or friend they know and trust and who is familiar with their culture and language.¹⁶² Yet, some parents do not have relatives or friends available to provide care—they may not live close by, may have jobs of their own, or may be physically unable to provide care. A relative, friend, or neighbor may not be able to arrange her schedule around the parent's schedule, particularly if the parent has frequent last-minute changes in her work hours. In some cases, a parent may be unable to negotiate the issues that may arise when asking a friend or family member to serve as a care provider.¹⁶³

Moreover, family, friends, and neighbors providing child care often face their own challenges. Many have low incomes themselves—often earning in the range of only \$20,000 to \$30,000 a year, according to several studies.¹⁶⁴ They also may feel the same strain that parents do working an erratic schedule as the providers' work schedule mirrors the parents' work schedule—plus parents' additional commuting time.

Low-income families are more likely than other families to rely on care provided by another child,¹⁶⁵ such as an older sibling. As Gaby—who has held a series of low-wage jobs—explains, she often has to call upon her 15-year-old daughter to care for her 4-year-old son with special needs:

My daughter is basically co-parenting with me. She has to be up at 4:30 to take a special bus to get my son to his bus stop by 6:53, and she still gets to school 30 minutes late. She has missed 57 days of school this year and her teacher just called me saying she was skipping school. I had to explain that she is co-parenting with me. . . . My daughter has gone from being a straight A student to a C student. . . . It breaks my heart. . . . I am trying so hard but I just can't make all of the pieces fit.

Often, a single arrangement is not sufficient to cover a parent's irregular or nonstandard work schedule, and the family may have to patch together multiple arrangements. Parents with nonstandard work schedules are more likely than those with standard schedules to use multiple arrangements,¹⁶⁶ which have been linked to poorer developmental outcomes in young children when the settings are not high-quality.¹⁶⁷

High child care costs

When my child was not yet in school . . . I could not afford child care and I had to figure out a whole day's worth of care. I manage a group home and I have a tiny little office with a bathroom, a shower, and a little closet. So I would bring my 3-year-old to work and put him in the closet with a blanket to sleep. Then, one day I was meeting with a state case manager, my boss, and a guardian and nobody knew he was in there.

He woke up and started to cry, and I thought that was the end of my job. I was so lucky, my boss said it was okay and that she understood.

Christopher, a group home manager from Arizona

Even if a parent in a low-wage job manages to find child care that meets her scheduling needs and that offers the type of environment she wants for her child, she may not be able to afford it. The average fee for full-time care ranges from slightly under \$3,700 to over \$17,000 a year, depending on where the family lives, the type of care, and the age of the child.¹⁶⁸ A parent working full time at a wage of \$10.50 per hour would have to spend nearly one-fifth to over three-quarters of her income to afford care for one child at these average prices.

The average fee for full-time child care ranges from slightly under \$3,700 to over \$17,000 a year.

Parents in low-wage jobs who try to pay for child care must stretch their budgets and are likely to find themselves struggling to pay their other bills, such as for food, rent, and utilities. In some cases, parents may have to turn to lower-cost care, which may be lower quality.¹⁶⁹ Such lower-quality care may not sufficiently nurture children's growth and development, and in some cases, may not adequately protect children's health and safety. When forced to use less than satisfactory child care, parents are likely to feel anxious about their children's well-being and have difficulty concentrating at work, and their children are likely to miss out on the high-quality early learning opportunities that they need for a strong start.

Inaccessible child care assistance

I receive child care subsidies—thanks to that assistance, I have my son in a child care center I love. He is learning so much. . . . I love his center and I hope that I can keep him there, but I used to pay \$46 a month for a copay. Since Illinois's subsidy program was changed, I now owe \$100 a week! I am already a few weeks behind.

Cristiana, a fast food worker in Illinois

Child care assistance can help families with the high cost of child care so that they can access stable, good-quality care. The primary federal child care assistance program, the Child Care and Development Block Grant (CCDBG), provides funding to all states to help families afford care. Yet, fewer than one in six eligible children was able to receive assistance through CCDBG and related programs in 2012 (the most recent year for which data are available).¹⁷⁰ And instead of there being progress to address this unmet need, the number of children receiving child care assistance has actually fallen—from a peak of 1.81 million in 2001¹⁷¹ to 1.41 million in 2014 (the most recent year for which data are available).¹⁷²

STATE CHILD CARE ASSISTANCE POLICIES

States—which set key child care assistance policies within federal parameters—restrict access to child care assistance in various ways. Many states set low income eligibility limits to qualify for child care assistance. In 2015, a family with an income above 150 percent of poverty (\$30,135 a year for a family of three in 2015) could not qualify for assistance in 17 states.¹⁷³ A family with an income above 200 percent of poverty (\$40,180 a year for a family of three in 2015) could not qualify for assistance in 39 states.¹⁷⁴ Even if a family does qualify for child care assistance under a state's eligibility criteria, the family may not necessarily receive it. In 2015, 21 states were not able to serve all eligible families who applied for child care assistance and instead placed families on waiting lists for assistance or froze intake (turned them away without taking their names).¹⁷⁵

I used to work at a child care center, where the kids that came were the kids of professors and other professionals. And they got better care than my daughter gets. . . . But that center cost at least \$900 a month. We can't afford that.

I love our providers, I do. And I know they love our daughter, but I just wish they had the certifications and qualifications that the providers at the centers have. . . . I like the loving, nurturing feel, but the standards kind of get sacrificed.

LaShaun, a community organizer in Georgia

Families in low-wage jobs with difficult schedules can find it particularly challenging to obtain child care assistance, as the same factors that impede their ability to access child care can also prevent them from accessing help to pay for it.¹⁷⁶ For example, parents with variable work schedules may have difficulty receiving child care assistance to cover a stable, regular child care slot if the state only covers the cost of care during the hours while parents are working or engaged in work-related activities (which, depending on the state, may include activities such as education and training or travel to and from work, but often with additional limitations).¹⁷⁷ Variable work hours also translate into variable income, which can keep parents from qualifying for child care assistance at all. In some cases, the lack of a steady paycheck can make it difficult for parents to demonstrate that they have consistent employment that necessitates child care. In other cases, a temporary spike in work hours can result in parents appearing to have income above the limit to qualify for assistance, even though that income is not representative of what they earn throughout the year.¹⁷⁸

Families in low-wage jobs with difficult schedules can find it particularly challenging to obtain child care assistance, as the same factors that impede their ability to access child care can also prevent them from accessing help to pay for it.

Parents in low-wage jobs may encounter other barriers during the process of applying or recertifying their eligibility for child care assistance.¹⁷⁹ With unpredictable work schedules, it can be difficult to make plans to go to a local social services office to apply for child care assistance. In addition, just as parents may not have convenient transportation to and from a child care program, they may not have an easy way to get to that social services office. Language and cultural barriers can also prevent parents from applying for assistance, or even finding out it exists.¹⁸⁰ Finally, parents struggling to balance their work schedules and family responsibilities may simply not have time to form the community connections that would lead them to learn about the availability of child care assistance.¹⁸¹

Immigrant parents are less likely to access any type of licensed child care, preschool, or child care assistance program for their children than U.S.-born parents.

Immigrant parents may be particularly reluctant to apply for assistance—often due to concerns about the impact of the request on other family members or based on incorrect information about their children's potential eligibility. One-quarter of all children in the U.S. under age 6 have immigrant parents,¹⁸² and those immigrant parents in low-wage jobs have unique challenges in paying for and accessing child care for their children. In fact, immigrant parents are less likely to access any type of licensed child care, preschool, or child care assistance program for their children than U.S.-born parents.¹⁸³ Immigrant parents may struggle with language barriers, which can make it difficult to sign up for child care assistance or formal child care programs. While individuals with limited English proficiency are entitled under federal law to the language assistance required to access all federally funded public services and benefits, many agencies are unable to adequately meet that obligation.¹⁸⁴ In addition, parents may not realize that eligibility for child care assistance is determined based on the child's eligibility status, not their own citizenship status.¹⁸⁵

The Child Care and Development Block Grant Act of 2014—which made changes in the federal child care assistance program aimed at ensuring the health and safety of children in care, improving the quality of care, and making it easier for families to access and retain child care assistance—included some provisions that could help lessen the barriers to assistance for families in low-wage jobs with nonstandard schedules.¹⁸⁶ For example, the law requires states to demonstrate “how the State’s . . . processes for initial determination and redetermination of . . . eligibility take into account irregular fluctuations in earnings.”¹⁸⁷ This provision could make it easier for parents with variable hours to qualify for assistance, even if they apply after receiving a short-term boost in income due to working more hours in a particular week. However, states are just beginning to implement the law, and it will take some time to see what impact, if any, the law has for these families. In addition, the new demands that the law places on states could result in states shifting resources in a way that actually disadvantages these families—for example, without significant additional funding, states could choose to restrict the use of child care assistance to pay for care by the family, friend, and neighbor providers that these families often rely on, rather than investing in the monitoring and training of these providers that is required under the law for receipt of CCDBG funds.

Barriers to preschool participation

My son is four. He's on the waiting list for universal pre-k. I really hope he gets in soon so he will be prepared for school.

I work 39-40 hours a week for \$7.25 an hour. I work every day except Tuesday and Sunday but the time of the shifts can change. My son goes to a day care down the street on weekdays. My mother drops him off so I can get to work on time. . . . I pay \$200 every two weeks for the day care. There are 12 kids and two adults. . . . I worry that my son watches TV all day during the week.

Danyelle, a retail worker in New York

Just as parents in low-wage jobs have difficulty accessing child care assistance, they also have difficulty accessing federally funded Head Start/Early Head Start early learning programs or state-funded preschool for their children. Head Start reaches less

than half of poor 3- and 4-year olds,¹⁸⁸ and Early Head Start reaches less than 5 percent of poor children under age 3.¹⁸⁹ While 40 states and the District of Columbia funded prekindergarten programs in the 2013-2014 school year, these programs reached only 29 percent of all 4-year-olds and 4 percent of all 3-year-olds.¹⁹⁰

Parents in low-wage jobs and their children can have particular difficulty participating in these programs. Although Head Start/Early Head Start and most state preschool programs have eligibility criteria designed to target low-income children and families, other aspects of these programs can present barriers to these families. The programs often operate on part-day schedules during daytime hours.¹⁹¹ These hours frequently do not fully cover, or may not overlap at all with, a parent's work hours. Parents in low-wage jobs may receive short notice that they have to be at work at the same time they were supposed to drop off their children at or pick them up from preschool—or they may be working a night shift and have to rush home in time to bring their children to preschool in the morning or make arrangements to get them there.

Parents who cannot predict what their work schedule will be on any given day may struggle to figure out their children's transportation to and from the preschool. It may also be challenging to juggle both getting their children to preschool each day and making separate child care arrangements to fully cover the time they are at work. These and other barriers can prevent families from taking advantage of the early learning opportunities that Head Start/Early Head Start and state prekindergarten programs offer.

High-quality early care and education that provides a secure, consistent learning environment can help to offset the instability and anxiety in the home environments of children whose parents are working erratic hours and earning low wages. Yet children cannot access high-quality early care and education if their parents cannot afford it on their own and cannot get help affording it, or cannot find any high-quality programs that can match their shifting schedules.

PARENTS' LACK OF ACCESS TO EDUCATION & TRAINING OPPORTUNITIES

I studied one year at the University of Delaware. I loved it. I was getting all As and Bs and was going to major in child psychology. I went to school from 6 am to 3 pm and worked from 4 pm to 9 pm. I took my son to university day care, which was included in my financial aid. Then they lowered my financial aid and I had to drop out.

Angel, a retail worker in New York

Parents want to pursue education and training opportunities for themselves because they believe that would lead to better jobs, and a better life for their families. Higher education levels are associated with an increased likelihood of employment; higher earnings; receiving health care, retirement, and other benefits through one's job; and better health¹⁹²—all of which have a positive impact on both parents and children. In addition, individuals with higher education levels are more likely to have stable work schedules.¹⁹³ Increasing workers' educational and skill levels may involve activities ranging from basic literacy or English as a Second Language (ESL) or GED classes, to vocational education programs or college coursework, whether through community-based organizations, government agencies, the private sector, or community and four-year colleges, which may be referred to more generally as workforce development.

Parents in low-wage jobs struggling to balance their inflexible, unpredictable schedules with their child care needs are unlikely to be able to find the time or resources to take on additional training or education that could help them improve their job prospects.

