

Frequently Asked Questions
San Francisco Family Friendly Workplace Ordinance
[San Francisco Administrative Code 12Z](#)

Overview

The Family Friendly Workplace Ordinance (FFWO) is a local City and County of San Francisco ordinance that gives employees who work for employers with 20 or more employees and have worked for 6 months the right to request flexible or predictable working arrangements to assist with caregiving responsibilities for:

- A child or children for whom the employee has assumed parental responsibility
- A person or persons with a serious health condition in a family relationship with the employee
- A parent aged 65 or older.

The FFWO grants the employee who requests a flexible or predictable working arrangement the right to a process; not to a specific outcome. The FFWO creates a safe space for employees and employers to discuss flexible or predictable working arrangements.

The FFWO also prohibits employers with 20 or more employees from discharging, threatening to discharge, demoting, suspending, or otherwise taking adverse employment actions against employees because they are caregivers or because they exercise rights under the ordinance, such as requesting a flexible or predictable work schedule.

Employers Covered by the FFWO

1.a. Q: Which employers are covered by the FFWO?

A: The FFWO covers employers who regularly employ 20 or more employees, regardless of the employees' location.¹

1.b. Q: Who should be counted in determining whether an employer regularly employs 20 employees and is covered by the FFWO?

A: All employees should be counted, including those inside and outside of San Francisco, regardless of their status or classification as seasonal, commissioned, permanent or temporary, or full-time or part-time.

1.c. Q: What if the number of employees fluctuates or the employer expands to more than 20 employees?

A: If the number of employees fluctuates, the employer is covered if it had an average of 20 employees performing paid work per week during the preceding calendar quarter.

¹ See SF Admin Code [12Z.3](#)

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For example, a business that has 5 employees during the first 6 weeks of the quarter and 20 employees during the last 7 weeks of a quarter would not be covered in the subsequent quarter because it has employed an average of only 13 persons per week during that quarter:

$[(5 \text{ employees/week} \times 6 \text{ weeks}) + (20 \text{ employees/week} \times 7 \text{ weeks})] / 13 \text{ weeks} = 13 \text{ employees/week.}$

1.d. Q: Are owners counted in determining whether the employer regularly employs 20 employees?

A: No. Only employees (as described above in question 1.b) should be counted.²

1.e. Q: Does it matter if the employer is based or headquartered outside of San Francisco?

A: No, the employer is covered by the FFWO – regardless of its location – if it regularly employs 20 or more employees.³

1.f. Q: What happens if the employer has not yet responded to an employee regarding request for a flexible or predictable work arrangement and then determines it is no longer covered? Is the employer required to continue with the process?

A: Yes. An employer must consider any request provided in writing to the employer during a quarter in which that employer is subject to the FFWO by an employee entitled to request a flexible or predictable work arrangement. Unless the employee separates from employment, the employer must follow the procedures outlined in the Ordinance for responding to a request for a flexible or predictable working arrangement (Administrative Code Section 12Z.4-12Z.5) and the procedures for responding to a request for reconsideration (Administrative Code Section 12Z.6).

2. Covered Employees

2.a. Q: Which employees can request a flexible or predictable work arrangement under the FFWO?

A: Employees who have been employed by an employer subject to the FFWO for six months or more, are employed within the geographic boundaries of San Francisco, and regularly work at least eight hours per week have the right to request a flexible or predictable working arrangement under the FFWO.⁴

² See SF Admin Code [12Z.3](#)

³ See SF Admin Code [12Z.3](#)

⁴ See SF Admin Code [12Z.4](#)

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To make a request for a flexible or predictable working arrangement, an employee must be a caregiver, meaning, he or she is a primary contributor to the ongoing care of any of the following:

- (1) A child or children for whom the employee has assumed parental responsibility.
- (2) A person or persons with a [serious health condition](#) in a [family relationship](#) with the caregiver.
- (3) A parent age 65 or over of the caregiver.

2.b. Q: If an employee who has been employed for more than 6 months leaves the job and is re-hired at a later date, does the employee have to wait 6 months before making a request for a Flexible or Predictable Work Arrangement under the FFWO?

A: No. The ordinance requires that the employee work for the employer a total of six months at any time to be able to make a request.

3. Requests for Flexible or Predictable Working Arrangements

3.a. Q: What types of flexible or predictable working arrangements can employees request under the FFWO?

A: Employees can request changes in the terms and conditions of their employment that provide flexibility to assist with caregiving responsibilities. Requests may include changes related to:

- a. The number of hours the employee is required to work;
- b. The times when the employee is required to work;
- c. Where the employee is required to work;
- d. Work assignments or other factors; or
- e. Predictability in a work schedule.

