

GETTING INVOLVED WITHOUT LOSING YOUR JOB: Promoting and Protecting Parental Involvement in New York City Schools Through Education Leave Policies

Advocacy Briefing

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THE IMPOSSIBLE CHOICE

Maria is a secretary at a building supply company in Brooklyn. She is a single mother who works each day from 8:00 A.M. to 5:30 PM and earns \$9 an hour. Her 10-year-old son, John, has been "acting out" in class. His teacher has scheduled a meeting with a social worker and a school counselor: they have asked Maria to attend the meeting because they feel her involvement as a parent is vital in order to resolve John's problems at school. Maria desperately wants to attend the meeting, but she is scheduled to work. A week before the scheduled meeting, Maria asks her boss if she can leave a few hours early to attend. Her boss gruffly replies that he can't afford to give her special treatment and if she insists on missing work, he could easily hire someone else to do her job. Maria can't risk losing her job, as she is the only source of her family's income. She is left with no choice but to miss the scheduled school meeting.

Thousands of working parents across New York City face a problem similar to Maria's every day. These parents must decide between being involved in their children's education and keeping their jobs, even when involvement would only mean the loss of a few hours of work. As a result, family, school and government resources suffer. For example:

- *Parents* face retaliation from employers, including harassment or possible termination, if they take time off to tend to their child's needs at school.
- *Schools* are unable to increase parental involvement, which has been proven vital for school improvement and student progress.
- *Children* are forced to face school-related issues alone, such as unwarranted class changes, harassment from schoolmates, etc., without the direct intervention or involvement of their parents.
- *Government Resources* devoted to parental involvement are wasted because many parents cannot take advantage of strategies that New York City, New York State and the federal government have created to support participation in education.

Time and time again, working parents list work-related obligations as a primary reason for missing school meetings, activities or volunteer opportunities. According to recent studies, seventy-five percent of parents whose children scored in the bottom quarter of

reading and math tests state they have little flexibility regarding time off from work.¹ Whether employers specifically forbid employees from taking leave to attend school-related meetings or merely lack official policies to allow workers to utilize such leave, the result is the same: parents miss community education sessions, teacher conferences, school programs and even graduations.

PARENTAL INVOLVEMENT IN PUBLIC SCHOOLS: AN IMPORTANT RIGHT THAT REQUIRES PROTECTION

Engagement or involvement of a parent—which includes custodial parent(s), non-custodial parent(s), guardian(s) or any supportive adult involved in a child’s upbringing—in their children’s education can take many forms, from being involved in a child’s classroom to attending parent education classes. Appleseed has compiled and summarized social science research demonstrating that when parent involvement is introduced into schools the results are outstanding: students achieve higher grade point averages, standardized test scores rise, there are higher attendance rates and noted improvements in student behavior. Connected parents also maintain vitally important formal and informal communication channels with teachers, administrators, and fellow parents. The productive working relationships formed by involved parents ultimately strengthen school and community learning environments through mutual accountability.

The campaign for parental involvement in New York City’s public schools has become a primary concern. New York City Mayor Michael Bloomberg and Schools Chancellor Joel Klein have both emphasized the importance of parental involvement in improving New York City’s public schools. Mayor Bloomberg once stated that “enlisting parents as partners is essential” to improving New York’s schools.² All New York City schools have parent involvement policies. These policies are intended to inform parents of how the school will work with the community to assist students in meeting academic standards. They address a range of issues, including:

- Parental rights and responsibilities;
- Listing of annual or regular parent meetings;
- Opportunities for parents to get involved in student achievement-oriented programs;

¹ Garcia, L., “Unpaid leave will help parents and kids,” *Denverpost.com* (March 4, 2009), *available at* http://www.denverpost.com/headlines/ci_11828409.

² See Press Release “Mayor Bloomberg and Chancellor Klein Appoint new Chief Family Engagement Officer and Launch Enhanced Efforts to Reach out to Public School Parents,” (Feb. 27, 2007) *available at* <http://www.nyc.gov>.

- Programs for parents, including family literacy and education classes;
- Parental involvement in training and collaboration programs;
- Resources for language access, childcare and/or transportation to facilitate parental involvement.