However, low-income parents may find it difficult to forego income from work in order to participate in education or training activities. Over half of low-income parents participating in education or training also work.¹⁹⁴ But education and training course schedules vary significantly, depending on the

provider and kind of program.¹⁹⁵ For example, intensive programs aimed at helping individuals with the greatest barriers to work may require full-time participation, with little flexibility in their schedules. Some education and training programs may have residential requirements for participants that are difficult for pregnant or parenting participants to meet. Moreover, depending on the type and duration of the program, the schedules of education and training activities may vary over time.¹⁹⁶ All of these factors may make it difficult for working parents to coordinate education and training with work, especially work with variable or unpredictable schedules.¹⁹⁷

For a few months things were going well. I got 20 or 25 hours a week and was going to school. Then my manager quit. The new one expected me to have open availability and wouldn't work around my school schedule.

Ana, a retail worker in New York

Although some child care assistance may be available to individuals taking courses in community or four-year colleges,¹⁹⁸ workforce development programs may have little or no resources available to help parents pay for the child care they need to participate in education or training activities.¹⁹⁹ This can be especially difficult for parents in residential programs. Depending on state-specific requirements, parents may be unable to access Temporary Assistance for Needy Families (TANF) benefits or child care assistance while enrolled in education or training activities.²⁰⁰ Sometimes, already overwhelmed parents just cannot find the time or mental energy to take on school or training programs: Gaby, a nanny in Atlanta, recounted how she was failing her classes because she couldn't manage to stay awake to do her classwork when she got home after work.

Parents in low-wage jobs already struggling to balance their inflexible, unpredictable schedules with their child care needs are unlikely to be able to find the time or resources to take on the additional challenge of pursuing training or education that could help them improve their job prospects. As a result, too many parents find themselves trapped in low-wage jobs with no viable route to better work—while their young children grow up in an environment of poverty, instability, and stress.

Where do we go from here?

Two-generation strategies for success

All parents want the best for their children. But for millions of parents in the low-wage workforce, the conditions of their employment and the failure of public policies to ameliorate these conditions undermine their ability to support their families or otherwise meet their children's needs. With fluctuating and unpredictable schedules—and inadequate paychecks—parents struggle to afford safe, reliable child care, and to access the rich early education experiences they want for their children. Other characteristics of low-wage work, too—notably, a lack of paid time off, an unwillingness to accommodate even small changes in work schedules to address caregiving and other critical needs, and a punitive response to absences—compound these challenges. But existing public policies are inadequate in responding to these families' needs, and avenues to better jobs may be difficult for parents to pursue. As a result, despite parents' best efforts, their children may live their early years in an environment of instability and stress—an environment that does not provide the foundation they need to enter school ready to succeed.

Today, heightened public attention offers a critical opportunity to address these challenges. Employers and policy makers alike are being pushed to recognize and respond to the impact of low wages, scheduling practices, and the lack of worker benefits on hourly employees and their families. For example:

- Over the past several years, “Fight for \$15” campaigns²⁰¹ have forcefully called for higher pay for fast food workers and others in low-wage jobs, and they have been heard: 14 states have raised their minimum wages since 2014,²⁰² more than a dozen municipalities are phasing in \$15 minimum wage rates for some or all local workers,²⁰³ and fast

Today, heightened public attention offers a critical opportunity to address the challenges faced by parents in the low-wage workforce and their children.

food workers in New York and home care workers in Massachusetts will soon see their wages rise to at least \$15 per hour.²⁰⁴ In response to these campaigns, large employers like Walmart, too, have announced plans to raise wages for their lowest-paid workers.²⁰⁵

- Eleven states²⁰⁶ and the District of Columbia²⁰⁷ have recently introduced fair scheduling bills, and San Francisco is implementing a new “Retail Workers Bill of Rights” that requires certain large retail and restaurant employers to provide two weeks' notice of schedules to employees, as well as compensation for schedule changes and on-call shifts.²⁰⁸ In recent months—prompted by worker action and an investigation by the New York Attorney General's office—retailers such as GAP, Urban Outfitters, Victoria's Secret, J.Crew, Abercrombie & Fitch, and Bath & Body Works have announced that they will no longer engage in on-call scheduling.²⁰⁹
- Several states have passed paid sick days legislation,²¹⁰ and in 2014, Rhode Island joined California and New Jersey in providing paid family and medical leave.²¹¹ In addition, a number of high-profile employers, including Hilton Worldwide, Facebook, and Amazon,²¹² have recently announced new or expanded paid family leave policies.
- Fifteen states and the District of Columbia have enacted laws to explicitly grant pregnant

employees with medical needs the right to reasonable accommodations at work.²¹³ Most of these laws were enacted in recent years, and all of these recent enactments passed with bipartisan (and often unanimous) support.²¹⁴

- States such as Colorado, Oregon, and Washington have made significant new investments to expand families' access to high-quality child care and early education,²¹⁵ and groups across the country are launching campaigns to make child care and early education more widely available and affordable.²¹⁶
- At the federal level, bills that would achieve a higher minimum wage,²¹⁷ basic scheduling protections,²¹⁸ paid sick days,²¹⁹ paid family leave,²²⁰ an explicit right to accommodations for pregnant workers with medical needs,²²¹ and expanded access to affordable child care and prekindergarten programs²²² were introduced in 2015. In addition, the Obama Administration has taken executive action to extend basic labor protections to home care workers²²³ and to ensure that federal contractors comply with labor laws,²²⁴ pay their employees at least \$10.10 per hour,²²⁵ and offer paid sick days.²²⁶

The next phase of the project of which this paper is a part will focus on identifying and generating both private and public policy solutions in an agenda for action to address the challenges faced by low-wage working parents and their children. This agenda will include recommendations for public and private policies and organizing strategies that would help low-wage working parents by:

- *Increasing income security and job security.*
- *Providing more predictability, stability, and adequate hours in work schedules.*
- *Granting more autonomy over work schedules, and allowing workers to meet their family and caregiving responsibilities without being penalized by employers.*
- *Expanding access to high-quality child care and early education, through greater public investments in child care assistance and prekindergarten, policies that better accommodate the needs of low-wage workers, and increased compensation and professional development opportunities for child care workers.*
- *Providing greater access to critical benefits like paid time off, paid sick days, and paid family leave.*
- *Ensuring that low-wage workers have a voice in efforts to improve their conditions of employment, increase their opportunities for education and workforce development, and design public policies that support them.*

This project seeks to bring about meaningful change through an interdisciplinary process that engages multiple stakeholders, including by expressly incorporating workers' experiences. The project will lay the groundwork for developing and advancing private and public policies and strategies that can make a difference in the lives of low-wage workers and their families.

Appendix: Experts Interviewed for *Set Up to Fail*

Gina Adams, Urban Institute
 Lynn Appelbaum, Educational Alliance
 Catherine Barnett, Restaurant Opportunities Centers United
 Jessica Bartholow, Western Center on Law and Poverty
 Amanda Bergson-Shilcock, National Skills Coalition
 Mia Bernhardt, WorkJam
 Ethan Bernstein, Harvard Business School
 Kimberlee Burt, A Child's Space
 Anne Carr, Jobs First Employment Services/Career Resources, Inc.
 Yvonne Castillo, Project Arriba
 Jaya Chatterjee, Service Employees International Union
 Kathleen Christensen, Alfred P. Sloan Foundation
 Carolyn Clark, Apex Facility Resources
 Brooke DeRenzi, National Skills Coalition
 Lisa Disselkamp, Deloitte Consulting LLP
 Rachel Disselkamp, Association for Workforce Management
 Shannon Ellis, Patagonia
 Michael Elsas, Cooperative Home Care Associates
 María Enchautegui, Urban Institute
 John Gamlin, New Belgium Brewing Company
 Gloria Garber, MOM's Organic Markets
 Richard Garcia, Colorado Statewide Parent Coalition
 Sarah Haight, Ascend at the Aspen Institute
 Anna Haley-Lock, University of Wisconsin at Madison School of Social Work
 Wen-Jui Han, New York University Silver School of Social Work
 Julia Henly, University of Chicago School of Social Service Administration
 Ariel Kalil, University of Chicago Harris School of Public Policy
 Kaylene Keener, CAP Tulsa
 Ellen Kossek, Purdue Krannert School of Management
 Elly Kugler, National Domestic Workers Alliance
 Anne Ladky, Women Employed
 Rachel Laforest, Retail Action Project
 Susan Lambert, University of Chicago School of Social Service Administration
 Polly Lauer, The Lancaster Food Company
 Shannon Liss-Riordan, The Just Crust
 Hannah Matthews, Center for Law and Social Policy
 Patti McGraw, Zingerman's Community of Businesses
 Jana Milcikova, IceStone, LLC
 Sessy Nyman, Illinois Action for Children
 Thomas Orr, Local Initiatives Support Corporation
 Dan Osusky, B Lab
 Andrea Paluso, Family Forward Oregon
 Maureen Perry-Jenkins, University of Massachusetts, Amherst
 Deborah Phillips, Georgetown University Public Policy Institute
 Nicole Plath, Fortune Title Agency
 Peggy Powell, Paraprofessional Healthcare Institute
 Beth Quist, Lifetrack Resources
 Dania Rajendra, Restaurant Opportunities Centers United
 Jael Rattigan, French Broad Chocolates
 Blanca Regalado, AVANCE
 Jessica Sager, All Our Kin
 Rita Sandoval, AVANCE
 Carolyn Seward, Family and Workforce Centers of America
 Navjeet Singh, National Fund for Workforce Solutions
 Renee Spears, Rose City Mortgage
 Jennifer Swanberg, University of Maryland School of Social Work
 Felipe Tendick-Matesanz, Restaurant Opportunities Centers United
 Janice Urbanik, Partners for a Competitive Workforce
 Jenny Wittner, Women Employed
 Dana Zemel, Blue Bottle Coffee

