

File No. 211296 Committee Item No. 1
 Board Item No. 27

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Youth, Young Adult, Families Committee **Date** February 11, 2022

Board of Supervisors Meeting **Date** March 1, 2022
Cmte Board

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| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Legislative Digest |
| <input type="checkbox"/> | <input type="checkbox"/> | Budget and Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Youth Commission Report |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Introduction Form |
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Completed by: Erica Major **Date** February 4, 2022
Completed by: _____ **Date** February 22, 2022

1 [Administrative Code - Amending the Family Friendly Workplace Ordinance]

2
3 **Ordinance amending the Administrative Code to provide under the Family Friendly**
4 **Ordinance that Employees shall be permitted a Flexible or Predictable Working**
5 **Arrangement unless such an arrangement would cause an Employer undue hardship;**
6 **requiring Employers to engage in an interactive process to find a mutually agreeable**
7 **Flexible or Predictable Working Arrangement; strengthening enforcement of the**
8 **Ordinance; and making other changes.**

9
10 **Additions to Codes** are in *single-underline italics Times New Roman font*.
11 **Deletions to Codes** are in ~~*strikethrough italics Times New Roman font*~~.
12 **Board amendment additions** are in double-underlined Arial font.
13 **Board amendment deletions** are in ~~strikethrough Arial font~~.
14 **Asterisks (* * * *)** indicate the omission of unchanged Code
15 subsections or parts of tables.

16 Be it ordained by the People of the City and County of San Francisco:

17 Section 1. Chapter 12Z of the Administrative Code is hereby amended by revising
18 Sections 12Z.2 through 12Z.7 and Section 12Z.10, to read as follows:

19 **SEC. 12Z.2. FINDINGS.**

20 ~~*1-(a)*~~ Over the ~~*last past*~~ few decades, the demographics of the nation's workforce and
21 the ~~*understanding of family*~~ structures ~~*of the nation's families*~~ have undergone ~~*and continue to*~~
22 ~~*undergo*~~ significant changes. ~~*As detailed below, t*~~These changes include an increased number of
23 women in the workforce; fewer households with children that have at least one parent ~~*staying*~~
24 at home full-time; ~~*and*~~ more single-parent households; ~~*increased caregiving responsibilities for*~~
~~*both children and older adults; and an expansion of the understanding of what comprises a family unit.*~~

25 As a result of these and other changes, the demands placed on workers with family

1 responsibilities are greater and more complex today than ~~they were in an earlier era~~ ever before.
2 The global COVID-19 pandemic has placed great strains on caregivers in families, with the impacts
3 felt most dramatically among economically and socially vulnerable populations. As in every
4 American city, San Francisco's workforce and families have experienced these changes.

5 2-(b) A marked change in the workforce, and consequently in families, is the large
6 increase in numbers of women who now work outside the home. In 1960, ~~the wife~~ a married
7 woman was employed in approximately 26% ~~percent~~ of families. ~~In April~~ By 2013, when this
8 Chapter 12Z was enacted, in approximately 68% ~~percent~~ of families, married mothers of minor
9 children worked outside the home. In 2020, approximately 69% of married mothers of minor
10 children worked outside the home. ~~3. Another marked change from an earlier era is that now far~~
11 ~~fewer households have a parent who does not work outside the home. Nationally, more than seventy~~
12 ~~percent of children are raised in households that are headed by either a working single parent or two~~
13 ~~working parents. In 1975, a little more than a third of households with married parents and children~~
14 ~~had both parents in the workforce. Now, the figure is approximately two thirds. In San Francisco in~~
15 ~~2010, approximately eighty percent of parents living with at least one child under the age of five were~~
16 ~~in the workforce.~~ 4. The number of single-parent households ~~also~~ has increased substantially,
17 more than doubling over the last ~~fifty~~ 50 years. Today, ~~at least 15-20~~ approximately 25% percent
18 of households are single-parent. Approximately half of all births to women under age 30 are
19 to single mothers. As a result of these changes in labor force participation and family structures, far
20 fewer households with children have a parent who does not work outside the home.

21 5-(c) Americans are living longer than ~~they ever did~~ before, and many families have
22 direct caregiving responsibilities for elderly parents or other older relatives. Family members
23 serving this caregiving role face the same work/family pressures as parents with minor
24 children, and when they also have caregiving responsibilities for minor children, their family
25 burdens in effect are compounded. Nationally, more than half of persons who provide unpaid

1 care to an adult or to a child with special needs are employed outside the home, with the large
2 majority of those employees working full time. Approximately 32,000 San Franciscans who
3 work outside the home live with family members 65 years and older. Increasingly, caregivers
4 must care for both their own children and adult family members at the same time—approximately 11
5 million caregivers known as “sandwich caregivers” care for both a child and an adult family member.

6 6-(d) Many employees who live outside city centers have lengthy commutes to their
7 jobs. Traffic patterns during rush hour elongate those commutes. At the same time, some
8 employees, especially those in low-wage jobs, have difficulty reaching their workplaces
9 through public transportation during off-peak shifts that start in the evening or early morning.
10 Commutes of long duration leave less time for employees to balance work and caregiving
11 responsibilities. Further, to the extent rigid employment schedules and the absence of
12 telecommute options for employees contribute to delays attendant to rush-hour traffic, they
13 heighten the tension between work and family responsibilities that so many workers face.
14 Moreover, to the extent flexible working hours and telecommuting options will reduce
15 demands on streets and highways and mass transportation systems during rush hour, San
16 Francisco and the Bay Area will likely benefit from both an environmental and economic
17 standpoint.

18 7-(e) An employee’s actual or perceived status as a caregiver can create workplace
19 and pay inequities, which often operate to the detriment of women and their families because
20 of the continuing primary role of women as caregivers in the United States. These problems
21 are most obvious when an employer refuses to hire or promote an employee because of that
22 person’s family or other caregiving responsibilities. ~~Legal protection of caregivers against such~~
23 ~~arbitrary acts does not currently exist.~~ But pay inequity may arise even if an employer does not
24 consciously intend to place workers at a disadvantage because of their actual or perceived
25 status as caregivers. For example, employers may perceive mothers as less committed to their

1 work due to stereotypes rather than performance, which may hinder these employees' career
2 advancement. Employees with care-giving responsibilities may be channeled into or may
3 themselves gravitate toward lower-paying assignments or career paths that they or their
4 employer view as more compatible with family needs. Employees may temporarily drop out of
5 the workforce because there is insufficient workplace flexibility, and when they return to the
6 workforce they may be unable to catch up to the pay rates of employees performing the same
7 or similar work who did not leave. Out-of-pocket caregiving expenses may compound these
8 economic burdens. A 2021 AARP report estimated that unpaid caregivers average more than \$7,000
9 per year in out-of-pocket expenses, such as paying for medical expenses, in-home care, and housing
10 expenses for the person needing care.

11 8-(f) The current cultural climate within many businesses idealizes the employee who
12 works full-time and long hours, is available for extra work hours on short notice, and has few if
13 any commitments outside of work that would take precedence over work responsibilities.
14 These values are based in large part on a traditional, gendered division of labor. Historically,
15 men could comply with these idealized worker norms because women performed full-time
16 childcare and domestic duties. Yet, while women's participation in the paid labor market is
17 now widespread, women continue to take on childcare and household duties, do the lion's
18 share of housework, provide the majority of physical and emotional care for children, and take
19 time off to care for sick family members and to attend to other family needs.

20 9-(g) Many employers expect that employees will outsource childcare and other
21 caregiving responsibilities, without considering that such costs may constitute an
22 unsustainable proportion of family income relative to other expenses. Other employers expect
23 family members of the employee to assume childcare and other caregiving responsibilities,
24 without considering that such family members may not exist, or may themselves have work
25

1 responsibilities, caregiving responsibilities, or their own need for care that foreclose their
2 assuming these functions.

3 ~~10.~~(h) In response to the needs of the modern workforce, some employers have
4 instituted flexible work arrangements that alter the time or place at which work is conducted,
5 or the amount of work that is conducted, to allow employees to more easily meet the needs of
6 both work and family life. But even when employers offer flexible workplace arrangements,
7 employees may not avail themselves of such arrangements for reasons such as stigma and
8 lack of consistent consideration by the employer of such requests. Employees who seek
9 flexible work arrangements may endure a “flexibility bias” or “flexibility stigma” in which they
10 are discredited and devalued in the workplace. Aware of this problem, some employees
11 ~~forego~~ forgo flexible work opportunities. And many employees do not have such opportunities,
12 because many employers do not systematically offer or consider requests for flexible working
13 arrangements but instead leave requests from employees to the discretion of an individual
14 manager, or do not even allow consideration of such requests. This voluntary patchwork
15 system of accommodating employees’ needs for flexible working arrangements falls far short
16 of meeting those needs.

17 ~~11.~~(i) While a broad range of employees are adversely affected by rigid work and
18 schedule arrangements, some categories of workers are hit harder than others. Workers who
19 lack access to flexible work schedules are disproportionately low-wage workers, female
20 workers, and workers of color. Employees with a college degree are nearly twice as likely to
21 be able to change their schedules than those with less than a high school degree.

22 ~~12.~~(j) Experience with laws in other countries to increase workplace flexibility has been
23 overwhelmingly positive. Workplace flexibility has been shown to benefit employers and
24 employees, as well as the environment. In recent years, the United Kingdom, Australia,
25 Northern Ireland, Finland, Norway, Sweden, and New Zealand have pioneered model workplace

1 laws that grant parent and caregiver workers the right to request flexible working
2 arrangements. In Great Britain, in the first year after implementing the right to request a
3 flexible working arrangement, a million parents came forward, and nearly all requests were
4 granted with little opposition on the part of employers. The experiences of these countries
5 have been so successful that some countries are expanding their laws from parents and
6 caregivers to all employees. Already in Belgium, France, Germany, New Zealand, Great Britain,
7 and the Netherlands, flexible workplace arrangements are open to all employees of most
8 employers and are not targeted to employees with childcare or care-giving responsibilities.

9 ~~13.~~(k) Perhaps in part because of these progressive laws in other countries, and in part
10 due to a shortage or lack of family-friendly employment policies in the United States, the
11 percentage of working-age American women in the workforce has been on the decline relative
12 to other developed countries. For American women, the tension between workplace demands
13 and caregiving responsibilities cuts in both directions. Many women who work are stretched
14 thin on both fronts. And some women forego work, or work only intermittently, to make it
15 possible for them to serve as family caregivers, but they and their families suffer economic
16 harm as a result.

17 ~~14.~~(l) Similar “right to request” legislation at the Federal level was introduced in 2007
18 by then-U.S. Senators Edward M. Kennedy, Hillary Clinton, and Barack Obama; the same bill
19 has been introduced ~~three~~ several times since 2007, most recently by Congressional
20 Representative Carolyn Maloney in June 2013 May 2021. As this latest effort indicates, despite a
21 2010 White House summit on this topic, these Congressional attempts have not been
22 successful, although in 2014 President Obama extended to federal employees a right to request
23 flexibility in working arrangements. Recently ~~Also~~ in 2014, the State of Vermont was became the first
24 jurisdiction in the United States to pass a “right to request” law modeled after the
25 Congressional bill. New Hampshire enacted similar legislation in 2016. A growing number of

1 state and local governments have also passed laws explicitly prohibiting discrimination based
2 on caregiver status.

3 ~~15.(m)~~ Studies indicate that providing employees with access to flexible work
4 arrangements reduces the conflicts many face between their work responsibilities and their
5 family obligations, with the effect of enhancing employee satisfaction and morale and overall
6 well-being, possibly even to the point of reducing mental health problems among employees.

