



**Testimony of Joanna Blotner, Campaigns Manager, Jews United for Justice  
on behalf of DC Paid Family Leave Coalition  
Public Oversight Roundtable on the Implementation of Law 21-264,  
The Universal Paid Leave Amendment Act  
Committee on Labor & Workforce Development  
Wednesday, October 16, 2019**

Thank you for holding the FY19 Quarter 4 public oversight roundtable on the implementation of the Universal Paid Leave Amendment Act (Law 21-264) and allowing me to submit written testimony on behalf of the DC Paid Family Leave Coalition. My testimony primarily focuses on concerns in the recently released proposed benefit regulations and suggestions/requests regarding public outreach efforts in anticipation of the program's full launch in less than a year. I have also included a list of questions I hope will be asked at the hearing about other essential elements of the paid leave program.

I want to start my testimony by first praising the Office of Paid Family Leave on all the good work they are doing to implement the District's paid family and medical leave program, and I want to thank them for implementing so many of the recommendations that have been surfaced during these oversight roundtables. The program website continues to improve and be an excellent resource for all stakeholders in the District. Notably, the added careers, translated documents, and events sections of the website are excellent enhancements. Further, the updated layout of the resources tab helps streamline document and information searching in intuitive, user-friendly ways. The pre-recorded webinars are also helpful, straightforward tools that provide a personal touch of support to complement the extensive in-person outreach efforts OPFL has engaged in with the business and self-employed communities. All of these online and in-person efforts are excellent models for how the District government can and should serve the public in high-quality, customer-service focused ways. And, while our coalition may disagree with some components of the agency's interpretation of the law, it is clear that the staff at OPFL approached the drafting of benefit regulations from a thoughtful and thorough perspective and we are grateful for all the time and effort they put into that product, and for being so open to feedback. Director Morris-Hughes, Associate Director Madison, and the entire staff at OPFL should be commended for their hard work this past quarter to ensure no one working in the District has to choose between their job and family.

### **Benefit Regulations**

Included with my written testimony submission is a copy of the comments I prepared on behalf of Jews United for Justice responding to the proposed benefit regulations released in August. I encourage the committee to review those comments (apologies for length!) - and the redline version of the regulations also submitted - to understand the scope of our coalition's concerns and recommendations regarding the proposed benefit regulations. We recognize that time is running short to finalize program rules, as rollout of so many other components of the paid leave program hinge on completed regulations, but we implore the Department to take seriously our concerns and make necessary revisions to ensure no one is inadvertently

locked out of access to leave benefits they are otherwise entitled to by law. Summarized below are our top concerns and requests for revisions to the benefit regulations:

### **1. Remove eligibility barriers related to current employment**

*Pages 4-12 of JUFJ's comments*

As has been discussed at previous hearings and during previous comment periods, we believe DOES's interpretation that an applicant must be currently employed when applying for benefits contravenes the law. Maintaining this language in the regulations could put both leave benefits and the comfort with requesting leave from work at all out of reach to thousands of employees of small businesses and others not covered by DCFMLA, workers who are retaliated against or otherwise let go due to pregnancy or other leave needs, workers with irregular job schedules or those in high turnover industries, and more. The Universal Paid Leave Act was intentionally designed to provide portable social insurance benefits and a 'current employment' requirement undermines that intention in ways that are harmful to workers, businesses, and the government. **We urge DOES to remove Section 3500.1(c)(1)(A) of the regulations; if DOES will not act then we urge the Council to pass emergency legislation that provides clarity and/or a fix to preempt this portion of the forthcoming final rules.**

### **2. Revise claims filing processes**

*Pages 17-24 of JUFJ's comments*

We are concerned that the proposed regulations' benefit claims application procedures create unnecessary barriers to paid leave usage, and ones that will be especially hard to navigate for those who need to use leave benefits on an intermittent basis or in emergency health situations. Paid leave programs are intended to ease financial burdens and stresses for working families but rigid application procedures will have the opposite effect, thereby diminishing the public health and economic security benefits the District could expect to see as a result of implementing the Universal Paid Leave Act. It is essential that DOES to revise claims filing processes to better reflect the lived realities of how people experience leave needs to make the benefits claims process as stress-free as possible for workers and medical professionals. **If DOES believes language in the law prevents them from creating a more reasonable or flexible application process, those concerns should be surfaced today and a legislative fix should be urgently workshopped with the Council and other relevant stakeholders.**