Endnotes

- 1 SARAH JANE GLYNN, CTR. FOR AM. PROGRESS, BREADWINNING MOTHERS, THEN AND NOW 6 (2014), *available at* <http://cdn.americanprogress.org/wp-content/uploads/2014/06/Glynn-Breadwinners-report-FINAL.pdf>. The share of mothers who are breadwinners or co-breadwinners increased from 27.5 percent in 1967 to 63.3 percent in 2012. *Id.*
- 2 ANNE MORRISON & KATHERINE GALLAGHER ROBBINS, NAT'L WOMEN'S LAW CTR., CHARTBOOK: THE WOMEN IN THE LOW-WAGE WORKFORCE MAY NOT BE WHO YOU THINK (Sept. 2015), *available at* <http://nwlc.org/resources/chart-book-women-low-wage-workforce-may-not-be-who-you-think/>. See also *infra* note 5 and accompanying text.
- 3 See generally, e.g., Arne L. Kalleberg, *Precarious Work, Insecure Workers: Employment Relations in Transition*, AM. SOC. REV., Feb. 2009; ARNE L. KALLEBERG, *GOOD JOBS, BAD JOBS* (Russel Sage Found. 2011); Ray Marshall, *Can We Restore Broadly Shared Prosperity?*, 39 WORK & OCCUPATIONS 376 (2012).
- 4 See generally, e.g., NAT'L RESEARCH COUNCIL & INST. OF MED., FROM NEURONS TO NEIGHBORHOODS: THE SCIENCE OF EARLY CHILDHOOD DEVELOPMENT (Jack P. Shonkoff & Deborah A. Phillips eds., 2000); NAT'L SCIENTIFIC COUNCIL ON THE DEVELOPING CHILD, CENTER ON THE DEVELOPING CHILD, HARVARD UNIV. WORKING PAPER NO. 5: THE TIMING AND QUALITY OF EARLY EXPERIENCES COMBINE TO SHAPE BRAIN ARCHITECTURE (2007), *available at* http://developingchild.harvard.edu/wp-content/uploads/2015/06/Timing_Quality_Early_Experiences-1.pdf.
- 5 Nat'l Women's Law Ctr. defines "low-wage jobs" as those typically paying \$10.50 or less per hour because \$10.50 in 2014 is roughly equivalent to \$12.00 in 2020 (see DAVID COOPER ET AL., ECON. POLICY INST., WE CAN AFFORD A \$12.00 FEDERAL MINIMUM WAGE IN 2020 (Apr. 2015), *available at* <http://www.epi.org/publication/we-can-afford-a-12-00-federal-minimum-wage-in-2020/>), which is the proposed new federal minimum wage in the Raise the Wage Act pending in Congress. See Raise the Wage Act, S. 1150, H.R. 2150 114th Cong. (2015). However, a number of reasonable definitions of "low-wage jobs" and the "low-wage workforce" exist in the literature, and this report draws on research that employ somewhat varied definitions of these terms, as noted.
- 6 MORRISON & GALLAGHER ROBBINS, *supra* note 2.
- 7 Nat'l Women's Law Ctr. calculations based on CENSUS BUREAU, U.S. DEPT OF COMMERCE, CURRENT POPULATION SURVEY, 2013 ANNUAL SOCIAL AND ECONOMIC SUPPLEMENT (using MIRIAM KING ET AL., UNIV. OF MINN., INTEGRATED PUBLIC USE MICRODATA SERIES: VERSION 3.0 (2010)), *available at* <https://cps.ipums.org/cps/index.shtml>.
- 8 *Id.*
- 9 *Id.*
- 10 *Id.* Of the 44.8 percent of mothers in low-wage jobs who work part time, 28.9 percent work part time involuntarily and would prefer to find full-time work. *Id.*
- 11 BUREAU OF LABOR STATISTICS, U.S. DEPT OF LABOR, OCCUPATIONAL EMPLOYMENT STATISTICS, MAY 2014 NATIONAL OCCUPATIONAL EMPLOYMENT AND WAGE ESTIMATES UNITED STATES (2015), *available at* http://www.bls.gov/oes/current/oes_nat.htm (median hourly wages); BUREAU OF LABOR STATISTICS, U.S. DEPT OF LABOR, CURRENT POPULATION SURVEY, HOUSEHOLD DATA, ANNUAL AVERAGES, Tbl. 11: Employed persons by detailed occupation, sex, race, and Hispanic or Latino ethnicity (2015), *available at* <http://www.bls.gov/cps/cpsaat11.htm> (share of women, African American, Asian American, and Hispanic); NWLC calculations based on CENSUS BUREAU, U.S. DEPT OF COMMERCE, 2014 AMERICAN COMMUNITY SURVEY (using MIRIAM KING ET AL., UNIV. OF MINN., INTEGRATED PUBLIC USE MICRODATA SERIES: VERSION 3.0 (2010)) (share of foreign born). Demographic information for home health aides is based on nursing, psychiatric and home health aides.
- 12 Retail salespersons, personal care aides, home health aides, and combined food preparation and serving workers (including fast food) are four of the five jobs projected to see the most growth between 2014 and 2024. See BUREAU OF LABOR STATISTICS, U.S. DEPT OF LABOR, ECONOMIC PROJECTIONS, Tbl 6. Occupations with the most job growth 2014-2014, *available at* <http://www.bls.gov/news.release/ecopro.t06.htm>.
- 13 BUREAU OF LABOR STATISTICS, Tbl. 11, *supra* note 11.
- 14 *Id.*; NWLC calculations, *supra* note 11.
- 15 BUREAU OF LABOR STATISTICS, U.S. DEPT OF LABOR, FOREIGN-BORN WORKERS: LABOR FORCE CHARACTERISTICS—2014, *available at* <http://www.bls.gov/news.release/pdf/forbrn.pdf>. "The median usual weekly earnings of foreign-born full-time wage and salary workers were \$664 in 2014, compared with \$820 for their native-born counterparts." *Id.*
- 16 See NAT'L EMP'T. LAW PROJECT, WINNING WAGE JUSTICE: AN ADVOCATE'S GUIDE TO STATE AND CITY POLICIES TO FIGHT WAGE THEFT 50 (Jan. 2011), *available at* <http://www.nelp.org/content/uploads/2015/03/WinningWageJustice2011.pdf>.
- 17 See WHITE HOUSE TASK FORCE ON NEW AMERICAS, STRENGTHENING COMMUNITIES BY WELCOMING ALL RESIDENTS: A FEDERAL STRATEGIC ACTION PLAN ON IMMIGRANT & REFUGEE INTEGRATION 31 (Apr. 2015), *available at* https://www.whitehouse.gov/sites/default/files/docs/final_tf_newamericans_report_4-14-15_clean.pdf.
- 18 *Id.*; See also NAT'L EMP'T LAW PROJECT, *supra* note 16, at 50.
- 19 REBECCA SMITH & EUNICE HYUNHYE CHO, NAT'L EMP'T LAW PROJECT, WORKER'S RIGHTS ON ICE: HOW IMMIGRATION REFORM CAN STOP RETALIATION AND ADVANCE LABOR RIGHTS 4 (Feb. 2013), *available at* <http://www.nelp.org/content/uploads/2015/03/Workers-Rights-on-ICE-Retaliatio-Report.pdf>.
- 20 Nat'l Women's Law Ctr. calculations based on 40 hours per week, 50 weeks per year at \$10.50 per hour and \$7.25 per hour. The poverty threshold in 2014 for a family with one adult and two children was \$19,073. CENSUS BUREAU, U.S. DEPT

- OF COMMERCE, POVERTY THRESHOLDS FOR 2014 BY SIZE OF FAMILY AND NUMBER OF RELATED CHILDREN UNDER 18 YEARS (2014), available at <https://www.census.gov/hhes/www/poverty/data/threshld/>.
- 21 Nat'l Women's Law Ctr. calculations based on CENSUS BUREAU, U.S. DEPT OF COMMERCE, CURRENT POPULATION SURVEY, 2013 ANNUAL SOCIAL AND ECONOMIC SUPPLEMENT (*using MIRIAM KING ET AL., UNIV. OF MINN., INTEGRATED PUBLIC USE MICRODATA SERIES: VERSION 3.0 (2010)*), available at <https://cps.ipums.org/cps/index.shtml>.
- 22 CTR. FOR LAW & SOCIAL POLICY, HEALTH INSURANCE SOARS, BUT AMERICA'S NEXT GENERATION STILL LIVES IN FAMILIES STRUGGLING TO MAKE ENDS MEET 2 (Sept. 2015), available at <http://www.clasp.org/resources-and-publications/publication-1/An-InDepth-Look-at-2014-Census-Data.pdf>.
- 23 *Id.* at 4-5.
- 24 Pamela Joshi & Kimberly Geronimo, Brandeis Univ., PowerPoint Presentation at the Child Care Policy Research Consortium Labor Market Realities Session: The Mismatch Between Affordable Child Care & Parental Income: Variation by Race/Ethnicity and Nativity (Dec. 3, 2015) (on file with authors).
- 25 For example, the 2014 poverty line for a parent with two children is \$19,073. CENSUS BUREAU, *supra* note 20. A recent study from the Economic Policy Institute found that a parent with two children would need an annual income of at least \$41,000 to meet basic needs in the least expensive regions the country—and more than twice that in major metropolitan areas like New York City and Washington, D.C. Nat'l Women's Law Ctr. calculations based on ECON. POLICY INST., FAMILY BUDGET CALCULATOR, available at <http://www.epi.org/resources/budget/>. Calculations are for a family with one adult and two children in Washington, D.C., New York City, and Morristown, Tennessee (identified by EPI as the least expensive budget area for a two parent, two child family). See ELISE GOULD, TANYELL COOKE, & WILL KIMBALL, ECON. POLICY INST., WHAT FAMILIES NEED TO GET BY: EPI'S 2015 FAMILY BUDGET CALCULATOR 2 (Aug. 2015), available at <http://www.epi.org/files/2015/epi-family-budget-calculator-2015.pdf>. See also Elizabeth T. Gershoff et al., *Income Is Not Enough: Incorporating Material Hardship Into Models of Income Associations With Parenting and Child Development*, 78 CHILD DEV. 70, 70-95 (2007) (citing own research finding that rates of several indices of material hardship, including food insecurity, residential instability, and lack of medical insurance, do not decline significantly until families' earnings are double their poverty threshold income).
- 26 See, e.g., AMELIA BELL, KATHERINE GALLAGHER ROBBINS, & JULIE VOGTMAN, NAT'L WOMEN'S LAW CTR., PUBLIC PROGRAMS LIFT MILLIONS OF WOMEN AND CHILDREN OUT OF POVERTY (Oct. 2015), available at http://nwlrc.org/wp-content/uploads/2015/11/PV_FS_Public_Programs_Out_Of_Poverty.pdf.
- 27 Nat'l Women's Law Ctr. calculations based on U.S. Dep't of Agric., Food and Nutrition Serv., *Supplemental Nutrition Assistance Program (SNAP): Eligibility* (Nov. 25, 2015), <http://www.fns.usda.gov/snap/eligibility>; FOOD AND NUTRITION SERV., U.S. DEPT OF AGRIC., NATIONAL SCHOOL LUNCH PROGRAM (2013), available at <http://www.fns.usda.gov/sites/default/files/NSLPSFactSheet.pdf>.
- 28 ILL. DEPT OF HUMAN SERVS., CHILD CARE ASSISTANCE PROGRAM FAMILIES AND PROVIDERS NEWS BULLETIN (Nov. 2015), available at <http://www.dhs.state.il.us/page.aspx?item=81357&newssidebar=27893> (based on 162 percent of the 2015 poverty guidelines established by the U.S. Department of Health and Human Services).
- 29 See, e.g., MARÍA ENCHAUTEGUI, URBAN INST., NONSTANDARD WORK SCHEDULES AND THE WELL-BEING OF LOW-INCOME FAMILIES (July 2013), available at <http://www.urban.org/sites/default/files/alfresco/publication-pdfs/412877-Nonstandard-Work-Schedules-and-the-Well-being-of-Low-Income-Families.PDF>; Terence M. McMenamin, *A Time to Work: Recent Trends in Shift Work and Flexible Schedules*, MONTHLY LAB. REV., Dec. 2007, at 9, available at <http://www.bls.gov/opub/mlr/2007/12/art1full.pdf>. But see, e.g., Julia Henly, H. Luke Shaefer, & Elaine Waxman, *Nonstandard Work Schedules: Employer- and Employee-Driven Flexibility in Retail Jobs*, 80 SOC. SERV. REV. 609, 610 (2006) (defining "nonstandard" work hours as those outside of the 8 am to 4 pm window).
- 30 ENCHAUTEGUI, *supra* note 29, at 10 (Tbl. 3: Occupations with the Highest Share of Workers with Nonstandard Schedules and Median Weekly Earnings of Full-Time Workers, 2010-2011). Data is drawn from BUREAU OF LABOR STATISTICS, U.S. DEPT OF LABOR, AMERICAN TIME USE SURVEY, COMBINED YEAR 2003-11 respondent activity and BUREAU OF LABOR STATISTICS, U.S. DEPT OF LABOR, CURRENT POPULATION SURVEY files.
- 31 ENCHAUTEGUI, *supra* note 29, at 6. Data is drawn from BUREAU OF LABOR STATISTICS, U.S. DEPT OF LABOR, AMERICAN TIME USE SURVEY, COMBINED YEAR 2003-11 respondent activity and BUREAU OF LABOR STATISTICS, U.S. DEPT OF LABOR, CURRENT POPULATION SURVEY files. Here, "low-wage workers" refers to workers with weekly earnings lower than those of 75 percent of the population who work full time.
- 32 See Rachel Dunifon et al., *Measuring Maternal Nonstandard Work in Survey Data*, 75 J. MARRIAGE FAM. 523, 523, 526 (2013) (finding that "giving respondents the option of reporting work at more than one type of schedule doubles the prevalence of nonstandard work, compared to allowing respondents to indicate only one type of schedule," and observing that half of the low-income mothers responding to the Fragile Families and Child Wellbeing Study, which allowed respondents to report more than one schedule, indicated that they worked both standard and nonstandard schedules in their current job). See also Henly, Shaefer, & Waxman, *supra* note 29, at 617-18 ("The majority-hours definition of nonstandard work . . . is conventionally used in the literature to describe work schedules. . . . However, [the low-wage workers surveyed] commonly work hours that cross over into early morning or late evening, whether or not their schedules meet the majority-hours definition for nonstandard work. . . . These windows of nonstandard hours do not constitute more than half of the week's hours, but their prevalence in work schedules has important repercussions on families' schedules. Conventional methods of categorizing nonstandard schedules thus probably understate the size of the universe of households that must address