7 ~~16.(n)~~ Flexible work arrangements also benefit businesses at minimal cost.
8 Implementing workplace flexibility helps businesses attract and retain key talent, increase
9 employee retention and reduce turnover, reduce overtime needs, reduce absenteeism, and
10 enhance employee productivity, effectiveness, and engagement. Further, according to the
11 President's Council of Economic Advisors, as more businesses adopt flexibility practices, the
12 benefits to society, in the form of reduced automobile traffic, improved employment outcomes,
13 and more efficient allocation of employees to employers, may even be greater than the gains
14 to individual businesses and employees.

15 (o) The COVID-19 pandemic forced many businesses and government entities to adopt full-
16 time work from home and other workplace flexibilities for their employees. Despite widespread
17 closures and disruptions among schools and child care providers, many employers found that
18 employees were more productive and effective working from home. As a result, many employers have
19 announced that they will continue workplace flexibilities after the pandemic, particularly regarding
20 remote work. President Biden has announced that the federal government will permanently offer
21 enhanced telework opportunities. Salesforce, Square, Dropbox, Coinbase, Yelp, Twitter, Facebook,
22 and numerous other corporations have announced plans to let most employees work mostly or entirely
23 from home. Often these changes are being implemented alongside other flexibilities in when and how
24 employees work. For employees working in positions where remote work is simply not possible, the
25 ability to request flexibility or predictability may be especially critical.

1 (p) Despite many employers voluntarily expanding flexibility, particularly in terms of remote
2 work, legal protections of caregivers remain inadequate. In July 2021, the Youth, Young Adult, and
3 Families Committee of the Board of Supervisors held a hearing on the Family Friendly Workplace
4 Ordinance, including considering ways to strengthen the important protections it provides. The
5 amendments to this Chapter 12Z strengthen the Family Friendly Workplace Ordinance by providing
6 that employees shall be permitted a Flexible or Predictable Working Arrangement unless the
7 arrangement would cause the employer undue hardship, requiring an interactive process before a
8 Flexible or Predictable Working Arrangement may be rejected, and strengthening enforcement of this
9 Chapter, among other changes.

10
11 **SEC. 12Z.3. DEFINITIONS.**

12 For purposes of this Chapter 12Z, the following definitions apply.

13 "Agency" means the Office of Labor Standards Enforcement or any successor
14 department or office.

15 "Caregiver" means an Employee who is a primary contributor to the ongoing care of
16 any of the following:

17 (1) A Child or Children for whom the Employee has assumed parental responsibility.

18 (2) A person or persons with a Serious Health Condition in a Family Relationship with
19 the Caregiver.

20 (3) A ~~parent~~ person who is age 65 or over of the Caregiver ~~older and in a Family Relationship~~
21 with a Caregiver.

22 "Child" and "Children" mean a biological, adopted, or foster child, a stepchild, a legal
23 ward, or a child of a person standing in loco parentis to that child, who is under 18 years of
24 age.

25 "City" means the City and County of San Francisco.

1 "Director" means the Director of the Office of Labor Standards Enforcement or ~~his or~~
2 ~~her~~ the Director's designee.

3 "Employee" means any person who is employed by an Employer, who regularly works at
4 least eight hours per week within the geographic boundaries of the City for the Employer~~by an~~
5 ~~Employer~~, including part-time employees, provided that Telework shall be considered work within
6 the geographic boundaries of the City. "Employee" includes a participant in a Welfare-to-Work
7 Program when the participant is engaged in work activity that would be considered
8 "employment" under the federal Fair Labor Standards Act, 29 U.S.C. § 201 et seq., and any
9 applicable U.S. Department of Labor Guidelines. "Welfare-to-Work Program" shall include any
10 public assistance program administered by the Human Services Agency, including but not
11 limited to CalWORKS, and any successor programs that are substantially similar, that require
12 a public assistance applicant or recipient to work in exchange for their grant.

13 "Employer" means the City, or any person as defined in Section 18 of the California
14 Labor Code who regularly employs 20 or more employees, regardless of location, including an
15 agent of that Employer and corporate officers or executives who directly or indirectly or
16 through an agent or any other person, including through the services of a temporary services
17 or staffing agency or similar entity, employ or exercise control over the wages, hours, or
18 working conditions of an Employee. The term "Employer" shall also include any successor in
19 interest of an Employer. The term "Employer" shall not include the state or federal
20 government or any local government entity other than the City.

21 "Family Relationship" means a relationship in which a Caregiver is related by blood,
22 legal custody, marriage, or domestic partnerships, as defined in San Francisco Administrative
23 Code Chapter 62 or California Family Code Section 297, as either may be amended from time to
24 time, to another person as a spouse, domestic partner, child, parent, sibling, grandchild, or
25 grandparent.

1 "Flexible Working Arrangement" means a change in an Employee's terms and
2 conditions of employment that provides flexibility to assist an Employee with caregiving
3 responsibilities. ~~A Flexible Working Arrangement may include but is not limited to a modified work~~
4 ~~schedule, changes in start and/or end times for work, part-time employment, job sharing arrangements,~~
5 ~~working from home, telecommuting, reduction or change in work duties, or part-year employment.~~

6 ~~"Major Life Event" means the birth of an Employee's child, the placement with an Employee of~~
7 ~~a child through adoption or foster care, or an increase in an Employee's caregiving duties for a person~~
8 ~~with a Serious Health Condition who is in a Family Relationship with the Employee.~~

9 Operative Date of Amendments means 90 days after the effective date of the ordinance in Board
10 File No. 211296 amending this Chapter 12Z that was introduced at the Board of Supervisors on
11 December 14, 2021.

12 "Predictable Working Arrangement" means a change in an Employee's terms and
13 conditions of employment that provides scheduling predictability to assist that Employee with
14 caregiving responsibilities.

15 "Serious Health Condition" means an illness, injury, impairment, or physical or mental
16 condition that involves either of the following:

- 17 (1) Inpatient care in a hospital, hospice, or residential health care facility.
- 18 (2) Continuing treatment or continuing supervision by a health care provider.

19 "Telework" means an Employee's work for an Employer from the Employee's residence or
20 other location that is not an office or worksite of the Employer if the Employer maintains an office or
21 worksite within the geographic boundaries of the City at which the Employee may work, or prior to the
22 COVID-19 pandemic was permitted to work.

23 "Work Schedule" means those days and times within a work period that an Employee
24 is required by an Employer to perform the duties of ~~his or her~~ the Employee's employment for
25 which ~~he or she~~ the Employee will receive compensation.

1
2 **SEC. 12Z.4. RIGHT TO A REQUEST FLEXIBLE OR PREDICTABLE WORKING**
3 **ARRANGEMENT.**

4 (a) *Beginning on the Operative Date of Amendments, except as provided in Section 12Z.5, a*
5 *person who has been an* ~~An~~ *Employee of who has been employed with* an Employer for six months
6 or more ~~and works at least eight hours per week on a regular basis may request~~ *shall be permitted a*
7 Flexible or Predictable Working Arrangement to assist with caregiving responsibilities for 1) a
8 Child or Children for whom the Employee has assumed parental responsibility, 2) a person or
9 persons with a Serious Health Condition in a Family Relationship with the Employee, or 3) a
10 ~~parent~~ *person or persons* age 65 or older ~~of in a Family Relationship with~~ the Employee. ~~That~~
11 ~~request may include, but is not limited to, a change in the Employee's terms and conditions of~~
12 ~~employment as they relate to:~~

13 — ~~(1) The number of hours the Employee is required to work;~~

14 — ~~(2) The times when the Employee is required to work;~~

15 — ~~(3) Where the Employee is required to work;~~

16 — ~~(4) Work assignments or other factors; or~~

17 — ~~(5) Predictability in a Work Schedule.~~

18 (b) ~~Any request~~ *An Employee shall* ~~submitted~~ to the Employer *a notice of the Employee's*
19 *need for a Flexible or Predictable Working Arrangement* under this Section 12Z.4, which shall be in
20 writing and specify the arrangement ~~applied for~~ *requested. The arrangement may include, but is*
21 *not limited to, a change in the Employee's terms and conditions of employment as they relate to the*
22 *number of hours the Employee is required to work, which may include by way of example and not*
23 *limitation part-time work, part-year employment, or job sharing arrangements; the Employee's work*
24 *schedule, which may include modified hours, variable hours, predictable hours, or other schedule*
25 *changes or flexibilities; the Employee's work location, which may include by way of example and not*

1 limitation Telework; and modifying the Employee's work assignments or duties. The notice shall state,
2 the date on which the Employee requests that the arrangement becomes effective, and the
3 duration of the arrangement, and the notice shall explain how the request is related to care
4 giving.

5 (c) An Employer may require an Employee to attest to or verify the Employee's verification
6 of care-giving responsibilities as part of the request prior to agreeing to a Flexible or Predictable
7 Working Arrangement.

8 (d) An Employee may make announce the initial request notice orally verbally, after which
9 the Employer shall either, in writing or verbally orally, refer the Employee to the posting
10 required by Section 12Z.8 and instruct the Employee to prepare and submit a written request
11 notice under subsection (b).

12 ~~(e) A request made under this Section may be made twice every twelve months, unless the~~
13 ~~Employee experiences a Major Life Event, in which case the Employee may make, and the Employer~~
14 ~~must consider, an additional request.~~

15
16 **SEC. 12Z.5. RESPONSE TO REQUEST PROCESS FOR ESTABLISHING A FLEXIBLE**
17 **OR PREDICTABLE WORKING ARRANGEMENT.**

18 (a) Beginning on the Operative Date of Amendments, aAn Employer to whom an Employee
19 submits a request notice under Section 12Z.4 ~~must~~ may elect to meet with ~~an~~the Employee
20 requesting regarding a Flexible or Predictable Working Arrangement within ~~21~~ 14 days of the
21 request oral or written notice.

22 (b) An Employer must ~~consider and~~ respond ~~to an Employee's request for a Flexible or~~
23 ~~Predictable Working Arrangement~~ in writing within 21 days of the meeting required in Employee's
24 oral or written notice under subsection (a). The deadline in this Section 12Z.5(b) may be
25 extended by agreement with the Employee confirmed in writing.

1 (c) An Employer may grant or deny a request for Flexible or Predictable Working
2 Arrangement-Decision or Interactive Process.

3 _____ (1) An Employer who ~~grants~~ agrees to the request-Flexible or Predictable Working
4 Arrangement shall confirm the arrangement in writing to the Employee.

5 _____ (2) An Employer who ~~does not agree to the Flexible or Predictable Working~~
6 Arrangement shall engage in an interactive process with the Employee to attempt in good faith to
7 determine a Flexible or Predictable Working Arrangement that is acceptable to both the Employee and
8 Employer.

9 _____ (3) An Employer may deny a Flexible or Predictable Working Arrangement that would
10 be acceptable to the Employee only if granting such an arrangement would cause the Employer undue
11 hardship by causing the Employer significant expense or operational difficulty when considered in
12 relation to the size, financial resources, nature, or structure of the Employer's business. An Employer
13 denies a request must explain the denial in a written response that sets out a bona fide business
14 reason-the basis for the denial and, notifies the Employee of the right to request reconsideration
15 by the Employer under Section 12Z.6 and the right to file a complaint under Section 12Z.10, and
16 includes a copy of the text of that notice under Section 12Z.8. Bona fide business reasons may
17 include-Bases for undue hardship may include, but are not limited to, the following:

18 _____ (1A) The identifiable costs directly caused by of the change in a term or
19 condition of employment requested in the application Flexible or Predictable Working Arrangement,
20 including but not limited to the cost of productivity loss, retraining or hiring Employees, or
21 transferring Employees from one facility to another facility.