### **3. Remove program usage barriers for people who hold multiple jobs**

*Pages 13-14 of JUFJ's comments*

Individuals who work multiple jobs - who are disproportionately likely to be lower-income people of color - may be inadvertently excluded from paid leave eligibility by prohibitions created in the regulations on earning income or performing any of their regular or customary work on days they are claiming leave benefits. A better interpretation of the Law would be to distinguish between ability to *fully* perform customary work from ability to work a modified schedule, all relative to the type of qualifying event and someone's unique job requirements. Enabling people to continue to work when they are able (mostly for those providing family care and/or using intermittent leave) is a benefit to employers and workers alike. Again, **if DOES believes language in the law prevents them creating this flexibility, those concerns should be surfaced today and a legislative fix should be urgently workshopped with the Council and other relevant stakeholders.**

#### 4. Use “reportable” wages for weekly benefit calculations

*Pages 15-16 of JUFJ's comments*

Section 3503 of the proposed regulations - “Calculation of Weekly Benefit Amount” - should base an eligible individual’s paid leave benefits on wages that were *reportable* to DOES. By tying paid leave benefits to “reportable” versus “reported” wages we can better hold employees harmless in cases of misclassification, wage theft, failures to pay paid leave taxes, or failures to properly classify workers as covered employees for purposes of the program. Additionally, this can level the playing field for high-road employers who are fairly paying their taxes and reporting employee income each quarter to ensure the Paid Leave Implementation Fund is operating at sufficient levels. In situations where full wages were not reported or where wage theft is uncovered in the course of processing someone’s application for leave, DOES should coordinate across the agency - especially with the Office of Wage Hour - to remedy the situation and make that employee whole. **This is an important technical distinction for DOES to update in to the final benefit regulations.**

My full comments explain in detail our many additional concerns with the proposed regulations and their ability to ensure that, come July 2020, the District’s paid leave insurance program will be structured in a way that terves *all* workers facing a wide array of complex family and personal health conditions, while still balancing the needs and concerns of District employers and program administrators. **While the regulations released in August were notably clearer than past draft iterations, substantial revisions are still needed** to erect a fair, just, and inclusive program. We welcome the opportunity to work through our concerns further with DOES, the Council, the employer community, and others so that all stakeholder perspectives can be appropriately heard, honored, and reflected in the final rules.

#### **Public Outreach**

In addition to finalizing regulations and wrapping up the benefit IT procurement processes (in order to move into the system’s build out phases), we are looking forward to OPFL beginning to engage in public education and outreach around benefits in the coming quarter. Our coalition is eager to support and brainstorm with OPFL in these efforts. To build on my previous testimonies before this committee, I specifically encourage OPFL to consider engaging with the following audiences and deploying the following tactics to ensure widespread public education of forthcoming paid leave benefits in advance of July:

1. **Health institutions, practitioners, and professionals across the city should be prepared to play a major role in the promotion, administration, and oversight of DC’s paid family and medical leave program.** These individuals are trusted messengers for their patients about the health benefits of taking leave from work - without financial worry - to care, recover, and/or bond. They will also be on the front lines of patient interaction, assessing eligibility, advising DOES on length of leave determinations, and identifying and preventing fraud. For all these reasons, **it is imperative for DOES to begin engaging the medical community this fall and to expand outreach and engagement over the coming year.** Specifically, DOES should be engaging area hospitals, health clinics, urgent care sites, birth centers, dialysis centers, recovery centers, medical professional associations, medical schools, and individual doctors, nurses, midwives, doulas, nurse practitioners, psychiatrists and psychologists, physical therapists, and more. Medical associations and professionals should also be consulted this fall in the finalization of regulations, development of the benefit application’s medical certification forms, and public notice posters and brochures that will be created for doctor's offices, clinics, hospitals, and more.