- these challenges.”); SUSAN J. LAMBERT, PETER J. FUGIEL & JULIA R. HENLY, PRECARIOUS WORK SCHEDULES AMONG EARLY-CAREER EMPLOYEES IN THE US: A NATIONAL SNAPSHOT 2 (Apr. 2014), available at https://ssascholars.uchicago.edu/sites/default/files/work-scheduling-study/files/lambert.fugiel.henly_precarious_work_schedules.august2014_0.pdf (observing that “even workers whose hours vary a great deal are likely to offer a numeric response to the usual-hours question rather than volunteer that their hours vary, resulting in an underreporting of hour variation” in national survey data).
- 33 Nat’l Women’s Law Ctr. calculations based on CENSUS BUREAU, U.S. DEP’T OF COMMERCE, CURRENT POPULATION SURVEY, 2013 ANNUAL SOCIAL AND ECONOMIC SUPPLEMENT (using MIRIAM KING ET AL., UNIV. OF MINN., INTEGRATED PUBLIC USE MICRODATA SERIES: VERSION 3.0 (2010)), available at <https://cps.ipums.org/cps/index.shtml>.
- 34 LAMBERT, FUGIEL, & HENLY, *supra* note 32, at 11. Similar patterns are evident across race and ethnicity: 73 percent of black, 73 percent of Hispanic, and 74 percent of white hourly workers report at least some fluctuation in work hours. *Id.*
- 35 *Id.* at 17-18. See also, e.g., STEPHANIE LUCE & NAOKI FUJITA, DISCOUNTED JOBS: HOW RETAILERS SELL WORKERS SHORT 8, 12 (2012), available at http://retailactionproject.org/wp-content/uploads/2012/03/7-75_RAP+cover_lowres.pdf (reporting that in a survey of retail industry workers who worked for large retailers in New York City, only 17 percent of all respondents—and just 10 percent of respondents who worked part-time—had a set schedule).
- 36 LAMBERT, FUGIEL, & HENLY, *supra* note 32, at 6, 16. See also LONNIE GOLDEN, ECON. POLICY INST., IRREGULAR WORK SCHEDULING AND ITS CONSEQUENCES, BRIEFING PAPER # 394 18 (Apr. 2014), available at <http://s2.epi.org/files/pdf/82524.pdf> (noting that analysis of the General Social Survey shows 43 percent of workers reported receiving less than a week’s advance notice of their hours, including almost one in five who received their schedule “a day or less” in advance); WORKJAM, AN INSIDE LOOK AT THE HIRING AND SCHEDULING CRISIS IN THE HOURLY WORKFORCE 3 (2015), available at <https://www.workjam.com/portfolio-items/an-inside-look-at-hiring-and-scheduling-in-the-hourly-workforce/> (reporting that in a survey of 500 service company managers and 700 hourly employees, 56 percent of employees received schedules a week or less in advance).
- 37 LAMBERT, FUGIEL, & HENLY, *supra* note 32, at 7.
- 38 For example, in a study of low-skilled, non-production jobs at 22 sites in the hospitality, retail, transportation, and financial services industries, all but one hotel studied posted schedules the Thursday or Friday before the workweek that began on Sunday, and all but one retail firm posted schedules the Wednesday or Thursday before. Susan J. Lambert, *Passing the Buck: Labor Flexibility Practices that Transfer Risk onto Hourly Workers*, 61 J. HUMAN RELATIONS 1203, 1217 (2008). See also, e.g., LUCE & FUJITA, *supra* note 35, at 8 (observing that in a survey of retail industry workers in New York, about a fifth of respondents reported receiving their work schedules only three days in advance).
- 39 See, e.g., CTR. FOR LAW & SOCIAL POLICY, RETAIL ACTION PROJECT, & WOMEN EMPLOYED, TACKLING UNSTABLE AND UNPREDICTABLE WORK SCHEDULES 11 (2014), available at <http://www.clasp.org/resources-and-publications/publication-1/Tackling-Unstable-and-Unpredictable-Work-Schedules-3-7-2014-FINAL-1.pdf>; CTR. FOR POPULAR DEMOCRACY, HOUR BY HOUR: WOMEN IN TODAY’S WORKWEEK 5 (2015), available at http://populardemocracy.org/sites/default/files/HourbyHour_final.pdf. See also, e.g., LUCE & FUJITA, *supra* note 35, at 8 (finding that 44 percent of retail employees working at large New York City retailers surveyed reported that they must be available for call-in shifts at least some of the time, including one-fifth who reported that they “always or often” must be available for such shifts).
- 40 See, e.g., CTR. FOR LAW & SOCIAL POLICY, RETAIL ACTION PROJECT, & WOMEN EMPLOYED, *supra* note 39, at 11; CTR. FOR POPULAR DEMOCRACY, *supra* note 39, at 5; Dante Ramos, *On-Call Shifts String Retail Workers Along*, BOSTON GLOBE (Apr. 19, 2015), <https://www.bostonglobe.com/opinion/editorials/2015/04/18/dante-ramos-call-shifts-string-workers-along/admOznKJNCM4YFuUcedlQI/story.html>; Joe Eaton, *On-Call Employment: Good for Business, Bad for Workers*, CTR. FOR PUB. INTEGRITY (May 19, 2014, 12:19 PM), <http://www.publicintegrity.org/2012/04/06/8608/call-employment-good-business-bad-workers>. See also Charlotte Alexander, Anna Haley-Lock, & Nantiya Ruan, *Stabilizing Low-Wage Work*, 50 HARV. C.R.-C.L. L. REV. 1, 17-25 (2015) (observing that, as interpreted to date, existing state and federal laws generally provide minimal protection for low-wage, hourly workers who are scheduled for “on-call” shifts). However, plaintiffs in a number of lawsuits pending in California claim that retailers’ failure to compensate employees for on-call shifts violates the state’s reporting time pay law, and in April 2015, the New York Attorney General’s office sent letters to 13 large retailers seeking information about their scheduling practices to consider whether uncompensated on-call shifts violate a similar law in New York. See generally Bryce Covert, *Forever 21 and Others Accused of Skirting California Labor Laws Around On-Call Shifts*, THINK PROGRESS (Oct. 16, 2015, 10:29 AM), <http://thinkprogress.org/economy/2015/10/16/3713114/lawsuits-scheduling/>. For more on state reporting time pay laws, see *infra* note 44.
- 41 CTR. FOR POPULAR DEMOCRACY, *supra* note 39, at 5.
- 42 See, e.g., Julia R. Henly & Susan J. Lambert, *Unpredictable Work Timing in Retail Jobs*, 67 INDUS. & LAB. REL. REV. 986-1016, 1001 (2014) (finding in a study of retail employees that “the average employee experienced mismatch between scheduled and worked days equivalent to almost one-half day”); Lambert, *supra* note 38, at 1218 (finding in a study of low-skilled, non-production jobs in the hospitality, retail, transportation, and financial services industries that “[l]ast-minute adjustments to work schedules—adding or subtracting hours to the posted schedule a day or two in advance—were rampant in the jobs studied”).
- 43 See, e.g., LIZ WATSON & JENNIFER SWANBERG, FLEXIBLE WORKPLACE SOLUTIONS FOR LOW-WAGE HOURLY WORKERS: A FRAMEWORK FOR A NATIONAL CONVERSATION 21 (2011), available at <http://workplaceflexibility2010.org/images/uploads/whatsnew/Flexible%20Workplace%20Solutions%20for%20Low-Wage%20Hourly%20Workers.pdf> (stating that among low-wage workers overall, between 19 and 31 percent report that they are often asked to work extra hours with little or no

- notice; roughly 40 to 60 percent of full-time, low-wage workers who are asked to work extra hours with little or no notice report that they must comply with the request to avoid negative consequences).
- 44 See, e.g., CTR. FOR POPULAR DEMOCRACY, *supra* note 39, at 5; LUCE & FUJITA, *supra* note 35, at 13. Eight states and the District of Columbia have enacted “reporting time pay” or “send-home pay” laws, which require employers to provide a minimum number of hours of pay to workers who appear for a scheduled shift but are sent home early. For a detailed discussion, see Charlotte Alexander & Anna Haley-Lock, *Underwork, Work-Hour Insecurity, and a New Approach to Wage and Hour Regulation*, 54 INDUS. REL. 695-716 (2015); Alexander, Haley-Lock, & Ruan, *supra* note 40; CTR. FOR LAW & SOCIAL POLICY, RETAIL ACTION PROJECT, & WOMEN EMPLOYED, *supra* note 39; NAT’L WOMEN’S LAW CTR., REPORTING TIME PAY LAWS: A KEY SOLUTION TO CURB UNPREDICTABLE AND UNSTABLE SCHEDULING PRACTICES (Oct. 2014), available at http://www.nwlc.org/sites/default/files/pdfs/reporting_time_pay_fact_sheet.pdf; NAT’L WOMEN’S LAW CTR., OVERVIEW OF SELECTED STATE AND LOCAL SCHEDULING PROTECTIONS (Jan. 2015), available at http://nwlc.org/wp-content/uploads/2015/08/overview_of_selected_state_and_local_scheduling_protections_jan_2015.pdf.
- 45 WATSON & SWANBERG, *supra* note 43, at 19-20. See also GOLDEN, *supra* note 36, at 9 (finding in an analysis of International Social Survey Program data that 45 percent of workers surveyed said “their employer decides” their work schedule; only 15 percent reported they were “free to decide” their work schedule, while the remaining 40 percent felt they could “decide within limits”); LAMBERT, FUGIEL, & HENLY, *supra* note 32, at 14 (finding in an analysis of NLSY data that among early career employees, “about 44 percent of workers overall and half of hourly workers say that they do not have any input into when they start and finish work”); Elaine McCrate, *Flexibility for Whom? Control Over Work Schedule Variability in the U.S.*, 18 FEMINIST ECON. 39, 42 (2012) (finding in an analysis of the May 2004 Work Schedules Supplement of the Current Population Survey that 70 percent of respondents reported that they were not allowed “to vary or make changes in the time [they] begin and end work”).
- 46 McCrate, *supra* note 45, at 44.
- 47 Fifty-eight percent of Hispanic hourly workers, 55 percent of black hourly workers, and 47 percent of white hourly workers (age 26-32) report that their employer controls their work hours. LAMBERT, FUGIEL, & HENLY, *supra* note 32, at 17.
- 48 See generally, e.g., CTR. FOR LAW & SOCIAL POLICY, RETAIL ACTION PROJECT, & WOMEN EMPLOYED, *supra* note 39, at 2-3; CTR. FOR POPULAR DEMOCRACY, *supra* note 39, at 4.
- 49 Steven Greenhouse, *A Part-Time Life, as Hours Shrink and Shift*, N.Y. TIMES (Oct. 27, 2012), http://www.nytimes.com/2012/10/28/business/a-part-time-life-as-hours-shrink-and-shift-for-american-workers.html?_r=0.
- 50 See, e.g., Steven Greenhouse, *In Service Sector, No Rest for the Working*, N.Y. TIMES (Feb. 21, 2015), http://www.nytimes.com/2015/02/22/business/late-to-bed-early-to-rise-and-working-tired.html?_r=0; Jodi Kantor, *Working Anything But 9 to 5*, N.Y. TIMES (Aug. 13, 2014), http://www.nytimes.com/interactive/2014/08/13/us/starbucks-workers-scheduling-hours.html?_r=0.
- 51 See, e.g., Ethan Bernstein, Saravanan Kesavan, & Bradley Staats, *How to Manage Scheduling Software Fairly*, HARV. BUS. REV., Dec. 2014, available at <https://hbr.org/2014/09/how-to-manage-scheduling-software-fairly>.
- 52 WORKJAM, *supra* note 36, at 8.
- 53 Susan J. Lambert, *Passing the Buck: Labor Flexibility Practices that Transfer Risk onto Hourly Workers*, 61 J. HUM. REL. 1203, 1214 (2008).
- 54 See, e.g., GOLDEN, *supra* note 36, at 22 (finding that part-time status more than doubles the likelihood of having work hours that vary weekly); Lambert, *supra* note 53, at 1215 (finding that “hours fluctuated greatly in the part-time jobs studied (more so than for full-time jobs), sometimes down to zero for some weeks of the year and above part-time limits for other weeks”); LAMBERT, FUGIEL, & HENLY, *supra* note 32, at 12 (observing that “[a]lthough the range of variation in work hours among part-time workers is only slightly greater on average than among full-time workers . . . it signifies a much greater magnitude of work-hour instability among workers in part-time than in full-time jobs”).
- 55 LAMBERT, FUGIEL, & HENLY, *supra* note 32, at 6.
- 56 See ANNE MORRISON & KATHERINE GALLAGHER ROBBINS, NAT’L WOMEN’S LAW CTR., PART-TIME WORKERS ARE PAID LESS, HAVE LESS ACCESS TO BENEFITS—AND TWO-THIRDS ARE WOMEN 1 (Sept. 2015), available at http://www.nwlc.org/sites/default/files/pdfs/part-time_workers_fact_sheet_8.21.1513.pdf; DAVID M. PONGRACE & ALAN P. ZILBERMAN, BLS: A COMPARISON OF HOURLY RATES FOR FULL- AND PART-TIME WORKERS BY OCCUPATION 2007 5 (July 2009), available at <http://www.bls.gov/opub/mlr/cwc/a-comparison-of-hourly-wage-rates-for-fulland-part-time-workers-by-occupation-2007.pdf> (finding that part-time workers were paid significantly less per hour than full-time workers in more than half (56 percent) of the 324 occupations where average hourly earnings for full- and part-time workers could be compared, and earned more in less than four percent of these occupations).
- 57 MORRISON & GALLAGHER ROBBINS, *supra* note 56, at 2.
- 58 *Id.* 25.1 percent of women who work part time involuntarily are poor, compared to 11.1 percent of women who work part time for other reasons and 5.0 percent of women who work full time. “Low-wage occupations” here refers to those typically paying \$10.50 or less per hour. See *supra* note 2.
- 59 Five million workers who are part time for noneconomic reasons (25.5 percent) report working part time because of child care problems or other family or personal obligations. Women are seven times more likely than men to cite “child care problems” and nearly four times more likely than men to cite “other family/personal obligations” as reasons for working part time. MORRISON & GALLAGHER ROBBINS, *supra* note 56, at 2-3.