22 _____ (2B) Detrimental effect on ability to meet customer or client demands.

23 _____ (3C) Inability to organize work among other Employees.

24 _____ (4D) Insufficiency of work to be performed during the time or at the
25 location the Employee proposes to work.

1 (d) ~~Either an Employer or an Employee may revoke an applicable A Flexible or Predictable~~
2 Working Arrangement may be altered by mutual agreement of the Employer and Employee. An
3 Employer who concludes that a Flexible or Predictable Working Arrangement is causing the Employer
4 undue hardship shall engage in an interactive process with the Employee to attempt in good faith to
5 determine with 14 days written notice to the other party; if either party so revokes, the Employee may
6 submit a request for a different Flexible or Predictable Working Arrangement that would be
7 acceptable to both the Employee and Employer. If such interactive process is unsuccessful in
8 determining a different Flexible or Predictable Working Arrangement, an Employer may revoke the
9 existing Flexible or Predictable Working Arrangement after the interactive process with 14 days
10 written notice to the Employee. and the Employer must respond to that request as set forth in Sections
11 12Z.5 and 12Z.6. Each time an Employer revokes a Flexible or Predictable Working Arrangement, an
12 Employee may make an additional request than the allowable number per year under Section 12Z.4(e).

13 (e) For an Employer who grants a Predictable Working Arrangement, if the Employer
14 has insufficient work for the Employee during the period of the Predictable Working
15 Arrangement, nothing in this ~~Ordinance~~ Chapter 12Z requires the Employer to compensate the
16 Employee during such period of insufficient work.

17
18 **SEC. 12Z.6. REQUEST FOR RECONSIDERATION BY EMPLOYEE FROM THE**
19 **DENIAL OF ~~REQUEST FOR~~ FLEXIBLE OR PREDICTABLE WORKING ARRANGEMENT.**

20 (a) An Employee whose ~~request for~~ Flexible or Predictable Working Arrangement has
21 been denied may submit a request for reconsideration to the Employer in writing within 30
22 days of the decision.

23 (b) If an Employee submits a request for reconsideration under this Section 12Z.6, the
24 Employer must arrange a meeting to discuss ~~this said~~ request to take place within 21 days
25 after receiving ~~the notice of~~ the request.

1 (c) With respect to any notice provided under Section 12Z.4 on or after the Operative Date of
2 Amendments, ~~t~~The Employer must inform the Employee of the Employer's final decision in
3 writing within ~~21~~ 14 days after the meeting to discuss the request for reconsideration. If the
4 request for reconsideration is denied, this notice must explain the Employer's *bona fide*
5 *business reasons for the denial* basis for concluding that a Flexible or Predictable Working
6 Arrangement would cause the Employer undue hardship and provide the Employee notice of the
7 Employee's right to file a complaint with the Agency.

8
9 **SEC. 12Z.7. EXERCISE OF RIGHTS AND CAREGIVER STATUS PROTECTED;**
10 **RETALIATION PROHIBITED.**

11 (a) It shall be unlawful for an Employer or any other person to interfere with, restrain,
12 or deny the exercise of, or the attempt to exercise, any right protected under this Chapter 12Z.

13 (b) It shall be unlawful for an Employer to discharge, threaten to discharge, demote,
14 suspend, or otherwise take adverse employment action against any person on the basis of
15 Caregiver status or in retaliation for exercising rights protected under this Chapter 12Z. Such
16 rights include but are not limited to:

17 (1) the right to ~~request~~ a Flexible or Predictable Working Arrangement under this
18 Chapter;

19 * * * *

20
21 **SEC. 12Z.10. IMPLEMENTATION AND ENFORCEMENT.**

22 **(a) Administrative Enforcement.**

23 (1) The Agency is authorized to take appropriate steps to enforce this Chapter
24 12Z and coordinate enforcement of this Chapter. The Agency may investigate possible
25 violations of this Chapter. Where the Agency has reason to believe that a violation has

1 occurred, it may order any appropriate temporary or interim relief to mitigate the violation or
2 maintain the status quo pending completion of a full investigation or hearing. ~~The Agency's~~
3 ~~finding of a violation may not be based on the validity of the Employer's bona fide business reason for~~
4 ~~denying an Employee's request for a Flexible or Predictable Working Arrangement. Instead, the~~
5 ~~Agency's review shall be limited to an Employer's adherence to procedural, posting and documentation~~
6 ~~requirements, set forth in this Chapter, as well as the validity of any claims under Section 12Z.7.~~

7 (2) Where the Agency determines that a violation has occurred, it may issue a
8 determination and order any appropriate relief: ~~provided, however, that during the first twelve~~
9 ~~months following the operative date of this Chapter, the Agency must issue warnings and notices to~~
10 ~~correct. Thereafter, +~~The Agency may impose an administrative penalty, under California
11 Constitution Article XIII C, Section 1(e)(5), up to \$50.00 requiring the Employer to pay to each
12 Employee or person whose rights under this Chapter were violated up to \$50 for each day or
13 portion thereof that the violation occurred or continued, or up to the cost of care the Employee or
14 person whose rights were violated incurred due to the violation, if greater.

15 (3) Where prompt compliance is not forthcoming, the Agency may take any
16 appropriate enforcement action to secure compliance, including initiating a civil action
17 pursuant to Section 12Z.10(b). In order to compensate the City for the costs of investigating
18 and remedying the violation, and to further penalize the violating Employer, the Agency may also
19 order the violating Employer or person to pay to the City, under California Constitution Article
20 XIII C, Section 1(e)(5), a sum of not more than \$50.00 for each day or portion thereof and for
21 each Employee or person as to whom the violation occurred or continued, or up to the City's
22 costs for the investigation and remedying of the violation, if greater. Such funds shall be allocated
23 to the Agency and used to offset the costs of implementing and enforcing this Chapter 12Z and
24 other ordinances the Agency enforces.

1 (4) An Employee or other person may report to the Agency any suspected
2 violation of this Chapter, but if an Employee is reporting a violation pertaining to that
3 Employee's own request for Flexible or Predictable Working Arrangement, that Employee
4 must first have submitted a request for reconsideration to the Employer under Section 12Z.6.
5 The Agency shall encourage reporting pursuant to this subsection by keeping confidential, to
6 the maximum extent permitted by applicable laws, the name and other identifying information
7 of the Employee or person reporting the violation; provided however, that with the
8 authorization of such person, the Agency may disclose ~~his or her~~ the person's name and
9 identifying information as necessary to enforce this Chapter or for other appropriate purposes.
10 The filing of a report of a suspected violation by an Employee does not create any right of
11 appeal to the Agency by the Employee; based on its sole discretion, the Agency may decide
12 whether to investigate or pursue a violation of this Chapter.

13 (5) In accordance with the procedures described in Section 12Z.14, the Director
14 shall establish rules governing the administrative process for determining and appealing
15 violations of this Chapter. The rules shall include procedures for:

- 16 (A) providing the Employer with notice that it may have violated this
17 Chapter;
- 18 (B) providing the Employer with a right to respond to the notice;
- 19 (C) providing the Employer with notice of the Agency's determination of a
20 violation, which shall specify a reasonable time period for payment of any relief ordered; and
- 21 (D) providing the Employer with an opportunity to appeal the Agency's
22 determination to a hearing officer, not employed by the Agency, who is appointed by the ~~City~~
23 Controller or ~~his or her~~ the Controller's designee.

24 (6) If there is no appeal of the Agency's determination of a violation, that
25 determination shall constitute the City's final administrative decision. An Employer's failure to

1 appeal the Agency's determination of a violation shall constitute a failure to exhaust
2 administrative remedies, which shall serve as a complete defense to any petition or claim
3 brought by the Employer against the City regarding the Agency's determination of a violation.

4 (7) If there is an appeal of the Agency's determination of a violation, the hearing
5 before the hearing officer shall be conducted in a manner that satisfies the requirements of
6 due process. In any such hearing, the Agency's determination of a violation shall be
7 considered prima facie evidence of a violation, and the Employer shall have the burden of
8 proving, by a preponderance of the evidence, that the Agency's determination of a violation is
9 incorrect. The hearing officer's decision of the appeal shall constitute the City's final
10 administrative decision. The sole means of review of the City's final decision, rendered by the
11 hearing officer, shall be by filing in the San Francisco Superior Court a petition for writ of
12 mandate under Section 1094.5 of the California Code of Civil Procedure. The Agency shall
13 notify the Employer of this right of review after issuance of the City's final administrative
14 decision by the hearing officer.

15 **(b) Civil Enforcement.** Where an Employer fails to comply with a final administrative
16 decision within the time period required therein, the Agency may take any appropriate enforcement
17 action to secure compliance, including referring the action to the City Attorney to seek to enforce the
18 final administrative decision in a court of law or equity and, except where prohibited by State or
19 Federal law, requesting that City agencies or departments revoke or suspend any registration
20 certificates, permits, or licenses held or requested by the Covered Employer until such time as the
21 violation is remedied. The City may bring a civil action in a court of competent jurisdiction against the
22 Employer or other person violating this Chapter and uUpon prevailing in a civil action, the City shall
23 be entitled to such legal or equitable relief as may be appropriate to remedy the violation
24 including, but not limited to: reinstatement of an Employee; back pay; the payment of benefits or
25 pay unlawfully withheld; the payment of an additional sum as liquidated damages in the

1 amount of ~~\$50.00~~ to each Employee or person whose rights under this Chapter 12Z were
2 violated for each day such violation continued or was permitted to continue, or up to the cost of
3 care the Employee or person whose rights were violated incurred due to the violation, if greater;
4 appropriate injunctive relief; and, further, shall be awarded reasonable attorneys' fees and
5 costs.

6 (c) **Interest.** In any administrative or civil action brought under this Chapter 12Z, the
7 Agency or court, as the case may be, shall award interest on all amounts due and unpaid at
8 the rate of interest specified in subdivision (b) of Section 3289 of the California Civil Code.

9 (d) **Remedies Cumulative.** The remedies, penalties, and procedures provided under
10 this Chapter 12Z are cumulative.

11

12 Section 2. Effective and Operative Dates.

13 (a) This ordinance shall become effective 30 days after enactment. Enactment occurs
14 when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not
15 sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the
16 Mayor's veto of the ordinance.

17 (b) As stated in Administrative Code Section 12Z.3 as amended by this ordinance, this
18 ordinance shall become operative 90 days after its effective date.

19

20 Section 3. Severability.

21 If any section, subsection, sentence, clause, phrase, or word of this Article 33N, or any
22 application thereof to any person or circumstance, is held to be invalid or unconstitutional by a
23 decision of a court of competent jurisdiction, such decision shall not affect the validity of the
24 remaining portions or applications of this Article. The Board of Supervisors hereby declares
25 that it would have passed this Article and every section, subsection, sentence, clause, phrase,

1 and word not declared invalid and unconstitutional without regard to whether any other portion
2 of this Article or application thereof would be subsequently declared invalid or
3 unconstitutional.

4
5 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
6 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
7 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
8 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
9 additions, and Board amendment deletions in accordance with the “Note” that appears under
10 the official title of the ordinance.

11
12 APPROVED AS TO FORM:
13 DAVID CHIU, City Attorney

14 By: /s/ _____
15 LISA POWELL
16 Deputy City Attorney

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21
22
23
24
25
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LEGISLATIVE DIGEST

[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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2022 Amendments to the Family Friendly Workplace Ordinance of 2014

Proposed by Supervisor Connie Chan

Slides by Legal Aid at Work & Chinese Progressive Association

Workers need flexible or predictable schedules.