3.b. Q: How do employees make requests under the FFWO?

A: Requests for a flexible or predictable working arrangement under the FFWO must be made in writing. If an employee initially makes a verbal request, the employer must direct the employee to submit the request in writing. Employees may use the [Flexible or Predictable Work Arrangement Sample Request Form](#) provided on the Office of Labor Standards Enforcement [FFWO website](#).

3.c. Q: Can and employer require verification of caregiving responsibilities under the FFWO?

A: Yes. An employer may require verification of caregiving responsibilities as part of the written request.⁵

⁵ See SF Admin Code [12Z.4\(c\)](#)

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If the employee is making the request to care for a Family Member with a Serious Health Condition, the employer may request confirmation from a medical professional that the Family Member has a Serious Health Condition. If the employee is making the request to care for a parent over 65 or child, the employer may require verification of caregiver status, such as verification of the parent or child's age.

Requests for verification of caregiving responsibilities should be reasonable and should not deter employees from making a request for a flexible or predictable work arrangement. The employer should take care to avoid requesting information that would violate applicable privacy laws.

3.d. Q: What procedures must an employer covered by the FFWO follow when an eligible employee submits a request for a flexible or predictable work arrangement?

A: The employer must meet with the employee within 21 days of the request. Next, the employer must consider and respond to an Employee's request for a Flexible or Predictable Working Arrangement in writing within 21 days of the meeting.⁶

3.e. Q: What procedures must an employer follow in responding to a request?

A: If the employer grants the request, the employer must confirm the agreement in writing. If the employer denies the request, the employer must explain the denial in a written response that sets out a bona fide business reason for the denial, notifies the Employee of the right to request reconsideration by the Employer under Section [12Z.6](#) of the Ordinance, and includes a copy of the text of that Section⁷

3.f. Q: For what reason(s) can an employer deny an employee's request under the FFWO?

A: A department may deny a request based on a bona fide business reason, including, but not limited to:

- o The identifiable cost of the change in a term or condition of employment requested in the application, including, but not limited to, the cost of productivity loss, retraining or hiring employees, or transferring employees from one facility to another
- o Detrimental effects on the ability to meet customer or client demands
- o The inability to organize work among other employees
- o The insufficiency of work to be performed during the time the employee proposes to work.⁸

Note that the City's Office of Labor Standards Enforcement's finding of a violation may not be based on the validity of the employer's bona fide business reason for denying an employee's request.

3.g. Q: Is there a reconsideration process if an employee's request for a flexible or predictable working arrangement is denied?

A: Yes. An employee whose request for a flexible or predictable working arrangement has been denied may submit a written request for reconsideration within 30 calendar days of the denial.⁹

⁶ See SF Admin Code Sec. [12Z.5\(b\)](#)

⁷ See SF Admin Code Sec. [12Z.5\(c\)](#)

⁸ See SF Admin Code Sec. [12Z.5\(c\)](#)

⁹ See SF Admin Code Sec. [12Z.6](#)

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3.h. Q: How often can an employee make a request under the FFWO?

A: An employee can make a request twice in a 12-month period, unless the employee experiences a [major life event](#), in which case the employee may make an additional request.¹⁰ Also, if an employer revokes a flexible or predictable working arrangement the employee may submit an additional written request during the 12-month time frame.¹¹

3.i. Q: If an employee asks for a *reconsideration* of a request for a flexible or predictable work schedule (after the employer denies the request), does that count as the second request in a 12-month period?

A: No. A request for reconsideration does not count as a separate request, and the employee may still make an additional request for a flexible or predictable work schedule during the 12 months following the initial request.

3.i. Q: Can an approved flexible or predictable working arrangement be revoked?

A: Yes. Either the employer or the employee may revoke a previously approved flexible or predictable working arrangement by providing the other party with 14 calendar-days written notice.¹²

4. Employee Protections

4.a. Q: What protections does the FFWO provide for employees who exercise their rights?:

A: The FFWO prohibits employers from discharging, threatening to discharge, demoting, suspending, or taking other adverse action against any persons in retaliation for exercising rights protected under the FFWO, including:

- Requesting a flexible or predictable working arrangement
- Requesting reconsideration of the denial of a request for a Flexible or Predictable Working Arrangement
- Filing a complaint with the Office of Labor Standards Enforcement (OLSE) for alleged violations of the FFWO
- Informing any person of the employer's alleged violation of the FFWO
- Cooperating with the OLSE's investigations of alleged violations of the FFWO.¹³

4.b. Q: What protections does the FFWO provide for caregivers?:

A: The FFWO prohibits employers covered by the Ordinance from discharging, threatening to discharge, demoting, suspending, or taking other adverse action against any person on the basis of caregiver status.¹⁴

¹⁰ See SF Admin Code Sec. [12Z.4\(e\)](#)

¹¹ See SF Admin Code Sec. [12Z.5\(d\)](#)

¹² See SF Admin Code Sec. [12Z.5\(d\)](#)

¹³ See SF Admin Code Sec. [12Z.7](#)

¹⁴ See SF Admin Code Sec. [12Z.7](#)

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5. Enforcement

5.a. Q: What assistance does the Office of Labor Standards Enforcement (OLSE) provide to an employee who believes his/her employer has violated the FFWO?