- 60 See, e.g., CTR. FOR POPULAR DEMOCRACY, *supra* note 39, at 6-16; MORRISON & GALLAGHER ROBBINS, *supra* note 56, at 2-3.
- 61 Henly, Shaefer, & Waxman, *supra* note 29, at 625.
- 62 See, e.g., STEPHANIE LUCE, SASHA HAMMAD, & DARRAH SIPE, RETAIL ACTION PROJECT, SHORT SHIFTED 7 (2014), available at http://retailactionproject.org/wp-content/uploads/2014/09/ShortShifted_report_FINAL.pdf.
- 63 See, e.g., Henly, Shaefer, & Waxman, *supra* note 29, at 625; Susan J. Lambert, Anna Haley-Lock, & Julia R. Henly, *Work Schedule Flexibility in Hourly Jobs: Unanticipated Consequences and Promising Directions* (Univ. of Chi. Work Scheduling Study, Working Paper, 2010), available at https://ssascholars.uchicago.edu/sites/default/files/work-scheduling-study/files/lambert_haley-lock_henly_unanticipated_consequences_of_flexibility_in_hourly_jobs_0.pdf.
- 64 Henly, Shaefer, & Waxman, *supra* note 29, at 616; Lambert, *supra* note 53, at 1214 (in a study of in a study of low-skilled, non-production jobs in the hospitality, retail, transportation, and financial services industries, “not one employer guaranteed a minimum number of hours for employees in hourly jobs—full-time or part-time”).
- 65 See Lambert, Haley-Lock, & Henly, *supra* note 63, at 24. See also, e.g., LUCE, HAMMAD, & SIPE, *supra* note 62, at 7; ARI SCHWARTZ ET AL., UNPREDICTABLE, UNSUSTAINABLE: THE IMPACT OF EMPLOYERS’ SCHEDULING PRACTICES IN D.C. 7 (2015), available at http://www.dcjwi.org/wp-content/uploads/2015/06/DCJWJ_Scheduling_Report_2015.pdf.
- 66 See, e.g., Henly, Shaefer, & Waxman, *supra* note 29, at 622; NANCY K. CAUTHEN, DEMOS, SCHEDULING HOURLY WORKERS 6 (2011), available at http://www.demos.org/sites/default/files/publications/Scheduling_Hourly_Workers_Demos.pdf (“Even though most of the turnover is ‘voluntary,’ workers often quit low-wage jobs because they can’t accommodate the scheduling unpredictability, they aren’t getting enough hours, or because the wages are too low.”); Lambert, *supra* note 53, at 1220 (reporting that in a study of low-skilled, non-production jobs in the hospitality, retail, transportation, and financial services industries, “HR staff interviewed reported that only a small minority of the workers in the jobs studied, regardless of the job turnover rate, had been terminated by the firm. The primary reason HR managers gave for turnover was that ‘people just stop coming to work.’ To label turnover in these jobs as ‘voluntary,’ or ‘quits,’ however, locates instability in the employees rather than in employer practices. As suggested throughout this analysis, instability was structured into many of the jobs studied.”).
- 67 See, e.g., STEPHANIE BORNSTEIN, CTR. FOR WORKLIFE LAW, POOR, PREGNANT, AND FIRED: CAREGIVER DISCRIMINATION AGAINST LOW-WAGE WORKERS 20-21 (2011), available at <http://worklifelaw.org/pubs/PoorPregnantAndFired.pdf>.
- 68 See, e.g., Henly, Shaefer, & Waxman, *supra* note 29, at 624-5.
- 69 *Id.*, at 625.
- 70 See generally BORNSTEIN, *supra* note 67.
- 71 See generally NAT’L WOMEN’S LAW CTR. & A BETTER BALANCE, IT SHOULDN’T BE A HEAVY LIFT: FAIR TREATMENT FOR PREGNANT WORKERS (2013), available at http://nwlc.org/wp-content/uploads/2015/08/pregnant_workers.pdf. See also BORNSTEIN, *supra* note 67, at 11-18.
- 72 BORNSTEIN, *supra* note 67, at 22, 27.
- 73 Shelley J. Correll et al., *Getting a Job: Is There a Motherhood Penalty?*, 112 AM. J. SOC. 1297, 1315-17 (2007), available at http://gender.stanford.edu/sites/default/files/motherhoodpenalty_0.pdf. In this study, in addition to penalties such as lower starting salaries and lower performance ratings for women without children, mothers were judged significantly less competent and committed than women without children. Mothers were also held to harsher performance and punctuality standards. Mothers were allowed to be late to work significantly fewer times than non-mothers, and they needed a significantly higher score on the management exam than non-mothers to be considered hireable. *Id.* See also MICHELLE J. BUDIG, THIRD WAY, THE FATHERHOOD BONUS & THE MOTHERHOOD PENALTY: PARENTHOOD AND THE GENDER GAP IN PAY 17 (2013), available at http://content.thirdway.org/publications/853/NEXT_-_Fatherhood_Motherhood.pdf (documenting an average wage penalty for mothers overall of approximately 4 percent per child, rising to 6 percent for low-wage mothers).
- 74 See BORNSTEIN, *supra* note 67, at 27-28.
- 75 See, e.g., Henly, Shaefer, & Waxman, *supra* note 29, at 626 (“In effect, employee control over scheduling is available when supervisors permit it to be.”); Henly & Lambert, *supra* note 42, at 993. See also Maureen Perry-Jenkins et al., *Working-Class Jobs and New Parents’ Mental Health*, 73 J. OF MARRIAGE AND FAM. 1117, 1130 (finding that under conditions of high autonomy and supervisor and coworker support, new parents’ mental health is higher and less likely to decline, and supportive work settings can mitigate the effects of urgent and stressful job conditions in low-wage jobs); Jennifer E. Swanberg et al., *Schedule Control, Supervisor Support and Work Engagement: A Winning Combination for Workers in Low-Wage Hourly Jobs?* 79 J. OF VOCATIONAL BEHAV. 613, 621 (2011) (finding that perceived control over work hours and perceived control over as-needed schedule changes contribute to perceived schedule satisfaction among low-wage hourly workers, which leads to perceived supervisor support and ultimately work engagement).
- 76 Henly, Shaefer, & Waxman, *supra* note 29, at 626.
- 77 *Id.*
- 78 JACOB KLERMAN, KELLY DALEY, & ALYSSA POZNIAK, ABT ASSOCIATES PUBLICATION, FAMILY AND MEDICAL LEAVE IN 2012: TECHNICAL REPORT i (Sept. 2012), available at <http://www.dol.gov/asp/evaluation/fmla/FMLA-2012-Technical-Report.pdf>.
- 79 U.S. DEP’T OF LABOR, FACTSHEET #28: THE FAMILY AND MEDICAL LEAVE ACT (2012), available at <http://www.dol.gov/whd/regs/compliance/whdfs28.pdf>.
- 80 U.S. DEP’T OF LABOR, NEED TIME? THE EMPLOYEE’S GUIDE TO THE FAMILY AND MEDICAL LEAVE ACT 2 (2015), available at <https://www.dol.gov/whd/fmla/employeeguide.pdf>.
- 81 PAMELA WINSTON, U.S. DEP’T OF HEALTH AND HUM. SERVS., OFFICE OF THE ASSISTANT SEC’Y FOR PLANNING AND EVALUATION,

