

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

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- ▶ 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.)