- increased number of women in the workforce
- 80% parents with a child under five years old in the workforce
- 25% of households are single-parent
- 32,000 San Franciscan workers living with elderly family
- more “sandwich generation caregivers”
- long commutes

Workers need flexible or predictable schedules.

Harvard Kennedy School's Shift Project:

"Substantial evidence shows that children suffer when parents cannot control the timing of their work," the study says. "Children lose consistent daily routines and parent-child time all while parents become more stressed."

- ▶ The children of parents with unstable work schedules sleep worse, their grades suffer, and they act out.
- ▶ Work conditions and scheduling for service workers has gotten even worse during the pandemic.
- ▶ People of color are overrepresented in industries with inconsistent scheduling, and see less stability than their white peers.

Workers need flexible or predictable schedules.

Liana worked as a caregiver for the elderly. As a single parent, she was responsible for dropping off her young son at school before work. Her shift started at a time when, in the winter, it was still dark, and there was no one to watch him at the school.

Marisol worked at a fast food restaurant. After she had a baby, she requested a small adjustment to her schedule so that she could send her child to subsidized childcare.

2014 Family Friendly Workplace Ordinance

Gives employees the right to request flexible or predictable working arrangements to assist with caregiving responsibilities if they work for an employer with 20 or more employees and have worked for 6 months or more.

Requests can be made based on responsibilities for a child, a person or persons with a serious health condition in a family relationship, a parent aged 65 or older.

Requests may include changes related to:

- Number of work hours;
- Work times;
- Work location;
- Work assignments or other factors; or
- Predictability in work schedule.

2014 Family Friendly Workplace Ordinance

The FFWO grants the employee who requests a flexible or predictable working arrangement **the right to a process; not to a specific outcome.**

OLSE's review of compliance is limited to whether the employer:

- followed the procedural, posting and documentation requirements of the Ordinance;
- retaliated against the employee for making the request; or
- discriminated against the employee on basis of caregiver status.

Youth, Young Adult, and Families Committee of the Board of Supervisors' July 2021 hearing on the Family Friendly Workplace Ordinance

OLSE:

- Only 4 investigations since 2014 because only able to review whether employer followed process, NOT denial of accommodations
- Received many requests from employees whose requests were denied, but not authorized to investigate
- 295 public inquiries in same period.

DOSW and LAAW: Workers need to be able to access flexible/predictable work, not just request it

SF DHR: Reported on family friendly workplace policies

Liana worked as a caregiver for the elderly. As a single parent, she was responsible for dropping off her young son at school before work. Her shift started at a time when, in the winter, it was still dark, and there was no one to watch him at the school.

- ▶ Liana's manager permitted her to move her schedule back one hour. Liana was able to continue successfully working.
- ▶ A new manager started and took back this accommodation. Liana struggled to get to work on time because she could not leave her son outside alone in the dark

Marisol worked at a fast food restaurant. After she had a baby, she requested a small adjustment to her schedule so that she could send her child to subsidized childcare.

- ▶ Marisol's manager said no, and she lost the subsidized childcare slot.
- ▶ Marisol was forced to hire a nanny who she pays half of her income.

Proposed Amendments to the Family Friendly Workplace Ordinance:

- ▶ Include teleworking employees
- ▶ Cover elderly family members other than parents
- ▶ Require employers to provide needed predictable or flexible arrangements except where it would create an undue hardship
- ▶ Establish good-faith interactive process for employers to work together with employees to identify practicable solutions and work arrangements

Including Teleworking Employees

- More employees working remotely during pandemic
- Avoids carving out San Francisco employees temporarily working remotely or permitted to work remotely to assist with family/child care

Including Elderly Family

- Families take many shapes - important to permit same protections for grandparents, aunts, uncles, etc., especially for immigrant and LGBTQ+ families

Requirement to Provide needed Flexible or Predictable Arrangements where not an undue hardship

- Employer may deny a Flexible or Predictable Working Arrangement if it would cause **undue hardship** to the employer.
 - ▶ Balances the needs of employers and families
 - ▶ Same standard used in San Francisco Lactation in the Workplace Ordinance
 - ▶ Creates flexibility for employer based on individual business needs

Employers can deny requests that would cause undue hardship

Undue hardship means significant expense or operational difficulty when considered in relation to the **size, financial resources, nature, or structure** of the Employer's business.

The employer may consider:

- ▶ Cost of productivity loss, retraining, hiring, or transferring employees;
- ▶ Effect on ability to meet customer/client demands;
- ▶ Inability to organize work among other employees;
- ▶ Insufficiency of work to be performed during the time or at the location the Employee proposes.

Interactive process to identify workable flexible or predictable working arrangements

- Employer who concludes that a Flexible or Predictable Working Arrangement would cause an undue hardship then engages in an interactive process with the Employee to find an arrangement that works for both the Employee and Employer.
 - OLSE can investigate violations and order appropriate relief, including covering the costs to the employee

The business case:

▶ It is a smart investment:

Sloan Center on Aging and Work at Boston College:

Implementing workplace flexibility enhances recruitment, improves employee performance and productivity, increases retention and reduces turnover, results in better customer coverage and higher levels of customer satisfaction, increases cost savings and profits, provides high return on investment, and reduces absenteeism and presenteeism.

▶ It benefits companies with hourly and salaried workers:

UC Hastings Center for WorkLife Law:

In some industries employing hourly workers, turnover rates are as high as 80% to 500%. Flexibility increases productivity, leads to greater ease in scheduling, and improves retention of hourly workers, thereby reducing the high cost of turnover in these industries.

The business case:

▶ It improves employee productivity, morale, and retention

The Urban Institute and Georgetown Law School:

Employees with access to flexible work arrangements tend to be more satisfied, committed, and engaged with their jobs, which leads to increased innovation, quality, productivity, market share, and lower turnover.

▶ It promotes gender diversity and gender balance in leadership.

By offering flexible work arrangements, companies retain more talented women and are able to increase the number of women in leadership roles.

Flexible work arrangements have also been shown to increase job retention among lower income women, leading to greater workplace experience and skills, career advancement, and higher earnings and retirement benefits.

▶ It benefits both men and women.

More men are requesting flexible work arrangements. According to a 2011 study, 95% of working fathers agreed that workplace flexibility would impact their decision when considering a new job; more than 75% reported using flex-time on a formal or informal basis; 57% worked from home at least some part of the time; and 27% utilized compressed workweeks.

Flexibility and accommodations are what keeps employees during The Great Resignation.

2 keys to stopping the 'Great Resignation'? Flexibility and trust

6. Embrace flexibility

The future of work is going to be providing flexible work environments in terms of place, time, job description, and career paths. Embrace it. Better yet, have employees form teams to create their future of work. If people help build their dream home, they'll want to live in it.

I never imagined that I would have to choose between my career and caring for my aging mom. But at 50 years of age, I'm back on the job market, looking for flexible work that will allow me to stay home with her. Without any support, navigating a caregiving crisis is a challenge.

OFFER FLEXIBLE WORK OPTIONS

Most businesses that could move their operations to a remote work environment did so during the pandemic. That's created lasting effects on the flexibility today's employees crave. Remote work enables many professionals to foster a better work-life balance, by eliminating a commute and giving workers the ability to balance family responsibilities with work.

Employees want to work for and will stay at companies where there's a culture of flexibility and well-being. And, as the Great Reshuffle continues, we can expect that employee needs and expectations will continue to shift and evolve as well. Culture is not static, and organizations that adjust now will be in a stronger position for what's next.

Both suggest the Great Resignation is bigger than those who've already quit. Workers—whether they're staying or leaving—want more [flexibility](#) and improved conditions.

The phenomenon is an [indictment of a work culture](#) that isn't just tough, it's unsustainable.

Offer accommodations. Silletto suggests focusing on those with young children at home or who have aging parents that need more care.

When one of her employees had two children, ages 6 and 9, at home for weeks without anyone to help, Silletto granted extended paid time off and flexible hours so the employee could work whatever time of day she was able.

"I rerouted some of the more time-sensitive items to other staff who could be more helpful for our clients," she says. "Some employers might claim they can't be that flexible, but I know my employee is the most loyal employee because I helped her through that hard time. It builds trust when you truly take care of your people and don't apply a one-size-fits-all strategy."

5. Invest in taking care of your employees and their families

Provide mental health resources, acknowledge the personal sacrifices everyone has made during the pandemic, help parents with small children by providing or subsidizing day care, and give more paid time off. Sure, some employees will need more than others. So? Do whatever is required to take care of them.

(HBR, SHRM, Wharton Online, Fortune, etc.)

From: [Sharon Terman](#)
To: [Board of Supervisors, \(BOS\); "Erica.Major@sfgov.org"](#)
Cc: ["Annette Bonilla"](#)
Subject: Support for Amendments to the FFWO, file no. 211296
Date: Thursday, February 17, 2022 12:33:52 PM
Attachments: [SF FFWO Support Letter.pdf](#)

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear San Francisco Board of Supervisors,

Attached please find a letter from Environmental Science Associates (ESA) in support of the Amendments to the FFWO (Chan), File No. 211296.

Best,

Sharon Terman

Sharon Terman (she/her)
Director, Work and Family Program
Senior Staff Attorney
Legal Aid at Work
180 Montgomery Street, Suite 600
San Francisco CA 94104
415-593-0114 / @legalaidatwork
sterman@legalaidatwork.org

Our office is working remotely in accordance with public health guidelines related to COVID-19. Please send all communications via email in order to minimize delays in response. We appreciate your patience and understanding. Thank you, and be well!

Legal Aid at Work (formerly Legal Aid Society-Employment Law Center) delivers on the promise of justice for low-income people. We provide free direct services through our clinics and helplines. We offer extensive legal information for free online and in trainings, we litigate individual and class actions, and we advocate for new policies and laws. Details: www.legalaidatwork.org.

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550 Kearny Street
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415.896.5900 **phone**
415.896.0332 **fax**

www.esassoc.com

February 16, 2022

San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place, City Hall, Room 244,
San Francisco, CA 94102-4689
Board.of.Supervisors@sfgov.org

Re: Family Friendly Workplace Ordinance, File No. 211296

Dear San Francisco Board of Supervisors:

Environmental Science Associates (ESA) writes in support of the amendments to the Family Friendly Workplace Ordinance. ESA is a 100% employee-owned environmental consulting firm founded in 1969 and headquartered in San Francisco. With 21 offices across California, the Pacific Northwest and the Southeastern United States, we are committed to providing our 550+ employee-owners with sustainable benefits and flexibility to support them and their families.

The stereotypical one-breadwinner, one-homemaker household is not the reality for most families, and we know that many of our employees have to balance work and family caregiving responsibilities. Over the recent years more of our employees are not only balancing the needs of their dependent children, but responsible for the care of their elderly parents, as well. Research shows that workplace flexibility enhances recruitment, improves productivity, increases retention, leads to higher customer satisfaction, and improves gender diversity in leadership. Providing this type of flexibility to our diverse group of employee-owners is in alignment with our Justice, Equity, Diversity & Inclusion (JEDI) strategic plan objective.

We know from our experience that in order to maintain a productive and diverse workforce, employees must feel safe discussing caregiving obligations with us, and we acknowledge that they are an important part of our employees' lives. Granting scheduling accommodations makes sense for our employees and for our business. As environmental scientists in a competitive niche based industry, we struggle to retain our employees from being poached by our competitors. ESA is a private mid-sized firm, that cannot always compete with the higher salaries offered by the large engineering firms. Therefore, to remain competitive and off-set higher salaries, we have to offer our employees work life balance options that provide a high level of psychological safety, understanding of their personal needs in support of their families, while accepting and supporting non-traditional lifestyle choices.