- WORK-FAMILY SUPPORTS FOR LOW-INCOME FAMILIES 17 (Mar. 2014), available at http://aspe.hhs.gov/sites/default/files/pdf/76856/rpt_WorkFamily.pdf.
- 82 KLERMAN, DALEY, & POZNIAK, *supra* note 78, at 127.
- 83 CMTY. SERV. SOC'Y, A NECESSITY, NOT A BENEFIT: NYC'S LOW-INCOME MOMS DISCUSS THEIR STRUGGLES WITHOUT PAID FAMILY LEAVE AND JOB SECURITY (May 2015), available at http://b3cdn.net/nycss/5405583f66c265b230_zam6btd8i.pdf.
- 84 See ORG. FOR ECON. CO-OPERATION AND DEV. (OECD), KEY CHARACTERISTIC OF PARENTAL LEAVE SYSTEMS (2015), available at http://www.oecd.org/els/soc/PF2_1_Parental_leave_systems.pdf; see also Adam Peck & Bryce Covert, *U.S. Paid Family Leave Versus The Rest Of The World*, In 2 *Disturbing Charts*, THINK PROGRESS (Jul. 30, 2014, 3:39 PM), <http://thinkprogress.org/economy/2014/07/30/3465922/paid-family-leave/>.
- 85 JODY HEYMANN ET AL., CTR. FOR ECON. & POLICY RESEARCH, CONTAGION NATION: A COMPARISON OF PAID SICK DAY POLICIES IN 22 COUNTRIES 8-11 (2009), available at <http://www.cepr.net/documents/publications/paid-sick-days-2009-05.pdf>.
- 86 California, Connecticut, the District of Columbia, Oregon, and Massachusetts have paid sick leave laws that allow some workers to earn paid sick days. See A BETTER BALANCE, OVERVIEW OF PAID SICK TIME LAWS IN THE UNITED STATES (Aug. 2015), available at <http://www.abetterbalance.org/web/images/stories/Documents/sickdays/factsheet/PSDchart.pdf>. California, New Jersey, and Rhode Island have statewide paid family leave laws that provide employees with four to six weeks of family and medical leave at partial pay. See NAT'L P'SHIP FOR WOMEN & FAMILIES, STATE PAID FAMILY LEAVE INSURANCE LAWS (Feb. 2015), available at <http://www.nationalpartnership.org/research-library/work-family/paid-leave/state-paid-family-leave-laws.pdf>.
- 87 BUREAU OF LABOR STATISTICS, U.S. DEPT OF LABOR, NATIONAL COMPENSATION SURVEY: EMPLOYEE BENEFITS IN THE UNITED STATES, Tbl. 32: Leave benefits: Access, civilian workers (Mar. 2015), available at <http://www.bls.gov/ncs/ebs/benefits/2015/ebbl0057.pdf>. Note that "[s]urveyed occupations are classified into wage categories based on the average wage for the occupation, which may include workers with earnings both above and below the threshold." See also BUREAU OF LABOR STATISTICS, U.S. DEPT OF LABOR, EMPLOYEE BENEFITS IN THE UNITED STATES—MARCH 2015 3, available at <http://www.bls.gov/news.release/pdf/ebs2.pdf> (breakdown of hourly wage percentiles).
- 88 BUREAU OF LABOR STATISTICS, U.S. DEPT OF LABOR, NATIONAL COMPENSATION SURVEY, *supra* note 87.
- 89 *Id.*
- 90 *Id.*
- 91 WINSTON, *supra* note 81, at vi. See also U.S. DEPT OF LABOR, THE COST OF DOING NOTHING: THE PRICE WE ALL PAY WITHOUT PAID LEAVE POLICES TO SUPPORT AMERICA'S 21ST CENTURY WORKING FAMILIES 13 (Sept. 2015), available at <https://www.dol.gov/featured/paidleave/cost-of-doing-nothing-report.pdf> (citing research showing workers earning less than \$35,000 a year are 2.4 times more likely to have an unmet need for leave than those earning more than \$75,000 annually).
- 92 U.S. DEPT OF LABOR, *supra* note 91, at 13.
- 93 CMTY. SERV. SOC'Y, *supra* note 83.
- 94 CHILD CARE AWARE OF AM., PARENTS AND THE HIGH COST OF CHILD CARE: 2015 REPORT 30 (2015), available at <http://usa.childcareaware.org/wp-content/uploads/2015/12/Parents-and-the-High-Cost-of-Child-Care-2015-FINAL.pdf>.
- 95 LYNDA LAUGHLIN, U.S. CENSUS BUREAU, MATERNITY LEAVE AND EMPLOYMENT PATTERNS OF FIRST-TIME MOTHERS: 1961-2008 11 (Oct. 2011), available at <https://www.census.gov/prod/2011pubs/p70-128.pdf>. Among women with at least a bachelor's degree, only 13 percent quit their jobs on first birth and 3 percent were let go; 66 percent used some type of paid leave and 40 percent used unpaid leave. *Id.*
- 96 LIZ BEN-ISHAI, CTR. FOR LAW & SOCIAL POLICY, WAGES LOST, JOBS AT RISK 2 (Feb. 2015), available at <http://www.clasp.org/resources-and-publications/publication-1/2015-02-03-FMLA-Anniversary-Brief-3.pdf>, citing OXFAM AM., HARD WORK, HARD LIVES: SURVEY EXPOSES HARSH REALITY FACED BY LOW-WAGE WORKERS IN THE U.S. 7 (2013), available at <http://www.oxfam-america.org/static/media/files/low-wage-worker-report-oxfam-america.pdf>. To qualify as a low-wage worker for the purposes of this study, survey respondents were either "employed in a job that pays \$14 per hour or less, or they were unemployed and looking for work, were not students, and had earned \$14 per hour or less in their last job." See also Heather Hill, *Paid Sick Leave and Job Stability*, 44 *WORK & OCCUPATIONS* 143 (2013).
- 97 Jody Heymann, Alison Earle, & Kristen McNeill, *The Impact of Labor Policies on the Health of Young Children in the Context of Economic Globalization*, 34 *ANN. REV. OF PUB. HEALTH* 355, 365 (2013).
- 98 See, e.g., Lisa Clemans-Cope et al., *Access to and Use of Paid Sick Leave Among Low-Income Families With Children*, 122 *PEDIATRICS* 480 (2008) ("[C]hildren in low-income families are more likely to have health problems than children living in higher income families"); Lisa Dodson, *Stereotyping Low-Wage Mothers Who Have Work and Family Conflicts*, 69 *J. OF SOC. ISSUES* 257, 259 (2013).
- 99 See generally, e.g., EMMA GARCIA, ECON. POLICY INST., INEQUALITIES AT THE STARTING GATE: COGNITIVE AND NONCOGNITIVE SKILLS GAPS BETWEEN 2010-2011 KINDERGARTEN CLASSMATES (2015), available at <http://www.epi.org/files/pdf/85032c.pdf>; Katherine Magnuson, Univ. of Wis.-Madison, Inst. for Research on Poverty, *Reducing the Effects of Poverty through Early Childhood Interventions*, *FAST FOCUS*, no. 17, 2013, at 1, 3, available at <http://www.irp.wisc.edu/publications/fastfocus/pdfs/FF17-2013.pdf> (Figures 2-5); LYNN A. KAROLY, M. REBECCA KILBURN, & JILL S. CANNON, EARLY CHILDHOOD INTERVENTIONS: PROVEN RESULTS, *FUTURE PROMISE* 6-12 (2005), available at http://www.rand.org/content/dam/rand/pubs/monographs/2005/RAND_MG341.pdf.

- 100 TAMARA HALLE ET AL., CHILD TRENDS, DISPARITIES IN EARLY LEARNING AND DEVELOPMENT: LESSONS FROM THE EARLY CHILDHOOD LONGITUDINAL STUDY – BIRTH COHORT (ECLS-B) 7 (2009), available at http://ncfy.acf.hhs.gov/sites/default/files/docs/18755-Disparities_in_Early_Learning_and_Development%5Bfull%5D.pdf. “Low-income” is defined for this study as families with incomes at or under 200 percent of poverty. *Id.*
- 101 JULIA ISAACS, BROOKINGS INST., STARTING SCHOOL AT A DISADVANTAGE: THE SCHOOL READINESS OF POOR CHILDREN 3 (March 2012), available at http://www.brookings.edu/~media/research/files/papers/2012/3/19%20school%20disadvantage%20isaacs/0319_school_disadvantage_isaacs.pdf. Moderate- and high-income families are defined in this study as those with incomes above 185 percent of poverty. In families with incomes between 100 and 185 percent of poverty, 59 percent of children are school-ready at age five. *Id.*
- 102 See, e.g., Jeanne Brooks-Gunn & Greg J. Duncan, *The Effect of Poverty on Children*, 7 CHILD. & POVERTY, Summer/Fall 1997, at 61-62 (reporting that children growing up in poverty are significantly more likely than non-poor children to experience learning disabilities and developmental delays and less likely to complete high school, and children who experience poverty in their earliest years experience the worst outcomes); Katherine Magnuson & Elizabeth Votruba-Drzal, *Enduring Influences of Childhood Poverty*, 26 FOCUS, no. 2, Fall 2009, at 32, 33, available at <http://www.irp.wisc.edu/publications/focus/pdfs/foc262f.pdf>; Greg J. Duncan et al., *The Importance of Early Childhood Poverty*, 108 SOC. INDICATORS RES. 87, 93 (2012); CAROLINE RATCLIFFE, URBAN INST., CHILD POVERTY AND ADULT SUCCESS 1 (Sept. 2015), available at <http://www.urban.org/sites/default/files/alfresco/publication-pdfs/2000369-Child-Poverty-and-Adult-Success.pdf>; Kathleen M. Ziol-Guest et al., *Early Childhood Poverty, Immune-Mediated Disease Processes, and Adult Productivity*, 109 PROCEEDINGS OF THE NAT'L ACAD. OF SCI. OF THE U.S. 17289 (2012), available at <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3477379/>.
- 103 Betty Hart & Todd R. Risley, *The Early Catastrophe: The 30 Million Word Gap by Age 3*, AM. EDUCATOR, Spring 2003, at 4, 7. See also LEILA FIESTER & RALPH SMITH, ANNE E. CASEY FOUND., EARLY WARNING! WHY READING BY THE END OF THIRD GRADE MATTERS 7, 9 (2010).
- 104 CAROLINE RATCLIFFE & SIGNE-MARY MCKERNAN, URBAN INST., CHILDHOOD POVERTY PERSISTENCE: FACTS AND CONSEQUENCES 8 (2010), available at <http://www.urban.org/sites/default/files/alfresco/publication-pdfs/412126-Childhood-Poverty-Persistence-Facts-and-Consequences.PDF>. See also *id.*, at 1; ROBERT L. WAGMILLER JR. & ROBERT M. ADELMAN, NAT'L CTR. FOR CHILDREN IN POVERTY, CHILDHOOD AND INTERGENERATIONAL POVERTY: THE LONG-TERM CONSEQUENCES OF GROWING UP POOR 1 (2009), available at http://www.nccp.org/publications/pdf/text_909.pdf.
- 105 See, e.g., CAROLINE RATCLIFFE & SIGNE-MARY MCKERNAN, URBAN INST., CHILD POVERTY AND ITS LASTING CONSEQUENCE 4 (2012), available at <http://www.urban.org/sites/default/files/alfresco/publication-pdfs/412659-Child-Poverty-and-Its-Lasting-Consequence.PDF> (finding in an analysis of Panel Study of Income Dynamics (PSID) data on births between 2000 and 2008 that 31 percent of black children and 25 percent of Hispanic children were born into poverty, compared to 10 percent of white children).
- 106 See *id.* at 5-6 (finding that, among children born to both poor and nonpoor parents, nearly 40 percent of black children spend at least half their childhoods in poverty, compared to just 5 percent of white children—disparities that have remained steady over time). PSID data does not permit estimation of persistent poverty rates for Hispanic children (see *id.* at 4), but U.S. Census Bureau data consistently show that poverty rates among Hispanic children are closer to rates for African American children than to rates for white children. See, e.g., NAT'L WOMEN'S LAW CTR., INSECURE & UNEQUAL: POVERTY AND INCOME AMONG WOMEN AND FAMILIES, 2000-2013 14 (2014), available at http://nwlc.org/wp-content/uploads/2015/08/final_2014_nwlc_poverty_report.pdf (Tbl. 1: Poverty Rates Among Women, Men, and Children – 2013, 2012, 2000).
- 107 See generally GARY ORFIELD ET AL., THE CIVIL RIGHTS PROJECT/PROYECTO DERECHOS CIVILES, E PLURIBUS . . . SEPARATION: DEEPENING DOUBLE SEGREGATION FOR MORE STUDENTS (2012), available at http://civilrightsproject.ucla.edu/research/k-12-education/integration-and-diversity/mlk-national/e-pluribus...separation-deepening-double-segregation-for-more-students/orfield_epluribus_revised_omplete_2012.pdf. Seventy-four percent of African American students are in schools where the majority of students are not white. Thirty-eight percent of African American students attend “intensely segregated schools” where white students comprise 10 percent or less of the student body. *Id.* at 9. Latinos also disproportionately attend high-minority, racially isolated, and high-poverty schools. *Id.* See also NAACP LEGAL DEFENSE FUND & NAT'L WOMEN'S LAW CTR., UNLOCKING OPPORTUNITY FOR AFRICAN AMERICAN GIRLS: A CALL TO ACTION FOR EDUCATIONAL EQUITY (2015), available at http://www.nwlc.org/sites/default/files/pdfs/unlocking_opportunity_for_african_american_girls_report.pdf.
- 108 Gershoff et al., *supra* note 25, at 72 The “parent investment” model “argues that the effect of family income on children will be evident in parents’ decisions about how to allocate a range of resources that include money, time, energy, and support.” See *id.*
- 109 *Id.* The “family stress” model “posits that material hardship takes a major toll on parents’ mental health (particularly depressive symptoms) and relationships with partners, each of which in turn impacts parenting behavior.” See *id.*
- 110 See *id.*; Brooks-Gunn & Duncan, *supra* note 102, at 65 (“The provisions of learning experiences in the home . . . have been shown to account for up to half of the effect of poverty status on the IQ scores of five-year-olds.”).
- 111 Brooks-Gunn & Duncan, *supra* note 102, at 66.
- 112 “[P]oor parental mental health is associated with impaired parent-child interactions and less provision of learning experiences in the home.” *Id.* at 66. See also, e.g., CHILD TRENDS DATABANK, PARENTAL DEPRESSION: INDICATORS ON CHILDREN AND YOUTH 2-3 (Aug. 2014), available at http://www.childtrends.org/wp-content/uploads/2014/08/54_Parental_Depression1.pdf; Ctr. on the Developing Child, Harvard Univ., *Maternal Depression Can Undermine the Development of Young*