Moreover, the importance of parental involvement in the success of public education has been noted at both the federal and local levels of government. Under the No Child Left Behind Act of 2001, receipt of certain federal funding is conditioned on local school agency implementation of programs designed to increase parental involvement in their children's schools.³ On August 6, 2009, the New York State Senate passed bill S. 6107, an amendment to the State Education Law mandating the creation of a new parent and student training center at the City University of New York. Pending approval by the NY State Assembly, the center will support and train parents and other primary student caregivers who reside in New York City to assist in the design and implementation of programs for parental involvement within public schools in each of the five boroughs. At the local level, Mayor Bloomberg and Chancellor Klein demonstrated their interest in increasing parental involvement through their creation of the position of "Chief Family Engagement Officer," a post established as part of a larger effort to encourage parents to become more involved in their children's schools.⁴

Although the educational experience of New York City's school children would be greatly strengthened by increased parental involvement, a significant number of parents find themselves unable to participate. Parents, particularly low income and hourly-wage employees often face an impossible choice when not allowed to attend parent-teacher conferences and other vital school functions by their employers. In a recent study of working parents, more than half listed employment-related obligations as a primary reason for missing school-related activities.

GOVERNMENT RESPONSE TO PARENTS IN NEED

Some states and municipalities have responded to the barriers working parents face by enacting laws that forbid harassment and termination of employees seeking time off to attend to education-related obligations. As of September 2009, 14 states,⁵ the District of Columbia and two cities⁶ have enacted parental leave legislation and in many more

³ See 20 U.S.C. § 6318 (2006).

⁴ See *supra* note 2.

⁵ California, Colorado, District of Columbia, Hawaii, Illinois, Louisiana, Massachusetts, Minnesota, Nevada, North Carolina, Oregon, Rhode Island, Tennessee, Texas and Vermont.

⁶ Boston, MA and Indianapolis, IN.

states⁷ similar legislation has been proposed. These laws provide for unpaid leave for parents or guardians to attend to their children’s school-related needs. Such leave generally may be substituted for any accrued vacation and/or other paid leave. Typically, these laws apply only to employers with at least 25 or more employees at one location; require advance notice and written verification from the school; grant anywhere between eight and 40 hours of educational leave per year; and provide enforcement mechanisms to protect employees from harassment and termination for taking an active role in their children’s education.

Examples of enacted parental-leave legislation include:

- California:** a parent, guardian or grandparent who has custody of a child enrolled in a California public or private school or a licensed child-care facility and is an employee of a business that has 25 or more employees at the same location may take up to 40 hours of leave each year (up to eight hours in any calendar month) upon giving reasonable notice.⁸ If such employee is discharged, threatened with discharge, demoted, suspended, or in any other manner discriminated against by his or her employer because the employee has utilized this leave, he or she is entitled to reinstatement and reimbursement for lost wages and work benefits. Any employer who willfully refuses to rehire, promote, or otherwise restore an employee or former employee determined to be eligible for rehiring or promotion by a grievance procedure, arbitration, or hearing authorized by law is subject to a civil penalty equal to three times the amount of the employee’s lost wages and work benefits.⁹
- Colorado:** on June 1, 2009, Governor Ritter signed the “Parental Involvement in K-12 Education Act.”¹⁰ This new law requires Colorado employers with 50 or

⁷ In 2008 and 2009, bills relating to educational leave for parents or guardians have been introduced in the following states: (a) bills providing unpaid school involvement leave: New Jersey (AB 1180, introduced Jan. 1, 2008); New Mexico (SB 385, introduced Jan. 29, 2009); New York (SB 1211, introduced Jan. 27, 2009, AB 6183, introduced Feb. 26, 2009, AB 6705, introduced March 11, 2009, SB 2453, introduced Feb. 20, 2009); Oklahoma (HB 638, introduced Feb. 26, 2009); Virginia (HB 792, introduced Jan. 8, 2008); Wisconsin (SB 86, introduced Feb. 25, 2009); and Texas (HB 615, introduced Jan. 14, 2009, SB 648, introduced Feb. 3, 2009); (b) bills providing paid school involvement leave: Indiana (SB 427, introduced Jan. 12, 2009); New York (AB 6705, introduced March 11, 2009); South Carolina (NB 3865, introduced April 1, 2009); and West Virginia (HB 2563, introduced Feb. 17, 2009); and (c) bills providing a tax incentive for school involvement leave: Indiana (SB 427, introduced Jan. 12, 2009); Louisiana (HB 269, introduced April 9, 2009); and South Carolina (HB 3865, introduced April 1, 2009).