2. **Ward- and ANC-level engagement sessions should be conducted in concert with the relevant local elected officials, grasstops community leaders, and service providing organizations.** Targeting outreach at a Ward or ANC neighborhood level will help ensure a systematic and #All8Wards approach to public education, and will also help engage trusted community messengers - such as ANC commissioners, clergy, and health care professionals, etc. - as benefit program amplifiers when events are hosted with hyperlocal cosponsors. Planning events with cosponsors can also help guarantee better turnout: Ward councilmembers and ANC commissioners often maintain constituent listservs that can be used to promote an engagement session; local faith communities in each Ward can promote events to congregants through newsletters and service announcements; health centers, grocery stores, libraries, large apartment and/or office buildings in an ANC can post public bulletins for information sessions (and ANC commissioners will likely have contacts to these entities in their SMD); etc. Additionally, DOES should plan to run geo-targeted social media ads for Ward- or ANC-level engagement sessions when those begin next year. As I have suggested before, too, DOES may want to consider hosting a town hall for ANC commissioners this fall where commissioners are encouraged to invite business owners and health-related entities in their single-member district to attend. Empowering ANC Commissioners to help their business constituents navigate the law may help close the gaps with program compliance among small and micro businesses who may not be receiving (or reading) DOES communications.
3. **Worker rights organizations such as unions, legal service providers, and nonprofit advocacy organizations should be consulted on the public outreach plans, development of worker-focused notices and/or ad campaigns, and invited to cosponsor and table at benefit information sessions.** Many of us in the worker rights community would be thrilled to serve as in-kind event planning and message/image-testing focus group partners and we encourage DOES to take us up on our sincere offers to share in the workload around program rollout. Additionally, it would be an excellent show of partnership and solidarity to allow worker rights organizations to table at OPFL's public education events. Many of us are working to increase public knowledge of unions rights and opportunities, legal recourse when rights have been violated on the job, and uptake/awareness of paid sick days, FMLA/DCFMLA, the Protecting Pregnant Workers Fairness Act, ban-the-box, wage theft and sexual harassment prevention or enforcement resources, and more; all of these rights and resources for workers complement the paid family and medical leave program's efforts to enhance economic security and dignity for the District's working families.
4. **DOES should plan to integrate paid leave public awareness opportunities into District-wide events, systems, and holiday celebrations.** DC and Mayor Bowser regularly present myriad large scale events that draw thousands of District workers and residents and these are ideal opportunities for OPFL to present or table on the District's forthcoming paid leave program. For example, the Mayor's Second Annual Maternal and Infant Health Summit - a District event directly related to the benefits paid leave will provide to growing families - occurred on September 10th but among the two dozen organizations and District initiatives tabling in the community resources section, DOES and the Office of Human Rights were nowhere to be found. This was a missed opportunity to talk to caregivers, expectant parents, medical professionals, and public health advocates about the rights and benefits of paid sick days, the Protecting Pregnant Workers Fairness Act, DCFMLA, caregiving and gender or sex-based discrimination, and the forthcoming paid leave program. Throughout the coming year, better efforts should be made for OPFL to take advantage of opportunities to promote the paid leave program at large-scale District-planned or supported events. Specifically, I would recommend OPFL creating a calendar of plans that includes tabling at the Mayor's budget forums in February, any career fairs DOES plans, back-to-school nights or any education fairs the District hosts to help parents navigate the lottery

system, any Thrive-By-Five planned events including the next Maternal and Infant Health Summit, senior community focused events (so the District's seniors can pass relevant information along to their family members who may need to provide care to their loved ones), neighborhood festivals (MLK Peacewalk, H Street Festival, Adams Morgan Day, Open Streets, etc.), any events the District Health Exchange or Alliance hosts, Councilmember sponsored community events, large winter holiday events, the Emancipation Day parade/festival in April, the Pride festival in June, the Fiesta Festival in September, any Labor Day events in September, any public events planned for Mother's Day and Father's Day, and local disease awareness walks or fundraisers (Race for the Cure, Alzheimer's Walks, Relay for Life, etc.). Showing up where community is already gathering in large numbers will help increase public knowledge of the paid leave benefit program while minimizing work for OPFL. Further, DOES should partner with relevant District agencies to proactively reach out to low-wage and other vulnerable workers with program launch information. Residents who are utilizing TANF, SNAP, and WIC benefits (or other public benefits) should receive paid leave information by mail and/or electronically; those enrolled in Medicaid and the Health Alliance also should. Low-wage working families in DC are the least likely to have any personal experience with rights to paid leave from work and will therefore need more proactive and personalized information to understand their rights and feel comfortable acting upon them when qualifying leave events arise.