- Children* 1, 8 (Working Paper No. 8, 2009), available at <http://developingchild.harvard.edu/wp-content/uploads/2009/05/Maternal-Depression-Can-Undermine-Development.pdf> (“Recent data indicate that, in households below the poverty threshold, one in four mothers of infants is experiencing moderate-to-severe levels of depressive symptoms,” and “[d]epressed mothers engage in less stimulation of their children, potentially reducing the strength of brain circuits involved in learning and memory.”).
- 113 See, e.g., Ross A. Thompson, *Stress and Child Development*, 24 *FUTURE OF CHILD.*, Spring 2014, at 41, 44; Gary W. Evans, Jeanne Brooks-Gunn, & Pamela Kato Klebanov, *Stressing Out the Poor: Chronic Physiological Stress and the Income-Achievement Gap*, *PATHWAYS*, Winter 2011, 16, 21, available at http://stanford.edu/group/scspi/_media/pdf/pathways/winter_2011/PathwaysWinter11_Evans.pdf. But see, Greg J. Duncan, Katherine Magnuson, & Elizabeth Votruba-Drzal, *Boosting Family Income to Promote Child Development*, 24 *FUTURE OF CHILD.*, Spring 2014, at 99, 103-104 (“The biological links between low income and stress are compelling, but no methodologically strong studies have linked poverty to elevated and prolonged stress reactions in children.”).
- 114 See, e.g., Gershoff et al., *supra* note 25, at 19, 21. In this study, researchers found that “it was almost entirely by reducing material hardship that income reduced parent stress. Parent stress in turn was found to affect parent investment and positive parenting behavior, each of which significantly predicts increases in cognitive skills and social-emotional competence, respectively....In direct pathways, material hardship is most strongly associated with increases in parent stress rather than with parent investment or behavior. This increased parent stress is associated with sharp decreases in parents’ abilities to engage in positive behavior, which are in turn associated with decreased likelihood that children will exhibit socially competent behavior themselves.” *Id.*
- 115 See, e.g., Jianghong Li et al., *Parents’ Nonstandard Work Schedules and Child Wellbeing: A Critical Review of the Literature*, 35 *J. OF PRIMARY PREVENTION* 53 (2014) available at https://www.wzb.eu/sites/default/files/publikationen/post-prints/li_parents_nonstandard_work_schedules_and_child_wellbeing.pdf. In this recent review of 23 studies linking parental nonstandard work schedules to child developmental outcomes, 21 reported a statistically significant negative association between such schedules and at least one child developmental outcome, with “parental depressive symptoms, low quality parenting, reduced child-parent interaction and closeness, and a less supportive home environment” identified as potential mediating factors. Across studies, effect sizes were “larger in low-SES, low-income, and single parent families,” as well as for preschool-age or younger children. See also Joseph G. Grzywacz et al., *Nonstandard Work Schedules and Developmentally Generative Parenting Practices: An Application of Propensity Score Techniques*, 60 *FAM. REL.* 45, 45 (2011) (finding that “women who worked full time in a nonstandard schedule job during the first year had poorer maternal sensitivity at 24 and 36 months” and “provid[ing] strong evidence that full time maternal employment in nonstandard schedule jobs may interfere with the creation and maintenance of developmentally generative parenting practices”).
- 116 Anna Gassman-Pines, *Low-Income Mothers’ Nighttime and Weekend Work: Daily Associations with Child Behavior, Mother-Child Interactions, and Mood*, 60 *FAM. REL.* 15, 23 (2011) (study of 61 low-income mothers and their preschool-aged children found “a consistent pattern of associations showing that mothers’ work during nighttime hours was related to negative consequences for children and families on that day;” for example, mothers experienced greater fatigue and work-family conflict and were less likely to engage in activities like reading with their children, and their children displayed fewer positive behaviors); Pamela Joshi & Karen Bogen, *Nonstandard Schedules and Young Children’s Behavioral Outcomes Among Working Low-Income Families*, 69 *J. OF MARRIAGE AND FAM.* 139, 153 (2007) (study examining sample of low-income working mothers in three urban areas with children aged 2 to 4 found that mothers working nonstandard schedules reported more parenting stress than those working standard schedules, while their children exhibited more externalizing behavior problems and fewer positive behaviors).
- 117 Stephanie S. Daniel et al., *Nonstandard Maternal Work Schedules During Infancy: Implications for Children’s Early Behavior Problems*, 32 *INFANT BEHAV. & DEV.* 195, 203-04 (2009) (finding that “exposure to nonstandard maternal work schedules during the first year of life predicts subsequent child behavior problems at 24 and 36 months of age,” especially among children with more reactive temperaments, likely due in part to higher levels of depression among mothers working nonstandard schedules). See also E. Rosenbaum & C.R. Morett, *The Effect of Parents’ Joint Work Schedules on Infants’ Behavior Over the First Two Years of Life: Evidence from the ECSLB*, 13 *MATERNAL AND CHILD HEALTH J.* 732, 732 (2009) (in a study of infants living with employed, co-resident parents, finding that infants with at least one parent who works nonstandard hours have significantly more behavior problems than do infants with parents who both work regular day shifts, partly accounted for by shift work’s negative association with father-child interaction, marital quality, the frequency of shared family dinners, and parental health, including paternal depression).
- 118 See Wen-Jui Han, *Shift Work and Child Behavioral Outcomes*, 22 *WORK, EMP. & SOC.* 67 (2008). Han found that longer periods of parents’ work during non-day shifts throughout their children’s lives was associated with more behavioral problems for children at ages 4 through 10. Results did not indicate that the association was stronger for any one type of non-day shift (i.e., evenings, nights, or variable hours). *Id.*
- 119 Wen-Jui Han, Daniel P. Miller, & Jane Waldfogel, *Parental Work Schedules and Adolescent Risky Behaviors*, 46 *DEV. PSYCHOL.* 1245, 1261 (2010). Researchers found that longer periods of parents’ work during non-day shifts throughout their children’s lives was associated with higher incidence of risky behaviors (such as smoking, drinking, and drug use) among 13- and 14-year-olds. *Id.*

- 120 See Han, *supra* note 118 (finding that “children whose mothers worked non-day shifts and who had almost always . . . lived in single-mother families, in low-income families, in families where mothers worked in a cashier or service occupation, or in families where mothers worked full-time,” on average had a predicted Behavioral Problems Index score of 8.82, 70 percent higher than the predicted score (5.19) for other children); Han, Miller, & Waldfogel, *supra* note 119, at 1257 (finding that effects of parents’ nonstandard work schedules were “particularly pronounced for . . . children in poor families, and children whose mothers never worked as professionals,” and that “mothers’ schedules tended to have stronger effects in families in which they were sole parents for more years”).
- 121 Erika C. Odom, Lynne Vernon-Feagans, & Ann C. Crouter, *Nonstandard Maternal Work Schedules: Implications for African American Children’s Early Language Outcomes*, 28 EARLY CHILD. RES. Q. 379 (2013). In a study of African American families living in low-wealth rural areas, Odom and her colleagues found that mothers’ employment in nonstandard schedules when their children were 24 months old was associated with lower expressive language ability at both 24 and 36 months, potentially due to the impact of mothers’ work schedules on their positive engagement with their children and feelings of negative work-family spillover: “Our findings suggest that stressful job conditions, like nonstandard work schedules, may adversely affect developmental outcomes for young children by decreasing African American mothers’ engagement in sensitive and cognitively stimulating parenting behaviors.” *Id.* See also Wen-Jui Han, *Maternal Nonstandard Work Schedules and Child Cognitive Outcomes*, 76 CHILD DEV. 137, 137, 152 (2005). In a study of a larger national data set, Han found negative effects of maternal nonstandard schedules on children’s cognitive outcomes in the first three years of life, “particularly if these schedules began in the first year of life, and particularly for measures of cognitive development at 24 months and expressive language at 36 months”; outcomes for the three different nonstandard work hours (evenings, nights, and variable hours) were not significantly different from each other. *Id.*
- 122 Wen-Jui Han & Liana E. Fox, *Parental Work Schedules and Children’s Cognitive Trajectories*, 73 J. OF MARRIAGE AND FAM. 962, 962 (October 2011). In this longitudinal study, Han and Fox examined children’s reading and math trajectories from age 5 to 6 and 13 to 14, and found that longer periods of nonstandard work were linked to poorer cognitive outcomes; specifically, “having a mother who worked more years at a night shift was associated with lower reading scores, having a mother work more years at evening or night shifts was associated with reduced math trajectories, and having a father work more years at an evening shift was associated with reduced math scores,” which could be explained by parents’ reduced availability for family meals and knowledge of their children’s whereabouts, as well as non-school demands on children (e.g., doing more household chores after school in parents’ absence. *Id.*
- 123 See, e.g., Gassman-Pines, *supra* note 116, at 26; Joshi & Bogen, *supra* note 116, at 139.
- 124 See, e.g., Kelly D. Davis et al., *Nonstandard Work Schedules, Perceived Family Well-Being, and Daily Stressors*, 70 J. MARRIAGE & FAM. 991 (2008).
- 125 See, e.g., Han & Fox, *supra* note 122, at 972-75.
- 126 Han, Miller, & Waldfogel, *supra* note 119, at 1259. See also Han, *supra* note 118. Interestingly, “children of mothers who had worked non-day shifts for more years and whose family incomes were increasing over time actually had significantly fewer behavior problems.” *Id.*
- 127 In fact, some researchers suggest that it is more accurate to group all nonstandard work together because the often unpredictable nature of nonstandard schedules means they cannot easily be disaggregated into mutually exclusive categories such as night, evening, weekend, or variable shifts. See Joshi & Bogen, *supra* note 116, at 144, 153. See also Grzywacz, et al., *supra* note 115; Odom, Vernon-Feagans, & Crouter, *supra* note 121.
- 128 Rachel Dunifon et al., *Mothers’ Night Work and Children’s Behavior Problems*, 49 DEV PSYCHOL. 1874 (2013). In this study, researchers found “modest associations between exposure to maternal night shift work and higher levels of aggressive and anxious/depressed behavior in children compared to mothers who are not working, those whose mothers work other types of nonstandard shifts, and, for aggressive behavior, those whose mothers work standard shifts,” and observed that “in no model was any other type of nonstandard schedule (i.e., evenings, weekends, or rotating shifts) a significant predictor of children’s behavior, suggesting that night shift work plays a unique role.” *Id.* See also Gassman-Pines, *supra* note 116, at 15 (finding negative effects of nighttime shifts but not weekend shifts); Han, Miller, & Waldfogel, *supra* note 119, at 1245 (finding worse outcomes for children whose parents worked nighttime shifts than children whose parents worked evening shifts); Maureen Perry-Jenkins et al., *Shift Work, Role Overload and the Transition to Parenthood*, 69 J. OF MARRIAGE AND FAM. 123 (finding working evening or night shifts was related to higher levels of depressive symptoms than working day shifts for both mothers and fathers).
- 129 Han, *supra* note 118.
- 130 Rucker C. Johnson, Ariel Kalil, & Rachel E. Dunifon, *Employment Patterns of Less-Skilled Workers: Links to Children’s Behavior and Academic Progress*, 47 DEMOGRAPHY (2012). In this longitudinal study of mothers transitioning from welfare, researchers found that children (ages 2 to 10 at the beginning of the study) whose mothers had fluctuating work schedules exhibited significantly higher levels of behavior problems and were more likely to repeat a grade or be placed in special education. The sample consisted of low-income single mothers, more likely to consistently lack control over their work hours than the more economically diverse samples analyzed by Han & Fox, *supra* note 122, and Han, Miller, & Waldfogel, *supra* note 119. See also JoAnn Hsueh & Hirokazu Yoshikawa, *Working Nonstandard Schedules and Variable Shifts in Low-Income Families: Associations With Parental Psychological Well-Being, Family Functioning, and Child Well-Being*, 43 DEV. PSYCHOL. 620, 629 (2007) (“Working a combination of nonstandard schedules and variable shifts