At ESA we have approached requests for flexible work schedules from the perspective of our employees' needs. We have found that allowing employees to work out a schedule that best fits their needs while meeting the needs of the organization improves morale, efficiency and productivity. Even before the pandemic, we allowed our employees to work from home, attend team and client meetings virtually, and to set convenient arrival and departure times on days they work in the office to allow them to drop off and pick up their children at school, and avoid the peak transit commute times, especially for our employees who work in San Francisco, but live outside of the City. We also understand that commute costs in our urban areas, specifically in San Francisco, are



SF Board of Supervisors
February 16, 2022
Page 2

high in comparison to other areas, and allowing our employees to work from home 1-3 days per week lessens the high cost of commuting to our San Francisco office.

This Ordinance helps foster conversations between employees and employers to find solutions that meet both caregiving and business needs. We have found that we are able to grant the vast majority of requests that our employees make. We understand the pressures of caregiving that many of our employee-owners experience and are happy to provide accommodations when we are able. These amendments would require covered employers to consider employees' requests for flexible or predictable work arrangements to help with caregiving, while also giving employers the right to deny requests where they are unreasonable or would impose an undue burden. This allows employers to consider a request under the Ordinance in relation to their unique business needs.

We can shift the paradigm related to work and caregiving obligations to create more equitable workplaces and more vibrant businesses. For these reasons we urge your support for the amendments to the Family Friendly Workplace Ordinance.

A handwritten signature in blue ink that reads "Annette Bonilla". The signature is fluid and cursive, with the first name "Annette" and last name "Bonilla" clearly distinguishable.

Annette Bonilla
Vice President, Human Resources Director

From: [Sharon Terman](#)
To: [Board of Supervisors, \(BOS\)](#)
Cc: ["Erica.Major@sfgov.org"](mailto:Erica.Major@sfgov.org); [DPH-workplaces-61](#)
Subject: Support for Amendments to the FFWO, file no. 211296
Date: Thursday, February 10, 2022 1:18:54 PM
Attachments: [Bi-Rite Letter in Support of Amendments to FFWO Feburary 2022.pdf](#)

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear San Francisco Board of Supervisors,

Attached please find a letter from Bi-Rite Family of Businesses in support of the Amendments to the FFWO (Chan), File No. 211296.

Best,

Sharon Terman

Sharon Terman (she/her)
Director, Work and Family Program
Senior Staff Attorney
Legal Aid at Work
180 Montgomery Street, Suite 600
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From: [Thea Selby](#)
To: [Board of Supervisors, \(BOS\)](#)
Cc: [Major, Erica \(BOS\)](#)
Subject: Letter of Support for Updates to the Family Friendly Workplace Ordinance
Date: Wednesday, February 9, 2022 11:15:52 AM
Attachments: [Thea FFWO Support Letter.pdf](#)

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Hello, Esteemed Board and Ms. Major.

Please find my remarks regarding the FFWO updates. As a mother and a small business owner in this city, I applaud anything we can do to help parents with their dual roles of working and caring for parents/kids in this city.

Warm regards,

Thea

--

Thea Selby she | her
Principal
[Next Steps Marketing](#)
415.309.9410
thea@nextstepsmarketing.com
San Francisco, CA



From: [Katherine Wutchiett](#)
To: [Board of Supervisors, \(BOS\)](#)
Cc: [Major, Erica \(BOS\)](#)
Subject: Support for Amendments to FFWO, file no. 211296
Date: Wednesday, February 9, 2022 8:00:31 PM
Attachments: [FFWO amendments coalition support letter .docx \(1\).pdf](#)

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Please see the attached letter urging support for the proposed amendments to the Family Friendly Workplace Ordinance, file no. 211296.

Thank you,

Katherine Wutchiett
Staff Attorney, Work and Family Program
(she/her/hers)
Legal Aid at Work
180 Montgomery Street, Suite 600
San Francisco CA 94104
415-864-8848
kwutchiett@legalaidatwork.org

From: [Board of Supervisors, \(BOS\)](#)
To: [BOS-Supervisors](#)
Cc: [Calvillo, Angela \(BOS\)](#); [Mchugh, Eileen \(BOS\)](#); [Somera, Alisa \(BOS\)](#); [Ng, Wilson \(BOS\)](#); [Laxamana, Junko \(BOS\)](#)
Subject: FW: Support for Amendments to FFWO, file no. 211296
Date: Thursday, February 10, 2022 11:44:00 AM

From: Major, Erica (BOS) <erica.major@sfgov.org>
Sent: Thursday, February 10, 2022 9:27 AM
To: Katherine Wutchiett <kwutchiett@legalaidatwork.org>; Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Subject: RE: Support for Amendments to FFWO, file no. 211296

Thank you, confirming receipt and inclusion to Board File No. 211296.

ERICA MAJOR

Assistant Clerk

Board of Supervisors

1 Dr. Carlton B. Goodlett Place, City Hall, Room 244 San Francisco, CA 94102

Phone: (415) 554-4441 | Fax: (415) 554-5163

Erica.Major@sfgov.org | www.sfbos.org

(VIRTUAL APPOINTMENTS) To schedule a “virtual” meeting with me (on Microsoft Teams), please ask and I can answer your questions in real time.

Due to the current COVID-19 health emergency and the Shelter in Place Order, the Office of the Clerk of the Board is working remotely while providing complete access to the legislative process and our services.

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**From:** Katherine Wutchiett <[kwutchiett@legalaidatwork.org](mailto:kwutchiett@legalaidatwork.org)>  
**Sent:** Wednesday, February 9, 2022 6:27 PM  
**To:** Board of Supervisors, (BOS) <[board.of.supervisors@sfgov.org](mailto:board.of.supervisors@sfgov.org)>

**Cc:** Major, Erica (BOS) <[erica.major@sfgov.org](mailto:erica.major@sfgov.org)>

**Subject:** Support for Amendments to FFWO, file no. 211296

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Please see the attached letter urging support for the proposed amendments to the Family Friendly Workplace Ordinance, file no. 211296.

Thank you,

Katherine Wutchiett  
Staff Attorney, Work and Family Program  
(she/her/hers)

**Legal Aid at Work**

180 Montgomery Street, Suite 600

San Francisco CA 94104

415-864-8848

[kwutchiett@legalaidatwork.org](mailto:kwutchiett@legalaidatwork.org)



**From:** [Sharon Terman](#)  
**To:** [Board of Supervisors, \(BOS\)](#)  
**Cc:** ["Erica.Major@sfgov.org"](mailto:Erica.Major@sfgov.org); [DPH-workplaces-61](#)  
**Subject:** Support for Amendments to the FFWO, file no. 211296  
**Date:** Thursday, February 10, 2022 1:18:54 PM  
**Attachments:** [Bi-Rite Letter in Support of Amendments to FFWO Feburary 2022.pdf](#)

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This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear San Francisco Board of Supervisors,

Attached please find a letter from Bi-Rite Family of Businesses in support of the Amendments to the FFWO (Chan), File No. 211296.

Best,

Sharon Terman

Sharon Terman (she/her)  
Director, Work and Family Program  
Senior Staff Attorney  
**Legal Aid at Work**  
180 Montgomery Street, Suite 600  
San Francisco CA 94104  
415-593-0114 / @legalaidatwork  
[sterman@legalaidatwork.org](mailto:sterman@legalaidatwork.org)

**Our office is working remotely in accordance with public health guidelines related to COVID-19. Please send all communications via email in order to minimize delays in response. We appreciate your patience and understanding. Thank you, and be well!**

**Legal Aid at Work** (formerly Legal Aid Society-Employment Law Center) delivers on the promise of justice for low-income people. We provide free direct services through our clinics and helplines. We offer extensive legal information for free online and in trainings, we litigate individual and class actions, and we advocate for new policies and laws. Details: [www.legalaidatwork.org](http://www.legalaidatwork.org).

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**From:** [Julia Parish](#)  
**To:** [Board of Supervisors, \(BOS\)](#)  
**Subject:** Family Friendly Workplace Ordinance amendments - support  
**Date:** Thursday, February 10, 2022 1:16:15 PM  
**Attachments:** [FFWO amendments support letter \(00637551x9DED6\).pdf](#)

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Hello,

Please find the attached letter in support of the Family Friendly Workplace Ordinance amendments from Legal Aid at Work. Please let me know if you have any questions.

Best,  
Julia

Julia Parish (she/her/hers)  
Senior Staff Attorney  
**Legal Aid at Work**  
180 Montgomery Street, Suite 600  
San Francisco CA 94104  
(415) 864-8848 x237 / @legalaidatwork  
[jparish@legalaidatwork.org](mailto:jparish@legalaidatwork.org)

**Our office is working remotely in accordance with public health guidelines related to COVID-19. Please send all communications via email or fax in order to minimize delays in response.**

**Legal Aid at Work** (formerly Legal Aid Society-Employment Law Center) delivers on the promise of justice for low-income people. We provide free direct services through our clinics and helplines. We offer extensive legal information for free online and in trainings, we litigate individual and class actions, and we advocate for new policies and laws. Details:[www.legalaidatwork.org](http://www.legalaidatwork.org).

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**From:** [Chan, Connie \(BOS\)](#)  
**To:** [Major, Erica \(BOS\)](#)  
**Subject:** FW: CRA Letter: #211296  
**Date:** Friday, February 11, 2022 10:56:18 AM  
**Attachments:** [image001.png](#)  
[CRA Letter.pdf](#)

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**From:** Katie Hansen <[khansen@calrest.org](mailto:khansen@calrest.org)>  
**Sent:** Thursday, January 13, 2022 11:31 AM  
**To:** ChanStaff (BOS) <[chanstaff@sfgov.org](mailto:chanstaff@sfgov.org)>  
**Subject:** CRA Letter: #211296

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear Supervisor Chan,

On behalf of the California Restaurant Association I would like to respectfully submit the attached comment letter regarding your proposed amendments to the Family Friendly Workplaces Ordinance.

Please feel free to contact me with any questions regarding our position.

Thank you,  
Katie Hansen  
Katie Hansen  
Senior Legislative Director  
California Restaurant Association  
621 Capitol Mall, Suite 2000  
Sacramento, CA 95814  
T: 800.765.4842/ 916.431.2773  
F: 916.447.6182  
E: [khansen@calrest.org](mailto:khansen@calrest.org)  
[www.calrest.org](http://www.calrest.org)

**We're here for you.**

Visit our [website](#) for all you need to know about COVID-19.



**While all information released by the California Restaurant Association (CRA) is intended to provide accurate information on the subject covered, the CRA does not provide legal advice and any information provided by the CRA shall not constitute legal advice. You are encouraged to consult your attorney, accountant, or other appropriate professional, as needed.**

Confidentiality note:

This electronic message transmission contains information from the California Restaurant Association which may be confidential or privileged. The information is intended to be for the use of the individual or entity named above. If you are not the intended recipient, be aware that any disclosure, copying, distribution or use of the contents of this information is prohibited.

If you have received this electronic transmission in error, please immediately notify us by telephone at 800.765.4842.

January 13, 2022

Supervisor Connie Chan  
San Francisco Board of Supervisors  
1 Dr. Carlton B. Goodlett Place,  
City Hall, Room 244  
San Francisco, CA 94102

**Re: #211296 Amending the Family Friendly Workplace Ordinance**

Dear Supervisor Chan,

Restaurants are struggling mightily with the lingering impacts of COVID-19 and are nowhere near being fully reopened and operating at full capacity. Restaurants, like many other sectors, are struggling with workforce shortages, supply chain issues and still feeling the impacts of operating restrictions due to the ongoing pandemic.