⁸ See CAL. LAB. CODE § 230.8 (first enacted in 1995, expanded in 1997 to include licensed child-care facilities).

⁹ See *id.* at § 230.8(d).

¹⁰ See COLO. REV. STAT. §§ 8-13.3-101 *et seq.* (2009).

more employees to grant up to six hours per month (up to 18 hours per academic year) of unpaid leave to full-time employees (pro rated for part-time employees) for the purpose of attending an academic activity (such as a parent-teacher conference or any meeting relating to special-education services, dropout prevention, attendance, truancy or disciplinary issues) for or with the employee's child.

- **Oregon:** an employee who has worked more than 25 hours/week for more than 180 days is eligible to take up to five hours of school activity leave per month (up to 35 hours per year) upon giving a seven-day notice to employer.¹¹

Examples of proposed parental-leave legislation include:

- **Wisconsin:** the legislature is currently considering bills AB 116 and SB 86, which propose to allow any employee of any employer, including the state, employing at least 50 individuals within the state, to take up to 16 hours of unpaid leave per 12-month period when necessary to allow the employee to attend school conferences and classroom activities of their children at daycare through 12th grade programs.¹²
- **Indiana:** the legislature considered bill SB 427, which would require employers (for-profit companies that have state tax liability only) of employee parents who have been employed at least 75% of full-time equivalent for at least 12 months to provide paid parental leave of up to six hours per year for school conferences when such conferences cannot be scheduled during the employee's nonworking hours. The bill also provides for enforcement by the Commissioner of Labor and provides a state tax credit for employers who provide such leave.¹³

By contrast, New York provides no such protection for parental participation in their children's education. In New York, working parents who merely seek time to be involved in their children's education have no protection from retaliatory harassment or termination by their employers. New York Appleseed supports passage of a progressive New York City ordinance that would provide parents with at least 16 hours of annual "educational leave," affording them the opportunity to increase their involvement in their child's education.

¹¹ See OR. REV. STAT. §§ 659A.156 to .165 (2009).

¹² See WI. A.B. 116 (2009).

¹³ See IN. S.B. 427 (2009).

PARENTAL LEAVE: HOW IT WOULD WORK?

New York Appleseed proposes the adoption of a New York City ordinance to protect working parents from being harassed or terminated by their employers as they seek to pursue involvement with their children's education. New York Appleseed's proposed ordinance would be effective and useful legislation: a straightforward workplace rule that would be visible to all employees and would signal important recognition by local government of the essential value of parental involvement in education.

Employers will also benefit from the proposed ordinance. Surveys have demonstrated that productivity and employer profits increase when employees are able to balance work and family.¹⁴ Employees able to balance work and family responsibilities report a reduction in stress-related illnesses, resulting in reduced health-care costs for employers and an overall increase in productivity.¹⁵ In fact, employees cite work-life balance as the second most important reason for staying on a job.¹⁶ According to Corporate Voices for Working Families, a non-profit corporate membership organization, family-friendly workplace policies, such as an educational leave policy, are a good economic investment, as employers' ability to recruit and train the best talent, decrease turnover and training costs and boost overall productivity increase if they are viewed as "family-friendly."¹⁷

The following is a broad outline of New York Appleseed's proposed "educational leave" ordinance:

- New York Appleseed proposes the adoption of a city ordinance requiring all employers with a minimum of 25 employees working at any single location (including agencies of New York City and State) not to discriminate against a parent requesting time off from work to attend a school function for his or her child.
- The proposed ordinance applies only to full-time employees.

¹⁴ See Lorena Garcia, Daily Camera, "Parental Involvement Key to Student Success" (Feb. 22, 2009), available at <http://www.dailycamera.com/news/2009/feb/22>.

¹⁵ See *id.*

¹⁶ See Levin-Epstein, J. "Getting punched: The job and family clock." Washington, D.C. Center for Law and Social Policy (CLASP) (2006).