A: The OLSE is authorized to investigate possible violations of the FFWO. However, the OLSE's review of compliance is limited to:

- whether the employer followed the procedural, posting and documentation requirements of the Ordinance.
- whether the employer retaliated against the employee for requesting a flexible or predictable work schedule.
- whether the employer discriminated against the employee on the basis of caregiver status

As noted in FAQ 3.f, OLSE's finding of a violation may not be based on the validity of the Employer's bona fide business reason for denying an Employee's request.

Employers who believe their employer has violated the Ordinance should contact the OLSE at (415) 554-6424 or ffwo@sfgov.org.¹⁵

5.b. Q: What are the penalties for violating the FFWO?

A: Between January 1, 2014 and December 31, 2014, the OLSE will issue warnings and notices to correct the violations, and penalties will not be assessed. Thereafter, the Agency will impose an administrative penalty up to \$50.00 requiring the Employer to pay to each Employee or person whose rights under this Chapter were violated for each day or portion thereof that the violation occurred or continued.¹⁶

6. Exemptions

6.a. Q: Does the FFWO apply to employees covered by a Collective Bargaining Agreement?

A: Yes, unless the Collective Bargaining Agreement expressly waives the requirements of the FFWO in clear and unambiguous terms.¹⁷

7. Postings and Record-keeping

7.a. Q: Are employers required to post an FFWO notice?

A: Yes, Every employer must post the Official FFWO Notice in a conspicuous place at any workplace or job site. Every employer shall post this notice in English, Spanish, Chinese, and any language spoken by at least 5% of the employees at the workplace or job site.

7.b. Q: What are the record-keeping requirements of the FFWO

A: Employers must maintain records to establish compliance with the FFWO for a period of three years from the date of the request for a Flexible or Predictable Working Arrangement. Required records include, but are not limited to:

- Employees' requests for a flexible or predictable working arrangement
- Documentation of meetings about employees' requests such as emails, meeting minutes, notes.

¹⁵ See SF Admin Code Sec. [12Z.10](#)

¹⁶ See SF Admin Code Sec. [12Z.10](#)

¹⁷ See SF Admin Code Sec. [12Z.12](#)

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- The employer's responses granting or denying flexible or predictable working arrangements
- Employees' requests for reconsideration
- Requests for verification of caregiving responsibilities
- Verification of caregiving responsibilities

Employers must allow OLSE access to the required records to monitor compliance with the FFWO.

8. Additional Definitions

8.a. Q: What is a "major life event," as defined in the FFWO? ¹⁸

A: Under the FFWO, "major life event" means the birth of an employee's child, the placement with an employee of a child through adoption or foster care, or an increase in an employee's caregiving duties for a person with a serious health condition who is in a family relationship with the employee.

8.b. Q: What is a "family relationship," as defined in the FFWO?¹⁹

A: Under the FFWO a "family relationship" means a relationship in which a caregiver is related by blood, legal custody, marriage or domestic partnerships, as defined in San Francisco Administrative Code Chapter 62 or California Family Code Section 297, to another person as a spouse, domestic partner, child, parent, sibling, grandchild or grandparent.

8.c. Q: What is a "serious health condition," as defined in the FFWO? ²⁰

A: Under the FFWO a "serious health condition" means an illness, injury, impairment or physical or mental condition that involves either of the following:

1. Inpatient care in a hospital, hospice or residential healthcare facility
2. Continuing treatment or continuing supervision by a healthcare provider.

9. Statute

9.a. Q: Where can I read the whole text of the FFWO?

A: The full text of the FFWO is posted here for your reference. Definitions of the terms used in the FFWO can be found in section 12Z.3 of the ordinance.

¹⁸ See SF Admin Code Sec. [12Z.3](#)

¹⁹ See SF Admin Code Sec. [12Z.3](#)

²⁰ See SF Admin Code Sec. [12Z.3](#)

This document is intended to provide general guidance to employers and employees about the Family Friendly Workplace Ordinance. Application of the Ordinance in particular circumstances may depend on the specific facts presented. Please email further questions to FFWO@sfgov.org, call (415) 554-4559 or visit the following webpage www.sfgov.org/olse/ffwo