Given these are all very real issues that restaurants are dealing with, there is no way for us to predict in advance what our customer traffic or what our ability to operate is going to look like. The Public Health Officer's order to require restaurants to obtain proof of full vaccination from patrons also impacts customer traffic in unpredictable ways.

All of these factors make it extremely difficult for a restaurant to forecast a schedule for employees.

The proposal before you, while well intentioned, would create an elaborate system for restaurant employees and employers to follow when considering a scheduling change. Even though the proposal does include the ability for the restaurateur to deny a proposed scheduling change on the grounds of undue hardship such as significant expense or operational difficulty, the proposal would still penalize a restaurant if they do not explicitly follow the exact process. Most restaurants are small businesses that do not have human resources professionals on staff. We believe that a one size fits all proposal like this does not take into account the unique operating nature of the restaurant community.

Restaurants are still feeling the negative impact of COVID on their indoor dining operations as evidenced by the Delta surge this summer and the Omicron surge underway now.

A survey by the National Restaurant Association survey, found the following:

- 6 in 10 adults changed their restaurant use due to the rise in the delta variant
- 19% of adults said they completely stopped going out to restaurants
- 37% of adults said they ordered delivery or takeout instead of dining in a restaurant.

In today's environment restaurants can't predict customers because of the changing nature of the COVID-19 virus, which makes it hard to predict staffing needs.

The proposal before you is asking for predictability in a world that is unpredictable due to COVID-19 and then penalizes restaurants for it.

While we understand and have great empathy for employee needs and time away from work, we work directly with those individuals and do everything possible to accommodate their requests- and we will continue to do so.

Unfortunately, we must oppose the proposed amendments to the Family Friendly Workplace Ordinance.

Thank you,

A handwritten signature in black ink that reads "Katie Hanse". The signature is written in a cursive, flowing style.

Katie Hanse  
Senior Legislative Director  
California Restaurant Association

Cc: Supervisors Ronen, Safai and Melgar

Yulian Luo Public Comment:

各位市参事好！我叫Yulian Luo, 是华埠社区的一名散房组织员，同时也是一位妈妈！今天很开心有机会去向市参事分享我的一点看法！当我听到市参事陈诗敏提出 [关于家庭友善职场条例] 我内心深处深深激动。

以我对华埠社区的家庭了解，在现有的条例之下，工人是有权请求，但是雇主也可以很容易拒绝。所以很多家庭都不敢提出弹性的工作，因为英语水平低，担心失去工作，交不起房租的人皆比是！就以我自己个人经验来说：几年前，我在三藩市的一家老人护理中心工作，我的小孩还读二年级，孩子不舒服需要照顾，或者是学校组织去Field trip的时候，就是我最难过的时候，因为我请不了假，我也不敢请假，当时我是新移民，能找到一份工作已经不容易，也害怕老板报复，担心减工时，和安排一些最累最苦的工作！而直到我的孩子偶尔还提起，妈妈没有陪过一次去Field trip！当现在孩子大了，我想陪她去Field trip的机会也没有了，因为她说：现在我长大了，不用妈妈陪着去了！听着这样的话，我内心难过，同时也是我心中的一个遗憾！

其实这个条例如果可以通过是一个双赢的局面！因为雇主能够找一个好员工真的不容易，而一个员工想找一个好的雇主也不容易，因为雇主和雇员之间的关系是相辅相成的，是一种很奇妙的关系！人生谁没有一些需要特殊处理的事情，当雇员能够在特殊情况下可以选择弹性的工作时间，解决了燃眉之急，一定会更加卖力为雇主工作！【得人因果千年记】大家好才是真的好！尤其这个条例将使女性受益，因为女性担任的角色更加多，也承担了大部分照顾家庭的责任！

当真正实施和执行的关键是：怎样让雇主去配合去尊重劳动法？同时，怎么让雇员能够在工位中有宾至如归的感觉？如果员工真的有要求弹性的工作时，而雇主又拒绝最初的建议，他们必须和员工进行沟通来找出最合适的解决方案。而不是，一口就拒绝，或者是以口头侮辱员工，或者是以减扣工时来恐吓员工，采取报复性的手段对待员工！

最近, 我恳请各位市参事，慎重考虑！支持我们广大的打工仔和女性！谢谢！

---

Shu Fen Mei Public Comment:

大家好！新年快乐！我姓梅，住在华埠的散房，是华人进步的会员。

Hello everyone! Happy New Year! My name is Mrs Mei, I live in a SRO in Chinatown, and I am a member of Chinese Progressive Association.

我之前是从事餐馆的行业，我当时的老板会体谅员工。因为我有一个6岁的孩子要照顾，有时候会需要调整时间来照顾我的孩子，他都会与我们员工沟通，尽量调整到合适大家的工作时间。I worked in the restaurant business before, and my boss at the time was considerate of the employees. Because I have a 6-year-old child to take care of, sometimes I need to adjust my

work time to care for my child. My boss would communicate with us employees and try to adjust the working hours to suit everyone.

所以老板与员工相处融洽，是有助于提高工作效率。但是，我知道我有的朋友的老板，并不太愿意去调整时间。我在一个良好的工作环境中工作，我相信所有的工人也应该有一个类似的环境。我支持这可以通过加强 《三藩市家庭友善职场条例》。

Therefore, the boss and employees get along well, which is helpful to improve work efficiency. Therefore, the boss and employees get along well, which will efficiently improve our work. However, I know that the bosses of some of my friends are reluctant to adjust the time. I worked in a positive work environment and I believe all workers should have a similar environment, which will be possible by supporting the San Francisco Family Friendly Workplace Ordinance.

希望有了这条条例，老板与员工之间，可以友善地商量、调整工作时间。老板与员工之间互相理解、互相配合、互相尊重，从而得到高效率工作的持续。

It is hoped that with this regulation, bosses and employees can negotiate and adjust working hours in a friendly manner. The boss and the employees understand each other, cooperate with each other and respect each other, and work efficiently.

所以我觉得这条条例，在职场上是友善的。

So this a friendly ordinance at the workplace.

谢谢大家！

Thank you everyone!





February 8, 2022

San Francisco Board of Supervisors  
1 Dr. Carlton B. Goodlett Place, City Hall, Room 244,  
San Francisco, CA 94102-4689  
[Board.of.Supervisors@sfgov.org](mailto:Board.of.Supervisors@sfgov.org)

Re: Family Friendly Workplace Ordinance, File No. 211296

Dear San Francisco Board of Supervisors:

The Bi-Rite Family of Businesses supports the amendments to the Family Friendly Workplace Ordinance. We are familiar with the Ordinance and have found that we are able to determine a reasonable solution for the majority of requests we receive. We understand the pressures of caregiving that many of our employees experience, and we are happy to provide accommodations when we are able.

We know that granting schedule accommodations, when feasible for our operations, makes sense for our workers and for our businesses. Unless our staff feel supported and are engaged, we would not successfully achieve our mission of Creating Community through Food, and we wouldn't be able to provide the genuine service that our guests have come to appreciate. This is key to our success and to differentiating us in the marketplace as a socially responsible employer and business that Leads with Love, Pursues with Passion and Acts with Integrity.

When employees can't meet caregiving obligations during a critical time in their family's lives they are not at their best. That's bad for productivity, morale, and guest satisfaction — achievements all businesses value but small ones often live and die by.

We have found that granting requests for accommodations under the Family Friendly Workplace Ordinance is often feasible; however, it is important to highlight that the service industry does not have the ability to work from home and that the busiest periods of business (e.g. dinner time and weekends) are often outside of traditional business, childcare center or school hours (i.e. 9 am – 5 pm, Mon-Fri). Businesses need the interactive process in order to be able to suggest alternative options or to deny requests that would impose an undue burden or that are unreasonable. This gives employers the flexibility to continue to make sound business decisions while still considering the requests of their employees.

Finally, it is also very important to highlight that the majority of small businesses do not have dedicated human resource professionals or staff with the skills or time to manage these types of requests and this is just one of many ordinances and laws that require thoughtful attention and compliance. We believe that in order for this Ordinance to be most impactful, San Francisco must dedicate additional resources to the Office of Labor Standards Enforcement to educate and assist employers and employees with this process. Furthermore, it is incredibly



EAT GOOD FOOD

important that the Board of Supervisors continue to solicit feedback from businesses prior to creating or updating ordinances in order to fully understand the practical implications of social policies on businesses. By working together, we will create the positive social change we all desire in a manner that is sustainable and effective for all involved parties.

We support the amendments to strengthen the Family Friendly Workplace Ordinance. Thank you for your consideration and for all of your work to support San Francisco.

Sincerely,

A handwritten signature in black ink, appearing to read "Bog".

**Brianne O'Leary Gagnon**

*Director of People + Culture*

She/her

**Bi-Rite Family of Businesses**

3505 20<sup>th</sup> Street, San Francisco, CA 94110

[brianne.gagnon@biritemarket.com](mailto:brianne.gagnon@biritemarket.com)

Phone: 415-241-9760 x8219

Fax: 415-366-2772

**Joan Messing Graff**  
*President***LEGAL STAFF****Swaailha Abdul-Rahman**  
*Legal Fellow***Alexis Alvarez**  
*Senior Staff Attorney***Alex Campbell**  
*Staff Attorney***Nora Cassidy**  
*Attorney***DeCarol Davis**  
*Director, Community Legal Services***Marisa C. Díaz**  
*Senior Staff Attorney***Diana Fabian-Gutierrez**  
*Legal Fellow***Michael T. Galtley**  
*Senior Staff Attorney***Christopher Ho**  
*Director, National Origin & Immigrants' Rights***Jinny Kim**  
*Director, Disability Rights***Elizabeth Kristen**  
*Director, Gender Equity & LGBTQ+ Rights***Molly Lao**  
*Skadden Fellow***Jared Odessky**  
*Skadden Fellow***Kim Oullette**  
*Attorney***Julia Parish**  
*Senior Staff Attorney***Sela Stelger**  
*Staff Attorney***Maria Tapia-Hernandez**  
*Staff Attorney***Sharon Terman**  
*Director, Work and Family***Stacy Villalobos**  
*Interim Director, Racial Economic Justice***George Warner**  
*Director, Wage Protection***Katherine Wutchlett**  
*Staff Attorney***PROGRAM SERVICES****Jessica Barragan Carmona**  
*Central Valley Organizer***Linda Centeno**  
*Work & Family Program Advocate***Katie Dixon**  
*Fair Chance Community Rights Organizer***Aldo Esparza**  
*Paralegal***Tishon Smith**  
*Senior Paralegal***Valerie Sprague**  
*Senior Paralegal***King Szeto**  
*Senior Language Access Coordinator***Brisa Velazquez Oatis**  
*Community Legal Services Outreach  
Coordinator***ADMINISTRATION & DEVELOPMENT****Howard Chen**  
*Vice President of Human Resources***Kevin Clune**  
*Vice President of Strategic Partnerships***BreAnna Crawford**  
*Operations Associate***Kevin Dolan**  
*Development Associate***Ana Flores**  
*Senior Intake Assistant and Receptionist***Steve Helmerle**  
*Assistant Director of Development***Ian Huang**  
*Human Resources & Accounting Manager***Galina Khunis**  
*Senior Accounting Manager***Greg Medley**  
*Senior Development Database Specialist***Scott Nelson**  
*Operations and Technology Manager***Madeleine Rowell**  
*Grants & Impact Assessment Specialist***Lawrence Yuan**  
*Vice President of Finance and Operations*

February 10, 2022

San Francisco Board of Supervisors  
1 Dr. Carlton B. Goodlett Place, City Hall, Room 244,  
San Francisco, CA 94102-4689  
[Board.of.Supervisors@sfgov.org](mailto:Board.of.Supervisors@sfgov.org)

Re: Family Friendly Workplace Ordinance, File No. 211296

Dear San Francisco Board of Supervisors:

San Francisco passed the Family Friendly Workplace Ordinance in 2013, becoming one of the first jurisdictions to recognize the necessity of workplace accommodations to address increasing demands on parents and family caregivers. The movement to build better family supportive workplaces has continued in San Francisco and beyond, and the current COVID-19 pandemic has only brought into focus and exacerbated the struggles of maintaining a job and a healthy family. We write to express our strong support for the groundbreaking amendments to the Family Friendly Workplace Ordinance.