- may have short-term negative consequences for children's school performance and externalizing behaviors in low-income families").
- 131 See Han & Fox, *supra* note 122, at 972, 975. Han and Fox found that children whose mothers and/or fathers worked variable shifts largely avoided the negative outcomes of children whose parents worked evening or night shifts, and in fact performed higher in math and reading than children whose parents only worked standard schedules. Han and Fox observed that "parents who work variable shifts (possibly signifying greater control over or flexibility in their work schedules) tend to have better knowledge of children's whereabouts, an important protective factor in children's developmental trajectories." *Id.* at 978. In their sample, "mothers who had ever worked variable shifts tended to be more advantaged in a number of sociodemographic characteristics than mothers who had ever worked either evening or night shifts" *Id.* at 969. See also Han, Miller, & Waldfogel, *supra* note 119, at 1249, 1257, 1259. Han, Miller, and Waldfogel found that "years of working at other types of nonstandard schedules [i.e., a schedule outside of standard hours, other than night or evening shifts, including "those that were changed periodically by the employer or rotated as well as those that changed at employees discretion"] by mothers and fathers were linked with greater parental knowledge of children's whereabouts, which acted as a protective factor," diminishing the likelihood of risky behavior in adolescence; in this sample as well, "parents working at other nonstandard schedules were more likely to be married, were older, had higher maternal education, and had higher family income, reflecting the fact that some in this category had work hours that varied as a matter of choice (rather than as a result of their employer's decision)." See *id.*
 - 132 See *supra* note 131, and accompanying text. See also Henly & Lambert, *supra* note 42, at 1006 (finding greater work-life conflict associated with less schedule control in a study of retail employees).
 - 133 See *supra* note 127, and accompanying text (describing challenges measuring nonstandard work in survey data).
 - 134 See, e.g., WATSON & SWANBERG, *supra* note 43, at 13.
 - 135 See, e.g., Toby L. Parcel & Elizabeth G. Menaghan, *Early Parental Work, Family Social Capital, and Early Childhood Outcomes*, 99 AM. J. OF SOC. 972, 1003 (1994) (finding that "employment has its strongest benefits for mothers with better jobs and less benign implications for mothers restricted to routine, monotonous labor at low wages"). In a more recent study of children ages 6 to 13, Yetis-Bayraktar, Budig, and Tomaskovic-Devey found that children whose mothers had higher levels of complexity in their jobs had higher concurrent levels of academic achievement; in addition, mothers' occupational complexity during their children's first three years of life (specifically, occupational complexity revolving "around white-collar skills such as complex work with data or people, autonomy, and supervisory responsibilities") was linked to better academic outcomes for their children. Ayse Yetis-Bayraktar, Michelle J. Budig, & Donald Tomaskovic-Devey, *From the Shop Floor to the Kitchen Floor: Maternal Occupational Complexity and Children's Reading and Math Skills*, 40 WORK & OCCUPATIONS 37 (2013).
 - 136 Maureen Perry-Jenkins et al., *Parents' Low-Wage Work and Children's Development: A Longitudinal Investigation* (Mar. 2015) (unpublished manuscript) (on file with authors).
 - 137 *Id.* See also Perry-Jenkins et al., *supra* note 75, at 1130 (finding that under conditions of high autonomy and supervisor and coworker support, mental health for new parents in low-wage jobs is higher and less likely to decline, and supportive work settings can mitigate the effects of urgent and stressful job conditions); Courtney Pierce Keeton, Maureen Perry-Jenkins, & Aline G. Sayer, *Sense of Control Predicts Depressive and Anxious Symptoms Across the Transition to Parenthood*, 22 J. OF FAM. PSYCHOL. 212 (2008) (finding sense of control a significant predictor of mental health outcomes for mothers and fathers during the first year of parenthood, with increases in sense of control linked to decreases in anxiety and depressive symptoms over the course of 14 months).
 - 138 Lyndall Strazdins et al., *Job Quality and Inequality: Parents' Jobs and Children's Emotional and Behavioural Difficulties*, 70 SOC. SCI. & MED. 2052 (2010). Job control is defined as freedom over how the job gets done; perceived security is feeling secure about the job's future; flexibility refers to the ability to change start and stop times; and access to paid family-related leave refers to paid parental leave and paid personal or family leave. This study analyzed cross-sectional data for 2004 from the *Growing Up in Australia* study, a nationally representative sample of 4- to 5-year-old children and their families. *Id.*
 - 139 *Id.*
 - 140 See generally WINSTON, *supra* note 81, at 5.
 - 141 See, e.g., U.S. DEP'T OF LABOR, *supra* note 91, at 21-22; WINSTON, *supra* note 81, at 5; Lawrence M. Berger, Jennifer Hill, & Jane Waldfogel, *Maternity Leave, Early Maternal Employment and Child Health and Development in the US*, 115 ECON. J. F29, F33 (2005).
 - 142 MINN. DEP'T OF HEALTH, CTR. FOR HEALTH EQUITY, WHITE PAPER ON PAID LEAVE AND HEALTH 16 (Mar. 2015), available at <http://www.health.state.mn.us/news/2015paidleave.pdf> (citing HUMAN IMPACT PARTNERS & S.F. DEP'T OF PUB. HEALTH, A HEALTH IMPACT ASSESSMENT OF THE HEALTHY FAMILIES ACT OF 2009 24 (Jun. 2009), available at http://go.nationalpartnership.org/site/DocServer/WF_PSD_HFA_HealthImpactAssessment_HIA_090611.pdf?docID=5101).
 - 143 See, e.g., Janet Currie, *Health Disparities and Gaps in School Readiness*, 15 FUTURE OF CHILD, 117, 118 (2005), available at <http://files.eric.ed.gov/fulltext/EJ795844.pdf>.
 - 144 See generally Clemans-Cope, *supra* note 98.
 - 145 See generally MINN. DEP'T OF HEALTH, *supra* note 142, at 13-14.

- 146 See, e.g., Gordon Dahl & Lance Lochner, *The Impact of Family Income on Child Achievement: Evidence from the Earned Income Tax Credit* (Nat'l Bureau of Econ. Research, Working Paper No. 14599, Dec. 2008).
- 147 See, e.g., Duncan et al., *supra* note 102, at 88.
- 148 See generally Jody Heymann et al., *The Impact of Labor Policies on the Health of Young Children in the Context of Economic Globalization*, 34 ANN. REV. PUB. HEALTH 355 (2013) (reviewing the literature).
- 149 Mark A. Schuster et al., *Perceived Effects of Leave from Work and the Role of Paid Leave Among Parents of Children with Special Health Care Needs*, 99 AM. J. PUB. HEALTH 698, 703 (2009), available at <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2661484/>.
- 150 See, e.g., Henly & Lambert, *supra* note 42, at 1006 (finding greater schedule input is negatively associated with perceived stress); Swanberg et al., *supra* note 75.
- 151 See SUZANNE HELBURN ET AL., COST, QUALITY, AND CHILD OUTCOMES IN CHILD CARE CENTERS (1995); ELLEN S. PEISNER-FEINBERG ET AL., THE CHILDREN OF THE COST, QUALITY, AND OUTCOMES STUDY GO TO SCHOOL (Oct. 1999), available at http://fpg.unc.edu/sites/fpg.unc.edu/files/resources/reports-and-policy-briefs/NCEDL_CQO_technical_report.pdf; Eric Dearing, Kathleen McCartney, & Beck A. Taylor, *Does Higher Quality Early Child Care Promote Low-Income Children's Math and Reading Achievement in Middle Childhood?*, 80 CHILD DEV. 1329 (2009); NAT'L RESEARCH COUNCIL & INST. OF MED., FROM NEURONS TO NEIGHBORHOODS: THE SCIENCE OF EARLY CHILDHOOD DEVELOPMENT (Jack P. Shonkoff & Deborah A. Phillips eds., 2000).
- 152 U.S. DEP'T OF HEALTH AND HUM. SERVS., NAT'L INST. OF CHILD HEALTH AND HUM. DEV. (NICHD), NICHD STUDY OF EARLY CHILD CARE AND YOUTH DEVELOPMENT 1 (2006), available at https://www.nichd.nih.gov/publications/pubs/documents/seccyd_06.pdf.
- 153 See Dearing, McCartney, & Taylor, *supra* note 151.
- 154 Julia R. Henly & Susan Lambert, *Nonstandard Work and Child-Care Needs of Low-Income Parents*, in WORK, FAM., HEALTH, & WELL-BEING 473, 485 (S. Bianchi, L. Casper, & R. Kind eds., 2005).
- 155 See Heather Sandstrom and Ajay Chaudry, "You have to choose your childcare to fit your work": *Childcare Decision-Making Among Low-Income Working Families*, 18 J. OF CHILD. & POV. 89, 90 (2012); AJAY CHAUDRY ET AL., URBAN INST., CHILD CARE CHOICES OF LOW-INCOME WORKING FAMILIES (2011), available at <http://www.urban.org/sites/default/files/alfresco/publication-pdfs/412343-Child-Care-Choices-of-Low-Income-Working-Families.PDF>; Julia R. Henly & Sandra Lyons, *The Negotiation of Child Care and Employment Demands Among Low-Income Parents*, 56 J. OF SOC. ISSUES 683, 684 (2000).
- 156 See ROLF PENDALL ET AL., URBAN INST., DRIVING TO OPPORTUNITY: UNDERSTANDING THE LINKS AMONG TRANSPORTATION ACCESS, RESIDENTIAL OUTCOMES, AND ECONOMIC OPPORTUNITY FOR HOUSING VOUCHER RECIPIENTS 3 (2014), available at <http://www.urban.org/sites/default/files/alfresco/publication-pdfs/413078-Driving-to-Opportunity-Understanding-the-Links-among-Transportation-Access-Residential-Outcomes-and-Economic-Opportunity-for-Housing-Voucher-Recipients.PDF> (noting that "income is one of the strongest correlates of automobile ownership").
- 157 HELEN D. WARD, ERIN OLDHAM LACHANCE, & JULIE ATKINS, UNIV. OF S. ME., MUSKIE SCH. OF PUB. SERV., NEW AMERICANS: CHILD CARE DECISION-MAKING OF REFUGEE AND IMMIGRANT PARENTS OF ENGLISH LANGUAGE LEARNERS 16-17 (2011).
- 158 Low-income families are more likely to have a child with disabilities or special needs. The National Survey of America's Families found that 16.0 percent of families with incomes under 150 percent of poverty and 11.8 percent of families with incomes from 150 to 300 percent of poverty had a child with disabilities, compared to 8.6 percent of families with incomes above 300 percent of poverty; 11.0 percent of families with incomes under 150 percent of poverty and 5.4 percent of families with incomes from 150 to 300 percent of poverty had a child with a health problem, compared to 2.2 percent of families with incomes above 300 percent of poverty; 11.4 percent of families with incomes under 150 percent of poverty and 8.2 percent of families with incomes from 150 to 300 percent of poverty had a child with a behavior problem, compared to 5.5 percent of families with incomes above 300 percent of poverty. (However, the study was not able to determine whether economic insecurity contributed to children's special needs or whether children's special needs contributed to family's economic insecurity by making it difficult for parents to work.) See HELEN WARD ET AL., CATHERINE E. CUTLER INST. FOR CHILD AND FAMILY POLICY, UNIV. OF S. ME., CHILD CARE AND CHILDREN WITH SPECIAL NEEDS: CHALLENGES FOR LOW INCOME FAMILIES 6:27-6:28 (2006), available at <http://muskie.usm.maine.edu/Publications/CYF/Children-With-Special-Needs-Challenges-for-Low-Income-Families.pdf>.
- 159 *Id.* at 6:27.
- 160 An analysis of Survey of Income and Program Participation data found that, among low-income working mothers with children up to age five and living with a partner, 32 percent of those with a nonstandard schedule compared to 21 percent of those with a standard schedule regularly used nonparent relative care; among single low-income working mothers with children up to age 5, 49 percent of those with a nonstandard schedule compared to 30 percent of those with a standard schedule regularly used nonparent relative care. ("Low-income" is defined as families with incomes below 200 percent of poverty. Also note that small samples sizes precluded the researchers from differentiating between child care arrangements of parents who worked evening or night shifts from those who had irregular schedules.) MARIA E. ENCHAUTEGUI, MARTHA JOHNSON, & JULIA GELATT, URBAN INST., WHO MINDS THE KIDS WHEN MOM WORKS A NONSTANDARD SCHEDULE? 16-21 (2015), available at <http://www.urban.org/sites/default/files/alfresco/publication-pdfs/2000307-Who-Minds-the-Kids-When-Mom-Works-a-Nonstandard-Schedule.pdf>. A survey of garment workers in Los Angeles, who typically work nonstandard schedules, found that 83 percent used informal child care arrangements. GARMENT WORKER CENTER, RESEARCH ACTION DESIGN & UCLA LABOR CTR., HANGING BY A THREAD! LOS ANGELES GARMENT WORKERS' STRUGGLES TO ACCESS QUALITY CARE FOR THEIR CHILDREN 18 (2015), available at <http://garmentworkercenter.org/report-hanging-by-a-thread/>.

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- 164 *Id.* at 23.
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