- 5. Public education about paid leave benefits should follow the model of the District's Health Exchange which successfully utilized public transit ads, social media, earned media opportunities, health clinic partnerships, and more.** We encourage OPFL to discuss these strategies with representatives from the Health Exchange if they haven't done so already.

In our observations, OPFL executed a successful public engagement strategy for the tax collection component of the paid leave program. Additionally, OPFL representatives received feedback with grace and made clear improvements when and where needed over the past 6-9 months. Many of the tactics used for business outreach can and should be applied to worker outreach, but educating a population of more than 500,000 private-sector District workers will be a larger lift than engaging the District's roughly 80,000 businesses who are registered with the city and who we can therefore contact relatively easily. We hope these public education outreach suggestions are useful as the staff plans its 2020 education campaign and, as always, our coalition is eager to support these efforts in any way we can.

### **Question topics we encourage the Council to explore during the oversight roundtable**

- 1) What is DOES's projected timeline to finalize regulations? How will stakeholders from the worker advocacy and business communities be enrolled in this work of finalizing the program rules?
- 2) What sort of comment feedback did DOES receive on the regulations, what suggestions are they taking most serious for regulations and guidance, and changes are they planning to make to the proposed regulations?
- 3) What are the legislative challenges DOES experienced drafting regulations? Are there legislative fixes that can or should be explored to ensure the paid leave program is as user-friendly and administratively straightforward as possible?
- 4) What is DOES's projected timeline to finalize procurement of the benefits IT system? Is there an updated timeline for the system buildout that can or will be made public?

- 5) Will DOES commit to working with the DC Paid Family Leave Coalition and its partners in worker rights spaces to facilitate 'early and often' user testing opportunities of the benefit IT system?
- 6) What are the learnings from the tax collection IT system rollout? How were the compliance rates for tax collection? For those who did not comply, what is the plan for DOES to remedy this situation?
- 7) Has there been feedback from the employer community on the tax collection IT system with either further praise or suggested improvements? Same for self-employed community.
- 8) Where do things stand with phase two of the tax collection IT system infrastructure? How many employers are seeking refunds? When can they expect those refunds to be issued?
- 9) What is DOES's projected timeline for the public education campaign and is there a detailed work plan and/or calendar that can or will be made public? When can we expect such a work plan for outreach to be finalized?
- 10) How will stakeholders from the worker advocacy, health, and business communities be enrolled in the public education and outreach campaign over the next year? Will DOES commit to working with the DC Paid Family Leave Coalition and its partners in worker rights spaces in a systematic and consistent way to execute public outreach plans, including reviewing and providing feedback on language in guidance materials, design of posters for notice requirements, and public ad content?
- 11) What additional plans or strategies is DOES exploring to further promote self-employed opt-in opportunities in the upcoming open enrollment period? How can our coalition be supportive?
- 12) The October events calendar on the website does not appear to be up to date [as of October 8], is there a plan to update the event listings and keep the content more consistently fresh or evergreen?
- 13) Following up on last quarter's roundtable, what progress has been made to update the employee exception forms to include language alerting workers to their right not to sign the form if they disagree with their employer's assessment and providing OPFL contact information and instructions for how to protest an employer's efforts to exclude them from program coverage? We also requested the language in these forms be made clearer and easier to navigate for workers - will these forms be updated and posted online before the next reporting quarter?
- 14) Are there any budget or spending updates on OPFL's implementation work? Is OPFL sufficiently on budget or, as we start off the new fiscal year, are there any concerns about funding creating barriers to a successful program start-up? How can we remedy these challenges if they exist?
- 15) Are there ways the DC Paid Family Leave Coalition can better support DOES and OPFL in their implementation work?

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We look forward to learning more from this roundtable about DOES's implementation progress - both successes, of which there are many, and challenges - and understanding better DOES's interpretation of the law for regulations. We also hope clear next steps and/or timeline will be discussed. As always, our coalition

is ready and willing to support DOES and the Council in advancing fair, just, and inclusive implementation of DC's paid leave program. Thank you again for allowing me to submit written testimony for this roundtable.