Legal Aid at Work is a nonprofit organization in San Francisco that has been advocating on behalf of people with low incomes for over 100 years. Because we provide free legal services, we hear directly from families facing barriers at work and struggling because of their caregiving obligations. We have heard from numerous parents and caregivers who have needed small adjustments to their work to care for their children and address family members' health needs and have been denied, sometimes resulting in their being forced from the workforce entirely.

Legal Aid at Work helped lead the coalition that passed the Family Friendly Workplace Ordinance and other family supportive policies in San Francisco, including Paid Parental Leave and Lactation in the Workplace. And San Francisco's family supportive policies, like the Lactation in the Workplace Ordinance, have inspired similar progress in other localities and at the state level. Legal Aid at Work promotes local, state, and national policies that are necessary for families to prosper.

## The Need for Accommodations for Parents and Caregivers Has Grown.

Family structures have changed. Today, almost a quarter of children live with a single parent and no other adults.<sup>1</sup> And in nearly 60% of married families raising children, both parents are employed.<sup>2</sup> Workers are also caring for other family members, including elderly parents; 29% of the adult population is caring for someone who is ill, disabled or elderly.<sup>3</sup> A record breaking number of families – nearly one in five Americans – live in multigenerational households, and many workers face responsibilities for childcare and eldercare at the same time. That percentage is even higher for people of color.<sup>4</sup> In addition, nearly 3 million children are being raised by grandparents in the U.S. and grandparents raising children are more likely to be single caregivers.<sup>5</sup> Workplace policies have not kept pace, with devastating impacts.

For example, Marisol called Legal Aid for help. She is a single mother and has worked at a fast food restaurant in San Francisco for nearly 4 years. When she found a spot in a subsidized day care for her new baby she was thrilled – they are not easy to come by. She asked to move her shift one hour earlier so that she could accommodate the child care center’s schedule. Her manager refused. She wrote a letter to her employer – pleading for a change to her schedule. They did not respond to her request. Marisol depends on her job and was terrified to lose it. So, she was forced to forgo the spot at the child care center and hire a nanny, whom she pays almost half of her income. “They don’t listen,” she says when talking about her request to her manager, “They don’t understand.” Because of the caprice of one manager, her entire family was pushed deeper into poverty.

The Covid-19 pandemic has intensified the need for accommodations for parents and caregivers. School closures, isolation and quarantine periods, and risks to medically vulnerable and elderly people in care facilities have all forced families to make impossible choices. As employees’ family obligations have become more visible to their employers, and jobs have become more scarce, family caregivers have faced increased levels of discrimination and job loss. And the increased need for care will not cease. Tragically, California has one of the highest rates for children who have lost their primary caregivers as a result of the pandemic<sup>6</sup>, and we have an obligation to provide ways for people to continue to care for their families through the pandemic and into the future.

---

<sup>1</sup> Kramer, S. (2019) U.S. Has the World’s Highest Rate of Children Living in Single-Parent Households, available at <https://www.pewresearch.org/fact-tank/2019/12/12/u-s-children-more-likely-than-children-in-other-countries-to-live-with-just-one-parent/>

<sup>2</sup> Bureau of Labor Statistics. (2021) Employment Characteristics of Families Summary, available at <https://www.bls.gov/news.release/famee.nr0.htm>

<sup>3</sup> National Alliance for Caregiving. (2009) Caregiving in the U.S. 2009, Washington, DC: AARP Research, available at <https://doi.org/10.26419/res.00062.001>

<sup>4</sup> Cohn, D. & Passel, J. (2018) A Record 64 Million Americans Live in Multigenerational Households, available at <https://www.pewresearch.org/fact-tank/2018/04/05/a-record-64-million-americans-live-in-multigenerational-households/>.

<sup>5</sup> Thompson, D. Grandparents Are Raising Millions of Kids and It’s Tough. (2020). U.S. News & World Report, available at <https://www.usnews.com/news/health-news/articles/2020-08-04/us-grandparents-are-raising-millions-of-kids-and-its-tough>.

<sup>6</sup> S Hillis, et al. (2021) Covid-19-Associated Orphanhood and Caregiver Death in the United States, available at <https://doi.org/10.1542/peds.2021-053760>

## Lack of Access to Accommodations Disproportionally Impacts Women and People of Color.

Women are disproportionately burdened by a lack of accommodations in the workplace. Although women's workforce participation has steadily increased, they continue to be predominately responsible for familial caregiving. And because of the unprecedented increase in demand for family caregiving during the pandemic, as schools and daycares became unavailable or only intermittently available, women were forced from the workforce in large numbers, threatening to undermine decades of advancement.<sup>7</sup> Women have lost a net of 5.4 million jobs during the pandemic compared with 4.4 million lost by men. Caregiving responsibilities is one of the main forces pushing them out of the labor market.<sup>8</sup> Black and brown women, in particular, have been disproportionately impacted.<sup>9</sup> Women are twice as likely as men to say they left work for caregiving responsibilities due to childcare provider or school closures.<sup>10</sup> Women and people of color are also more likely to be "essential" workers, working outside of the home and on the frontlines, compounding the need for workplace accommodations.<sup>11</sup> Women of color are also more likely to work in lower paying jobs with fewer benefits and have less access to child care, while at the same time more Black and Latina mothers are the primary breadwinners for their families compared to white mothers, compounding the impact lack of supportive policies have on their family economic stability.<sup>12</sup> Unless we address the systemic lack of access to fair, family supportive policies we will continue the exclusion and destabilization of women and families of color.

For example, low income women of color workers do not have the access to flexible work schedules that higher income women do. Seventy three percent of women with incomes over \$100,000 report flexibility with their work schedules compared to only 41% of women with incomes below \$50,000. Women of color have the lowest access to flexible schedules.<sup>13</sup> Women also face more retaliation for their duties as caregivers, being four times more likely as men to experience retaliation in regards to their responsibilities as caregivers.<sup>14</sup>

Marisol feels that impact every day. "It has been difficult for me, not to have support for my family. I have had to ask for help to pay the rent. I really need my job and I depend on it – my whole family does."

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<sup>7</sup> Jeffrey E. Stokes & Sarah E. Patterson. (2020) *Intergenerational Relationships, Family Caregiving Policy, and COVID-19 in the United States*. Journal of Aging & Social Policy, available at <https://doi.org/10.1080/08959420.2020.1770031>

<sup>8</sup>Diana Boesch and Shilpa Phadke. (2021) When Women Lose All the Jobs: Essential Actions for a Gender-Equitable Recovery, Center for American Progress, available at <https://www.americanprogress.org/issues/women/reports/2021/02/01/495209/women-lose-jobs-essential-actions-gender-equitable-recovery/>

<sup>9</sup> Ibid.

<sup>10</sup> Bipartisan Policy Center. (2020) New Survey: Facing Caregiving Challenges, Women Leaving the Workforce at Unprecedented Rates, available at <https://bipartisanpolicy.org/blog/facing-caregiving-challenges/>

<sup>11</sup> Robertson C, Gebeloff R. (2020) "How millions of women became the most essential workers in America", The New York Times, available at <https://www.nytimes.com/2020/04/18/us/coronavirus-women-essential-workers.html>

<sup>12</sup> Boesch (2021)

<sup>13</sup> A Better Balance (2021) Our Crisis of Care: Supporting Women and Caregivers During the Pandemic and Beyond, available at: [https://www.abetterbalance.org/wp-content/uploads/2021/03/Crisis\\_of\\_Care\\_Report\\_031521.pdf](https://www.abetterbalance.org/wp-content/uploads/2021/03/Crisis_of_Care_Report_031521.pdf)

<sup>14</sup> Ibid.

Policies like the amended Family Friendly Workplace Ordinance can prevent children like Marisol's from experiencing more poverty and stress. But, without them, inequities will persist.

In addition, COVID-19 intensified the preexisting racial disparity of financial burden that people of color face as a result of caregiving. Black caregivers were significantly more likely than white caregivers to experience financial stress. Hispanic caregivers reported heightened emotional stress while caregiving during the pandemic.<sup>15</sup>

Workplace policies that fail to account for the caregiving needs of women and people of color perpetuate inequities and needlessly push working families in to poverty.

### **Workplace Accommodations are Feasible**

Employers are not required to provide any accommodations that are not reasonable or that would impose an undue burden. This is a standard that employers are familiar with from other contexts, including disability and lactation accommodations. This standard, by definition, limits accommodations to only those that work for both the employer and the employee, considering the employer's size, financial resources, and business structure. Examples of accommodations under the Family Friendly Workplace Ordinance could include: changes to the start or end time of a shift, telecommuting, part time work or reduced schedule, alternative work week, job share, or the ability to carry a cell-phone for school related calls. Even modest adjustments can make all the difference for working families.

For example, we heard from Annie, who worked in an office in San Francisco and requested to be able to leave at 4pm, rather than 5pm, in order to be able to pick up her infant son from child care before they closed. She would make up the hour of work remotely (which was possible at her office.) Her request was flatly denied, and she ended up leaving her job in order to find something compatible with child care.

Another caller, Liana, a professional caregiver, requested a slightly delayed start time, so that she would not have to leave her son alone in the dark, waiting for school to open in the early morning. One manager provided the accommodations, and Liana was able to keep working successfully. But months later, a new manager arbitrarily denied her the accommodation, upending her schedule and her entire family's economic stability.

The amendments to the Family Friendly Workplace Ordinance would ensure that employers seriously consider making these important accommodations, but also allows them to deny requests that are unreasonable or would be too burdensome.

### **San Francisco Needs The Proposed Amendments to the Family Friendly Workplace Ordinance.**

The pandemic has demonstrated both the incredible demands and inequitable burdens of caregiving for working families, and also the creative and successful ways that workplaces are able to adapt. Work, just like family, has forever changed. Workplace accommodations for

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<sup>15</sup> Longacre ML, Miller MF, Fang CY. (2019) Racial and ethnic variations in caregiving-related physical, emotional, and financial strain during COVID-19 among those caring for adult cancer patients, available at <https://pubmed.ncbi.nlm.nih.gov/33404809/>

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caregiving must be considered and granted, when possible without undue burden, in order to prevent compounding the economic and health inequities borne by caregivers. It is employers that take into account their employee's family needs and humanity that will be able to hire and retain the talented and diverse workforces they need in order to thrive.

We thank you for considering strengthening protections for working families. We urge your support of the amendments to the Family Friendly Workplace Ordinance.

Sincerely,

A handwritten signature in blue ink, appearing to read "Julia Parish", with a long horizontal flourish extending to the right.

