

LEGISLATIVE DIGEST
(3/1/2022, Amended in Board)

[Administrative Code - Amending the Family Friendly Workplace Ordinance]

Ordinance amending the Administrative Code to provide under the Family Friendly Ordinance that Employees shall be permitted a Flexible or Predictable Working Arrangement unless such an arrangement would cause an Employer undue hardship; requiring Employers to engage in an interactive process to find a mutually agreeable Flexible or Predictable Working Arrangement; strengthening enforcement of the Ordinance; and making other changes.

Existing Law

The Family Friendly Workplace Ordinance, Administrative Code Chapter 12Z, provides employees in the City the right to request a flexible or predictable work arrangement from their employers to assist employees in their ability to care for their children, family members with serious health conditions, or parents age 65 or older. An employer may grant the request and confirm it in writing or may deny the request for a bona fide business reason. The employee may request reconsideration of the denial of a request. The Office of Labor Standards Enforcement (OLSE) enforces Chapter 12Z, but it may review an employer's adherence to the procedural, posting, and documentation requirements only and may not review the validity of an employer's bona business reason for denying a request for a flexible or predictable work arrangement.

Amendments to Current Law

The proposed ordinance would amend Chapter 12Z. Among other changes, the proposed ordinance would:

- Provide that an employee shall be provided a flexible or predictable work arrangement upon notice of the employee's need for such arrangement, unless the arrangement would cause the employer undue hardship.
- Require an employer that does not approve a flexible or predictable work arrangement to engage in an interactive process with the employee to attempt in good faith to determine a mutually-acceptable arrangement.
- Remove the limitation on OLSE review that currently prohibits review of the employer's bona fide business reason—or, under the proposed ordinance, the employer's basis for an undue hardship determination—for denying a flexible or predictable work arrangement.
- Allow flexible or predictable work arrangements to care for any family member age 65 or older, rather than specifically a parent.
- Remove a provision in Chapter 12Z that generally limits an employee to two requests for a flexible or predictable work arrangement per year.

- Provide that telework from an employee's residence or other location that is not a worksite of the employer is treated as work within the City for the purpose of the minimum work hours requirement if the employer maintains a worksite within the City at which the employee may work or prior to the COVID-19 pandemic was permitted to work.

Background Information

In July 2021, the Youth, Young Adult, and Families Committee of the Board of Supervisors held a hearing on Chapter 12Z, including ways to strengthen its protections and enforcement.

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