¹⁷ See Corporate Voices for Working Families, Recommendations submitted by Corporate Voices to the Senate Staff Working Group on Workplace Flexibility in June 2009 (June 26, 2009), available at <http://www.cvworkingfamilies.org/system/files/FINALSenateFlexgroup.pdf>.

- The proposed ordinance applies to all working parents. New York Appleseed proposes that, for purposes of this ordinance “parent” shall mean the biological and/or adopted parent of a child attending a New York City public school; a legal guardian of a child; a person who acts as a guardian of a child regardless of whether he or she has been appointed legally as such; an aunt, uncle or grandparent that has taken on the role of primary caretaker of a child; or a person who is married to a person named above.¹⁸
- Educational leave may be used to attend to the educational needs of the employee’s child(ren) which may include, but are not limited to: meeting with teachers or administrators at the school; volunteering at the school; chaperoning a class trip; attending a school activity, performance, or sporting game or practice of a school team; and visiting and/or enrolling a child in a new school. The use of educational leave is not limited to activities occurring during the school day; it may include events or opportunities to support the educational needs of the child that occur at night or on weekends.
- The proposed ordinance will require employers to whom the ordinance will apply to provide 16 hours of unpaid “educational leave” each calendar year to every full-time employed worker in New York City, not to exceed six (6) hours in any given month. Employees may elect to substitute accrued paid vacation leave, sick leave, personal leave or other paid leave.
- The proposed ordinance will allow employers to reasonably limit the ability of an employee to take leave in cases of substantial business disruption or emergency that necessitate the presence of the employee or other situations that may endanger a person’s health or safety.
- The proposed ordinance will apply to all parents with children attending a New York City public school. “Public school” shall mean all public schools, including charter schools, in New York City funded entirely or partially by the City of New York.
- The proposed ordinance would require employees to follow certain procedures in order to enjoy the protection of the ordinance. Employees may be required to provide their employer with two days notice prior to taking educational leave

¹⁸ District of Columbia’s Parental Leave regulation defines “parent” similarly. See D.C. Code § 32-1201 *et seq.* (1994).

and the employee may also be required to provide written verification of their activities from their child's school.

New York Appleseed's proposed ordinance can be effectively enforced by providing for financial incentives to employers who comply with the ordinance, and by providing for financial remedies against employers who violate the ordinance. For example:

- New York Appleseed recognizes that providing added flexibility to employees may prove challenging for some employers and, therefore, proposes creating a city tax credit for all employers who comply with the ordinance. This tax credit will be provided to (i) employers who must comply with the ordinance and (ii) employers who are not required to comply with the ordinance, but who still voluntarily provide "educational leave" as described in the ordinance.
- Employees who are harassed or terminated will be entitled to immediate reinstatement and reimbursement of any lost wages and work benefits which result from the harassment or termination. An employer determined to have violated the ordinance may be required to pay to the employee damages (lost wages, benefits, and consequential damages, if any). An employee may bring a civil action against the employer in any court of competent jurisdiction to enforce the provisions of the ordinance within the applicable statute of limitations.

CONCLUSION

A New York City parental leave ordinance will complement recent Senate Bill No. 6107, proposing the establishment of parental training centers throughout New York City. Parental leave would enable parents to utilize such training more effectively, allowing parents to gain a better understanding of all aspects of New York City's educational system, including eligibility and enrollment in various programs available to their children such as gifted and talented, special education, or English language learner programs. Involved parents may also communicate more effectively with teachers, schools and district administrators and get involved with community-based parent associations and leadership teams. Involved parents will also be able to keep better track of their children's scholastic performance at home. Parental educational leave will improve learning environments and educational experiences for New York City's public school children.

ABOUT NEW YORK APPLESEED

New York Appleseed is one of 16 non-profit Appleseed public interest justice Centers in the U.S. and Mexico, all of which uncover and correct social injustices through legal services, legislative and market-based advocacy. Our programs focus on expanding access to opportunity through promoting structural reforms in areas such as education, healthcare and financial justice. We work closely with broad coalitions of community advocates to identify systemic barriers to justice and opportunity, and engage diverse groups of partners, including law firms and other professionals working pro bono, as advocates for change. Working across academic, government and private sectors, New York Appleseed fills a critical niche by serving as an “acting think tank” for New York City’s most vulnerable populations.

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