Julia Parish

**From:** [Katherine Wutchiett](#)  
**To:** [Board of Supervisors, \(BOS\)](#)  
**Cc:** [Major, Erica \(BOS\)](#)  
**Subject:** Support for Amendments to FFWO, file no. 211296  
**Date:** Wednesday, February 9, 2022 8:00:31 PM  
**Attachments:** [FFWO amendments coalition support letter .docx \(1\).pdf](#)

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This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Please see the attached letter urging support for the proposed amendments to the Family Friendly Workplace Ordinance, file no. 211296.

Thank you,

Katherine Wutchiett  
Staff Attorney, Work and Family Program  
(she/her/hers)

**Legal Aid at Work**

180 Montgomery Street, Suite 600  
San Francisco CA 94104  
415-864-8848  
[kwutchiett@legalaidatwork.org](mailto:kwutchiett@legalaidatwork.org)



February 09, 2022

San Francisco Board of Supervisors  
1 Dr. Carlton B. Goodlett Place, City Hall, Room 244,  
San Francisco, CA 94102-4689  
[Board.of.Supervisors@sfgov.org](mailto:Board.of.Supervisors@sfgov.org)

Re: Family Friendly Workplace Ordinance, File No. 211296

Dear San Francisco Board of Supervisors:

Together we write to express our strong support for Supervisor Chan's amendments to improve the Family Friendly Workplace Ordinance. The COVID-19 pandemic has underscored the importance of the Ordinance and we must act now to protect the wellbeing of working families.

Current protections are insufficient and do not recognize the diverse structure of families nor the intense demands of caregiving. Today, almost a quarter of children live with a single parent and no other adults.<sup>1</sup> Workers are also caring for other family members, including elderly parents; 29% of the adult population is caring for someone who is ill, disabled or elderly.<sup>2</sup> Without access to workplace accommodations, when caregiving needs arise, families are forced to choose between their jobs or their health and wellbeing. It is time that we stop forcing families to make this untenable choice.

Moreover, access to family supportive policies is not equal. For example, working women of color with low incomes do not have the access to flexible work schedules that higher income women do. Seventy three percent of women with incomes over \$100,000 report flexibility with their work schedules compared to only 41% of women with incomes below \$50,000. Women of color have the lowest access to flexible schedules.<sup>3</sup> Women of color are also more likely to work in lower paying jobs with fewer benefits and to have less access to child care.<sup>4</sup> Workplace accommodations for caregiving must be considered and granted, when possible without undue burden, in order to prevent compounding the economic and health inequities borne by caregivers.

San Francisco needs the proposed amendments to the Family Friendly Workplace Ordinance, and they are feasible. Employers would not be required to grant any request that is unreasonable or that imposes an undue burden. At the same time, the amendments create a meaningful opportunity for employees and employers to come up with workable solutions that meet both of their needs. The

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<sup>1</sup> Kramer, S. (2019) U.S. Has the World's Highest Rate of Children Living in Single-Parent Households, available at <https://www.pewresearch.org/fact-tank/2019/12/12/u-s-children-more-likely-than-children-in-other-countries-to-live-with-just-one-parent/>

<sup>2</sup> National Alliance for Caregiving. (2009) Caregiving in the U.S. 2009, Washington, DC: AARP Research, available at <https://doi.org/10.26419/res.00062.001>

<sup>3</sup> A Better Balance (2021) Our Crisis of Care: Supporting Women and Caregivers During the Pandemic and Beyond, available at: [https://www.abetterbalance.org/wp-content/uploads/2021/03/Crisis\\_of\\_Care\\_Report\\_031521.pdf](https://www.abetterbalance.org/wp-content/uploads/2021/03/Crisis_of_Care_Report_031521.pdf)

<sup>4</sup> Diana Boesch and Shilpa Phadke. (2021) When Women Lose All the Jobs: Essential Actions for a Gender-Equitable Recovery, Center for American Progress, available at <https://www.americanprogress.org/issues/women/reports/2021/02/01/495209/women-lose-jobs-essential-actions-gender-equitable-recovery/>

amendments strike an important balance to ensure that employers seriously consider making these important accommodations, but also allow them to deny requests that are unreasonable or would be too burdensome. It is employers that take into account their employees' family needs and humanity that will be able to hire and retain the talented and diverse workforces they need to thrive. We urge your support for the amendments to the Family Friendly Workplace Ordinance.

Sincerely,

American Association of University Women  
Asian Americans Advancing Justice - Asian  
Law Caucus  
BreastfeedLA  
California Faculty Association San Francisco  
Chapter (CFA-SFSU)  
California Women's Law Center  
California Work & Family Coalition  
Center for WorkLife Law  
Child Care Law Center  
Chinese for Affirmative Action  
Chinese Progressive Association  
Citizens for Choice  
Equal Rights Advocates  
Family Caregiver Alliance  
Housing Rights Committee of San Francisco  
(HRCSF)

Human Impact Partners  
IFPTE Local 21  
Jobs with Justice San Francisco  
La Raza Centro Legal (LRCL)  
Legal Aid at Work  
National Council of Jewish Women, Los  
Angeles  
National Partnership for Women & Families  
National Women's Law Center  
Public Counsel  
Restaurant Opportunities Centers California  
South of Market Action Network (SOMCAN)  
Trabajadores Unidos Workers United (TUWU)  
UsAgainstAlzheimers  
Women's Foundation California  
Worksafe

**From:** [Thea Selby](#)  
**To:** [Board of Supervisors, \(BOS\)](#)  
**Cc:** [Major, Erica \(BOS\)](#)  
**Subject:** Letter of Support for Updates to the Family Friendly Workplace Ordinance  
**Date:** Wednesday, February 9, 2022 11:15:59 AM  
**Attachments:** [Thea FFWO Support Letter.pdf](#)

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This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Hello, Esteemed Board and Ms. Major.

Please find my remarks regarding the FFWO updates. As a mother and a small business owner in this city, I applaud anything we can do to help parents with their dual roles of working and caring for parents/kids in this city.

Warm regards,

Thea

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**Thea Selby** she | her  
Principal  
[Next Steps Marketing](#)  
415.309.9410  
[thea@nextstepsmarketing.com](mailto:thea@nextstepsmarketing.com)  
San Francisco, CA



February 9, 2022

San Francisco Board of Supervisors  
1 Dr. Carlton B. Goodlett Place, City Hall, Room 244,  
San Francisco, CA 94102-4689  
[Board.of.Supervisors@sfgov.org](mailto:Board.of.Supervisors@sfgov.org)

Re: Family Friendly Workplace Ordinance, File No. 211296

Dear San Francisco Board of Supervisors:

I have been a small business owner for over twenty years and am a mom of two kids. At my work, we are privileged to be able to have flex time for our employees and ourselves. This helps my business to attract and retain talented workers and to thrive and Covid has made this ever-more necessary.

Many San Franciscans are parents, caring for elderly or ill family members, or often, as is the case for my family, both. I know firsthand that these family responsibilities in no way diminish what individuals have to offer to my business or to any other. I take pride in offering my employees the support that they need to be whole people with families, as well as successful employees. But not all businesses are granting the same support. These amendments help single moms, who make up 20-25% of the workforce, who often have the least power at work but the most responsibility at home, and help all of us. These amendments are for the women who choose between the guilt of harming work, which pays for their child's food, and harming their child by not being able to take care of their immediate health or safety needs. This city has the lowest rates of children of any U.S. city—13-14%--which makes those of us who have children already feel as if we are outliers. If we can ask for flexible or predictable schedules in our workplace without fear of repercussions, it lessens whatever stigma we may feel for caring for children.

These amendments would ensure that family caregivers can request accommodations and know that, unless it would be an undue hardship for their employer, they can actually receive them. San Francisco has used the same standard in granting lactation accommodations, another important support for families.

These amendments balance San Francisco families' needs for flexibility and predictability to care for their families with business needs. Women disproportionately bear family caregiving responsibilities, and low-wage women and women of color are less likely to have access to flexible or predictable schedules. These amendments would provide that necessary access, while

giving employers the option to deny adjustments that cause an undue burden to the employer. Research establishes, and my own experiences have shown, that workplace flexibility enhances recruitment, improves productivity, increases retention, leads to higher customer satisfaction, and improves gender diversity in leadership.

I urge your support of the amendments to the Family Friendly Workplace Ordinance.

Sincerely,

A handwritten signature in black ink, appearing to read 'Thea Selby', with a large, stylized flourish at the end.

Thea Selby  
Small Business Owner, Parent  
Next Steps Marketing, Inc.

BOARD of SUPERVISORS



City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco, CA 94102-4689  
Tel. No. (415) 554-5184  
Fax No. (415) 554-5163  
TDD/TTY No. (415) 554-5227

## MEMORANDUM

TO: Dr. Grant Colfax, Director, Department of Public Health  
Carol Isen, Director, Department of Human Resources  
Patrick Mulligan, Director, Office of Labor Standards Enforcement  
Ben Rosenfield, City Controller, Office of the Controller

FROM: Erica Major, Assistant Clerk, Youth, Young Adult, and Families Committee

DATE: December 23, 2021

SUBJECT: LEGISLATION INTRODUCED

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The Board of Supervisors' Youth, Young Adult, and Families Committee has received the following legislation, introduced by Supervisor Chan on December 14, 2021.

### **File No. 211296**

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.

If you have comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at: [Erica.Major@sfgov.org](mailto:Erica.Major@sfgov.org).

c: Greg Wagner, Department of Public Health  
Dr. Naveena Bobba, Department of Public Health  
Sneha Patil, Department of Public Health  
Ana Validzic, Department of Public Health  
Mawuli Tugbenyoh, Department of Human Resources  
Todd Rydstrom, Office of the Controller  
Peg Stevenson, Office of the Controller

BOARD of SUPERVISORS



City Hall  
Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. (415) 554-5184  
Fax No. (415) 554-5163  
TDD/TTY No. (415) 554-5227

**MEMORANDUM**

TO: Regina Dick-Endrizzi  
**Small Business Commission, City Hall, Room 448**

FROM: Erica Major, Assistant Clerk  
Youth, Young Adult, and Families Committee

DATE: December 27, 2021

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS  
Youth, Young Adult, and Families Committee

The Board of Supervisors' Youth, Young Adult, and Families Committee has received the following legislation, which is being referred to the Small Business Commission for comment and recommendation.

**File No. 211296**

**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.**

Please return this cover sheet with the Commission's response to Erica Major, Youth, Young Adult, and Families Clerk, by email to: erica.major@sfgov.org.

\*\*\*\*\*

**RESPONSE FROM SMALL BUSINESS COMMISSION - Date: \_\_\_\_\_**

**No Comment**

**Recommendation Attached**

\_\_\_\_\_  
**Chairperson, Small Business Commission**

# Introduction Form

By a Member of the Board of Supervisors or Mayor

Time stamp  
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion or Charter Amendment).
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning : "Supervisor [ ] inquiries"
- 5. City Attorney Request.
- 6. Call File No. [ ] from Committee.
- 7. Budget Analyst request (attached written motion).
- 8. Substitute Legislation File No. [ ]
- 9. Reactivate File No. [ ]
- 10. Topic submitted for Mayoral Appearance before the BOS on [ ]

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

**Note: For the Imperative Agenda (a resolution not on the printed agenda), use the Imperative Form.**

Sponsor(s):

Chan , MELGAR

Subject:

Administrative Code - Amending the Family Friendly Workplace Ordinance

The text is listed:

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; addressing the treatment of Telework under the Ordinance; strengthening enforcement of the Ordinance; and making other changes.

Signature of Sponsoring Supervisor: [Signature]

For Clerk's Use Only